

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

Montrell Carr)
v.) Case No. 17 C 7135
Cook County, et al.)
Hon. Martha M. Pacold)

ORDER

Defendants' motion for leave to file a sur-reply, [222], is denied. "The decision whether to grant a motion for leave to file a surreply is within the Court's discretion." *Univ. Healthsystem Consortium v. UnitedHealth Grp., Inc.*, 68 F. Supp. 3d 917, 922 (N.D. Ill. 2014) (citations omitted). "[S]urreply briefs are rare and discouraged in most districts." *Ennin v. CNH Indus. Am., LLC*, 878 F.3d 590, 595 (7th Cir. 2017). Here, the court is not persuaded that the circumstances of this case justify a sur-reply. Defendants argue that plaintiffs' reply raises new arguments and mischaracterizes the law. [222] ¶¶ 6–10. But plaintiff's reply merely raised these arguments as a response to defendants' argument that the motion to amend was untimely. [221] at 2; *see Bell v. DaimlerChrysler Corp.*, 547 F.3d 796, 806 (7th Cir. 2008) (district court properly considered argument raised for the first time in reply brief because it was a "natural and reasonable response to what the plaintiffs had argued in their memorandum in opposition to the motion for summary judgment" (citation omitted)). Additionally, because the parties have been given an "adequate opportunity to present their arguments," a sur-reply is not necessary. *Franek v. Walmart Stores, Inc.*, No. 08-CV-0058, 2009 WL 674269, at *19 n.14 (N.D. Ill. Mar. 13, 2009). In the alternative, defendants request that the court treat the motion for a sur-reply itself as a sur-reply for the "purpose of preserving Defendants' arguments regarding" the cases cited by plaintiff. [222] at 4. But whether a party raises an argument in a sur-reply does not affect whether that argument is preserved for appeal. Defendants' motion for leave to file a sur-reply, [222], is denied.

Date: February 18, 2025

/s/ Martha M. Pacold