

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

STATE OF NEW MEXICO, *ex rel.*,
MARCO WHITE, MARK MITCHELL, and
LESLIE LAKIND,

Plaintiffs,

v.

COUY GRIFFIN,

Defendant.

Civil Action No. 22-284 WJ-JFR

**PLAINTIFFS’ RESPONSE REGARDING NOTICE OF COMPLETION OF BRIEFING
ON MOTION TO REMAND**

On May 9, 2022, Plaintiffs filed their Reply in Support of Plaintiffs’ Motion to Remand. ECF No. 23. Because this filing marked the completion of briefing on Plaintiffs’ Motion to Remand, Plaintiffs contemporaneously filed with their Reply a “Notice of Completion of Briefing” on Plaintiffs’ Motion to Remand as required by D.N.M.LR-Civ 7.4(e). ECF No. 24.

Shortly after this filing, Defendant filed a “Response to Plaintiffs’ Notice of Completion of Briefing,” claiming Plaintiffs’ Notice was “in breach” of a purported “written agreement” between counsel to permit Defendant to respond to “remand-related issues” in a reply brief concerning a separate motion—Defendant’s Motion to Transfer Venue. *See* ECF No. 26. Defendant, however, omitted counsel’s full email thread, including Plaintiffs’ counsel’s response setting out the agreement. *See* ECF Nos. 26-1 & 26-2. To clarify the record, attached hereto as Exhibit 1 is the full email thread setting forth the terms of Plaintiffs’ agreement: “[W]e agree not

to oppose a three-page extension of the page limit for Defendant's transfer reply in exchange for your agreement not to oppose our motion for a three-page extension for Plaintiffs remand reply." Exhibit 1. The terms of Plaintiffs' agreement thus did not address the contents of Defendant's transfer reply; it only addressed the page limit for that filing. Contrary to Defendant's insinuation, Plaintiffs never agreed to give Defendant a surreply on Plaintiffs' Motion to Remand.

Moreover, mere agreement of counsel would not authorize Defendant's stated plan to raise surreply arguments in opposition to Plaintiffs' Motion to Remand in his reply in support of his Motion to Transfer Venue, because the "filing of a surreply requires leave of the Court." D.N.M.LR-Civ 7.4(b).

Thus, Plaintiffs accurately represented in their Notice of Completion of Briefing that briefing on Plaintiffs' Motion to Remand was complete as of the filing of their reply in support of that motion on May 9, 2022. If Defendant wishes to make surreply arguments in opposition to Plaintiffs' Motion to Remand, leave of the Court is required.

Date: May 11, 2022

Respectfully Submitted,

FREEDMAN BOYD HOLLANDER
& GOLDBERG, P.A.

/s/ Joseph Goldberg

Joseph Goldberg

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*Pro hac vice

Counsel for Plaintiffs

Certificate of Service

I hereby certify that on May 11, 2022, the foregoing was filed through the CM/ECF system, which caused counsel of record to be served by electronic means, as more fully reflected on the Notice of Electronic Filing.

/s/ Joseph Goldberg
Joseph Goldberg