

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

PLAINTIFFS' OBJECTIONS TO MOTION FOR LEAVE TO FILE A SUR-REPLY WITHIN 21 DAYS

The Court should deny defendant Cook County's motion for leave to file a sur-reply, ECF No. 147.

1. Plaintiffs filed their reply memorandum in support of class certification on January 4, 2021. (ECF No. 146.) One week later, defendant Cook County filed the motion now before Court, seeking 21 days in which to file a sur-reply. (ECF No. 147 at 4.)

2. Plaintiffs responded in their reply memorandum to the new materials defendant Cook County revealed after the close of discovery on class certification and after plaintiffs had filed their motion for class certification. These newly disclosed materials include the deposition testimony given by Juana Macias in *Whitney v. Dart*, 18-cv-4475 on June 24, 2020, and declarations from Laura Hernandez, Dr. Mohammed Qaisi, Dr. Jorelle Alexander.

Dr. Qaisi and Dr. Alexander included heretofore undisclosed opinions in their declarations; Dr. Alexander included her analysis of medical records that have never been shared with plaintiffs.

3. Defendants' response memorandum relied on the newly disclosed materials to argue for the first time that members of the putative class receive "appropriate care" because their wait time for oral surgery services is comparable to that of the general public. (ECF No. 135 at 8.)

4. Plaintiffs demonstrated in their reply that this newly disclosed material and newly disclosed argument present another common question suitable for class-wide resolution. (ECF No. 146 at 10.)

5. Defendants fault plaintiff for making arguments in response to defendants' sandbagging (ECF No. 147) and now seek 21 days to file a sur-reply to double down on their sharp practices.

6. If the Court grants defendants' request, it should grant plaintiffs an equal amount of time to file a sur-response. Defendants may then complain that they require leave to file yet another reply (a sur-sur-reply perhaps), and briefing will "proceed ad infinitum making litigation unruly and cumbersome." *Hardrick v. City of Bolingbrook*, 522 F.3d 758, 763 n.1 (7th Cir. 2008).

7. Plaintiffs are confident that the Court will request additional briefing if it requires further assistance from the parties. The Court should therefore deny the present motion.

Respectfully submitted,

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