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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

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RICH MEDIA CLUB, LLC, a Delaware limited liability company, and RICH MEDIA WORLDWIDE, LLC, a Delaware limited liability company,

Plaintiffs,

v.

NIKOLAI MENTCHOUKOV, JAMES W. ROWAN, and LEFTSNRIGHTS, INC., a Delaware corporation, dba LIQWID, and JOHN DOES 1–25,

Defendants.

MEMORANDUM DECISION and ORDER GRANTING MOTION TO FILE ONE-PAGE SUR-REPLY

Case No. 2:11-cv-1202

District Judge Ted Stewart

Magistrate Judge Brooke Wells

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Before the Court is Defendants Motion to File a One-Page Sur-Reply.<sup>1</sup> Defendants represent that the “Plaintiffs Combined Reply Memorandum in Support of Motion to Dismiss (Doc No. 187) contains a material misrepresentation of Defendants’ position.”<sup>2</sup> Therefore, “[i]n an effort to clarify the record and avoid mistake, Defendants hereby request permission pursuant to D.U.Civ. R. 7(b)(3) to file a one-page sur-reply which addresses Plaintiffs’ mistaken statement.”<sup>3</sup>

On the same day Defendants filed their motion Plaintiffs filed an opposition.<sup>4</sup> Plaintiffs argue they do not materially misrepresent Defendants’ position and courts usually limit sur-

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<sup>1</sup> Docket no. 198.

<sup>2</sup> Mtn p. 2 (quotations omitted).

<sup>3</sup> *Id.*

<sup>4</sup> Docket no. 199.

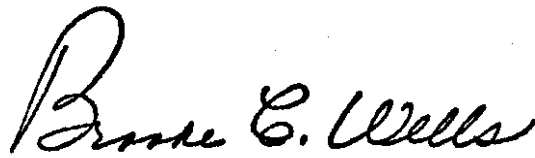
replies to rare circumstances, such as “where a movant improperly raises new arguments in a reply.”<sup>5</sup>

Local Rule 7(b)(3) permits the filing of a sur-reply with leave of Court. Here the sur-reply is only one page and may be of assistance in helping clarify the issues before the Court. Further, the case Plaintiffs cite to involved the rules from the District of Kansas that “do not provide for the filing of surreplies.”<sup>6</sup> Those rules are different from the District of Utah’s local rules.<sup>7</sup> The Court therefore rejects Plaintiffs’ arguments and will allow Defendants to file a one-page sur-reply.

ORDER

For the reasons set forth above, Defendants’ Motion for Leave to File One-Page Sur-Reply is GRANTED.

DATED this 26 July 2012.



Brooke C. Wells  
United States Magistrate Judge

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<sup>5</sup> *McShares, Inc. v. Barry*, 979 F.Wupp. 1338, 1341 (D.Kan. 1997) (quoting *E.E.O.C. v. International Paper Co.*, 1992 WL 370850 (D.Kan. Oct. 28, 1992)).

<sup>6</sup> *Id.*

<sup>7</sup> The District of Kansas’ local rules do not state that additional memoranda may be submitted by leave of court. Rather, courts in Kansas have adopted that approach in practice. In contrast, this district’s local rules explicitly provide for additional memoranda with leave of court.