

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

JAMES LUTCHER NEGLEY	§	
Plaintiff	§	
v.	§	CIVIL ACTION NO.
	§	SA-12-CV-362
	§	
FEDERAL BUREAU OF	§	
INVESTIGATION,	§	
Defendant	§	

PLAINTIFF’S MOTION FOR LEAVE TO FILE SUR-REPLY TO
DEFENDANT’S REPLY TO RESPONSE TO
MOTION FOR SUMMARY JUDGMENT

TO THE HONORABLE UNITED STATES DISTRICT JUDGE:

Now comes James Lutcher Negley, Plaintiff, and files this Motion for Leave to File Sur-Reply to the Government’s Reply to Plaintiff’s Response to the Government’s Motion for Summary Judgment pursuant to Local Rule CV-7(f)(1) and in support thereof would show the Court as follows:

1. The Government has filed a Reply to the Plaintiff’s Response to the Government’s Motion for Summary Judgment. According to Local Rules CV-7(f)(3), such a document is limited to 10 pages. The Government’s Reply meets that requirement. However, this is only because of a very liberal use of extensive use of smaller font footnotes which appear on each of the 10 pages of the Reply. The footnotes are not used merely for citation, but include argument in support of the Government’s position.

2. In fairness, Plaintiff should be permitted leave of Court to file a brief Sur Reply

to the Government's Reply. The Sur Reply is being filed contemporaneously with this Motion for Leave, subject to the Court's action on this Motion for Leave.

3. Plaintiff has attempted to confer with the attorney for the Government regarding the relief requested in this Motion by sending an e-mail to him on July 23, 2013. An auto reply to the message indicated that Mr. Shaw-Meadow is out of town until July 29. Plaintiff assumes the Government is opposed to this Motion and requests that the Court delay action on this Motion until Mr. Shaw-Meadow is back in his office and has an opportunity to respond..

WHEREFORE, Plaintiff respectfully requests that the Court grant this Motion and permit the filing of Plaintiff's Sur-Reply to the Government's Reply to Plaintiff's Response to the Government's Motion for Summary Judgment.

Respectfully submitted,

/s/ John F. Carroll
John F. Carroll
111 West Olmos Drive
San Antonio, Texas 78212
(210) 829-7183-Phone
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State Bar No. 03888100

ATTORNEY FOR PLAINTIFF
JAMES LUTCHER NEGLEY

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing Plaintiff's Motion for Leave to File Sur Reply to Defendant's Reply to Response to Defendant's Motion for Protective Order was ELECTRONICALLY FILED with the Clerk of the Court using the CM/ECF system which will send notification to the following:

Mr. Robert Shaw-Meadow
Assistant United States Attorney
601 N.W. Loop 410, Ste. 600
San Antonio, Texas 78216

on this the 23rd day of July, 2013.

/s/ John F. Carroll

John F. Carroll

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	§	SA-12-CV-362
	§	
FEDERAL BUREAU OF	§	
INVESTIGATION,	§	
Defendant	§	

**ORDER ON PLAINTIFF’S MOTION FOR LEAVE TO FILE SUR-REPLY TO
DEFENDANT’S REPLY TO RESPONSE TO
MOTION FOR SUMMARY JUDGMENT**

On this day the Court considered the Plaintiff’s Motion for Leave to File Sur-Reply to the Government’s Reply to Plaintiff’s Response to the Government’s Motion for Summary Judgment.

The Court finds that the Motion should be, and it hereby is,

GRANTED _____

DENIED _____

SIGNED this _____ day of _____, 2013.

UNITED STATES DISTRICT JUDGE