

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

Case No. 22-cv-20312-BLOOM/Otazo-Reyes

JOEY D GONZALEZ RAMOS,

Plaintiff,

v.

U.S. DEPARTMENT OF AGRICULTURE,
and UNKNOWN EMPLOYEES OF THE
U.S. DEPARTMENT OF AGRICULTURE AND
THE DEPARTMENT OF JUSTICE,

Defendants.

ORDER ON MOTION FOR LEAVE TO FILE SUR-REPLY

THIS CAUSE is before the Court upon Plaintiff’s Motion for Leave to File Surreply to Defendants’ Reply to Motion to Dismiss Count I of Plaintiff’s First Amended Complaint, ECF No. [35] (“Motion”), filed on May 12, 2022. The Court has carefully reviewed the Motion, the record in this case, the applicable law, and is otherwise fully advised. For the reasons set forth below, the Motion is denied.

Plaintiff argues that he should be permitted to file a sur-reply because Defendant’s Reply to Plaintiff’s Response to the Motion to Dismiss Count I of the First Amended Complaint, ECF No. [34] (“Reply”), “introduced three new arguments not previously mentioned in their [sic] Motion to Dismiss Count I of Plaintiff’s First Amended Complaint.” ECF No. [35] at 2. As such, Plaintiff requests leave to file a sur-reply to respond to Defendant’s new arguments.

Sur-replies will generally only be permitted in exceptional circumstances. *See, e.g., Fedrick v. Mercedes-Benz USA, LLC*, 366 F. Supp. 2d 1190, 1197 (N.D. Ga. 2005). “To allow such sur-replies as a regular practice would put the court in the position of refereeing an endless

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volley of briefs.” *Garrison v. Ne. Georgia Med. Ctr., Inc.*, 66 F. Supp. 2d 1336, 1340 (N.D. Ga. 1999). Likewise, Local Rule 7.1(c) provides that a party must obtain leave of court to file a sur-reply. S.D. Fla. L.R. 7.1(c).

In this case, the Court determines that a sur-reply is unnecessary. As Plaintiff rightly notes, “[i]f the movant raises arguments for the first time in his reply to the non-movant’s opposition, the court will either ignore those arguments in resolving the motion or provide the non-movant an opportunity to respond to those arguments by granting leave to file a sur-reply.” ECF No. [35] at 1 (quoting *Davis v. Am. Soc’y of Civil Eng’rs*, 290 F.Supp.2d 116, 120 (D.D.C. 2003)). Thus, to the extent that Defendant’s Reply raises new arguments not addressed in its Motion to Dismiss, ECF No. [24], the Court will disregard such arguments.

Accordingly, it is **ORDERED AND ADJUDGED** that Plaintiff’s Motion, **ECF No. [35]**, is **DENIED**.

DONE AND ORDERED in Chambers at Miami, Florida, on May 13, 2022.



BETH BLOOM
UNITED STATES DISTRICT JUDGE

Copies to:

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