

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF MISSISSIPPI  
WESTERN DIVISION**

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**JACOB RYAN TUTOR BY AND THROUGH  
HIS NEXT FRIEND TERRI ESTES,  
JOSHUA SEAN TUTOR BY AND THROUGH  
HIS NEXT FRIEND TERRI ESTES,  
JOHN THOMAS TUTOR BY AND THROUGH  
HIS NEXT FRIEND TERRI ESTES,  
ALMA REGINA TUTOR INDIVIDUALLY AND  
AS NEXT FRIEND OF JAMES STEVENSON**

**PLAINTIFFS**

**V.**

**CASE NO. 3:08CV16**

**PONTOTOC COUNTY,  
SHERRIF LEO MASK,  
BUDDY EUBANKS,  
SHEILA LUNN, R.N.  
PATRICIA PARKS, M.D.**

**DEFENDANTS**

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**ORDER**

This cause comes before the court on the motion [175] of the plaintiffs to strike the reply to the response to the March 13, 2009 motion for summary judgement or in the alternative for permission to file a surrebuttal memorandum.

The plaintiffs seek to strike this document because it raises the issue of causation which was not addressed in the initial motion for summary judgment. This court agrees that all grounds for summary judgment should be raised in an initial motion. However, striking the document would not best serve the interests of justice. The better cure is to allow surrebuttal. This solution allows the court to seek the truth in making its decision and allows the plaintiffs to present all valid arguments. The plaintiffs shall have 5 days from the entry of this order to file a surrebuttal memorandum.

The plaintiffs' motion to strike or in the alternative for surrebuttal is GRANTED IN

PART and DENIED IN PART.

This the 31<sup>st</sup> day of March, 2009.

**/s/ MICHAEL P. MILLS**  
**CHIEF JUDGE**  
**UNITED STATES DISTRICT COURT**  
**NORTHERN DISTRICT OF MISSISSIPPI**