

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

GARRETT DAY, LLC, *et al.*, :  
Plaintiffs, :  
v. : Case No. 3:15-cv-36  
INTERNATIONAL PAPER CO., : JUDGE WALTER H. RICE  
Defendant. :

---

DECISION AND ENTRY SUSTAINING PLAINTIFFS' MOTION FOR RECONSIDERATION (DOC. #342); VACATING JUNE 30, 2021, NOTATION ORDER; REINSTATING DEFENDANT'S MOTION FOR LEAVE TO FILE SURREPLY (DOC. #339) AS A PENDING MOTION; PLAINTIFFS MAY FILE SUPPLEMENTAL MEMORANDUM WITHIN 14 DAYS OF THE DATE OF THIS DECISION AND ENTRY; DEFENDANT MAY FILE REPLY WITHIN 14 DAYS THEREAFTER

---

On June 28, 2021, Defendant International Paper Co. filed a Motion for Leave to File Surreply in Opposition to Plaintiffs' Motion for Summary Judgment, Doc. #339. On June 30, 2021, the Court entered a Notation Order sustaining that motion, and Defendant filed its Surreply, Doc. #340.


This matter is currently before the Court on Plaintiffs' Motion for Reconsideration or, in the Alternative, Motion to Strike the Surreply, Doc. #342. They correctly note that the Court sustained the motion before Plaintiffs had the opportunity to respond. They further argue that Defendant failed to establish good cause to justify granting leave to file a surreply. During a conference call

held on July 27, 2021, counsel for Defendant indicated that he did not intend to file a memorandum in opposition.

In the interest of fairness, the Court SUSTAINS Plaintiffs' Motion for Reconsideration, Doc. #342. The Court VACATES the June 30, 2021, Notation Order, and REINSTATES Defendant's Motion for Leave to File Surreply, Doc. #339, as a pending motion.

To the extent that Plaintiffs wish to make any additional arguments *not already made* in the Motion for Reconsideration, Doc. #342, they may file a supplemental memorandum within 14 days of the date of this Decision and Entry. If Plaintiffs intend to rely on the arguments already asserted, they shall file a Notice to that effect within the same time period. Defendant may file a reply brief within 14 days thereafter.

Date: July 28, 2021

  
\_\_\_\_\_  
WALTER H. RICE  
UNITED STATES DISTRICT JUDGE