SUPERIOR COURT FOR THE DISTRICT OF COLUMBIA
CIVIL DIVISION

STEVEN J. ROSEN,	
Plaintiff,	
v.	**Civil Action No. 09-1256**
	Calendar 12
AMERICAN ISRAEL PUBIC AFFAIRS COMMITTEE, INC., *et al.*,	**Judge Erik P. Christian**
Defendants.	

PLAINTIFF'S OPPOSITION TO DEFENDANT'S MOTION FOR LEAVE TO FILE A REPLY IN SUPPORT OF ITS MOTION FOR SANCTIONS

Plaintiff opposes defendants' motion for leave to file a reply in support of its "motion to strike plaintiff's opposition memorandum and for sanctions motion" for two reasons. First, defendants' motion to file a reply is late. Plaintiff's opposition to defendants' motion for sanctions (etc.) was filed on December 30, 2010. However, defendants did not seek to file a reply until three weeks later on January 19, 2011. While the rules for motions practice in this Court do not provide routinely for reply memoranda, courts in which the rules do allow for the routine filing of reply briefs impose strict time limits for such filings. For example, the United States District Court for the District of Columbia allows for reply memoranda, but requires that such briefs be filed within seven (business) days of receipt the opposition to which they reply. *See* our U.S. District Court's LCvR 7(d) ("Within seven days after service of the memorandum in opposition the moving party may serve and file a reply memorandum.") No court we know of allows parties to file reply memoranda

whenever they may get a notion to do so. Accordingly, defendants' belated motion for leave file a reply in support of their motion for sanctions (etc.) should be denied as untimely.

Defendants motion for leave to file a reply memorandum also should be denied because defendants have made no showing that this Court should depart from its published rules which do not permit such filings. In fact, defendants have not truly replied to plaintiff's opposition to its motion to strike and for sanctions at all. Instead, defendants merely restate the contentions made in the memorandum they originally filed with their motion for sanctions. The fact is plaintiff did not violate the Protective Order here because the documents produced as attachments and exhibits to plaintiff's opposition to summary judgment about which defendants now complain *were produced in discovery by plaintiff, not defendants*. Under the terms of the Protective Order, as the "Disclosing Party" it was plaintiff's choice to designate any of that he produced documents as "Confidential" or not. No such designation was made. Rather than addressing this fact, defendants simply rehash their original argument in the reply they now belatedly seek leave to file.

Conclusion

Because defendants' belated motion to file a reply does not provide good cause to departing from the usual rules of the Court, it should be denied.

Respectfully Submitted,

/s/

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT the foregoing opposition to defendants' motion for leave to file a reply to plaintiff's memorandum in opposition to their motion for sanctions (etc.) are being electronically filed with the Clerk of the Superior Court for the District of Columbia using the Court's CaseFile Express system (which will automatically serve a copy of said filing via email to counsel of record for defendants, Thomas L. McCally (tlm@carmaloney.com) and Allie M. Wright (amw@carmaloney.com), of Carr Maloney, P.C., 2000 L Street, N.W., Suite 450, Washington, DC 20036), on January 25, 2011.

/s/
David H. Shapiro
SWICK & SHAPIRO, P.C.