

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

**CASE NO. 04-22572-Civ-King**

EMMA YAIZA DIAZ et al.,  Plaintiffs,  v.  KURT S. BROWNING, Secretary of State of Florida, et al.,  Defendants.
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**PLAINTIFFS' MOTION  
FOR PERMISSION TO FILE  
SUR-REPLY IN RESPONSE  
TO REPLIES OF  
DEFENDANTS SOLA AND  
COWLES**

Pursuant to S.D. Fla. L.R 7.1.(c), Plaintiffs, through and by their counsel, respectfully move this Court for leave to file a sur-reply (“Plaintiffs’ Motion for Leave”) in response to a newly-raised ground for dismissal proposed by Defendants Lester Sola and Bill Cowles, for the first time, in their replies submitted in support of Defendant Sola’s Motion for Judgment on the Pleadings.

As good cause for granting the motion, Plaintiffs submit as follows:

1. In their reply papers, Defendants Cowles and Sola raise an entirely *new* ground for dismissal, arguing, for the first time, that the action should be dismissed for failure to join indispensable parties under Rule 19 of the Federal Rules of Civil Procedure. This argument goes beyond the issues addressed in any of the briefs filed both in support and opposition to this motion.

2. Fairness requires that Plaintiffs be permitted to respond to Defendants’ new ground for dismissal and their argument in support thereof. Allowing Plaintiffs to respond would provide the Court with the position of both sides on this issue. Moreover, Defendants’ attempt to sandbag Plaintiffs should not be encouraged or rewarded.

3. Attached hereto as Exhibit A is Plaintiffs' Sur-Reply in Opposition to Defendants' Motion for Judgment on the Pleadings.

WHEREFORE, Plaintiffs respectfully request that the Court enter an Order granting Plaintiffs' Motion for Leave and enter the Sur-Reply attached as Exhibit A on the docket.

Dated: West Palm Beach, Florida  
April 30, 2007

RESPECTFULLY SUBMITTED,

/s/ Mary Jill Hanson

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**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing was sent electronically as an email attachment this 30th day of April, 2007 to counsel for the parties listed in Exhibit B, attached hereto.

By: /s/ Thomas P. Abt  
Thomas P. Abt

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