

1
2
3
4
5
6
7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

9 MICHAEL MALONE, *et al.*,

10 Plaintiffs,

11 v.

12 CLARK NUBER, P.S., *et al.*,

13 Defendants.
14

Case No. C07-2046RSL

ORDER PERMITTING RESPONSE TO
DEFENDANTS' NEW ARGUMENT

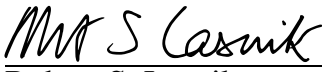
15
16 This matter comes before the Court on the parties' cross motions for summary judgment.
17 Specifically, in the MNS defendants' reply in support of their motion for summary judgment,
18 they argue, for the first time, that New York law applies and requires the dismissal of most of
19 plaintiffs' claims. Plaintiffs have not filed a sur-reply regarding the new argument.
20 Nevertheless, plaintiffs should have an opportunity to address it both because it was belatedly
21 raised and because defendants claim it is partially dispositive. Accordingly, plaintiffs may file,
22 no later than Friday, August 13, 2010, a memorandum not to exceed ten pages in length
23 addressing the new argument. No further briefing on the issue will be accepted.

24 Moreover, during the upcoming oral argument, counsel should be prepared to address
25 whether the belated assertion of the new argument—three years into this litigation—should result
26
27

28 ORDER PERMITTING RESPONSE
TO DEFENDANTS' NEW ARGUMENT - 1

1 in the imposition of sanctions and/or the shifting of costs and expenses in this litigation.

2
3 DATED this 6th day of August, 2010.

4
5 
6 Robert S. Lasnik
7 United States District Judge
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27