

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

CITIZENS FOR RESPONSIBILITY AND
ETHICS IN WASHINGTON,

Plaintiff,

v.

AMERICAN ACTION NETWORK,

Defendant.

Civil Action No. 18-cv-945 (CRC)

**AMERICAN ACTION NETWORK’S OPPOSITION
TO CREW’S MOTION FOR LEAVE TO FILE A SURREPLY**

Citizens for Responsibility and Ethics in Washington (“CREW”) asks this Court to exercise its discretion to allow CREW to file a surreply, but offers no good reason why such discretionary permission should be granted. *See* Fed. R. Civ. P. 7(b)(1)(B) (party must “state with particularity the grounds for seeking the order” requested). Surreplies are “disfavored” and reserved for those cases in which there is truly new matter that could not otherwise have been addressed. *See Glass v. Lahood*, 786 F. Supp. 2d 189, 231 (D.D.C. 2011). That is not this case. Indeed, it is “doubt[ful] that the existence of statutory or case law can ever be ‘new matter’ so as to permit the filing of a surreply.” *U.S. ex rel. Pogue v. Diabetes Treatment Centers of Am., Inc.*, 238 F. Supp. 2d 270, 277 (D.D.C. 2002).

CREW knew of the directly applicable and adverse new precedent seven days before its opposition was due. *See CREW v. Fed. Election Comm’n*, 892 F.3d 434 (D.C. Cir. June 15, 2018); Opposition to Mot. to Stay (D.D.C. June 22, 2018) (Dkt. 12). It elected not to disclose that precedent in its opposition or in a later supplemental notice. Instead, CREW waited until after American Action Network submitted its reply brief, and now seeks to exploit its earlier default to get the last word. American Action Network cannot acquiesce in this maneuver and is confident the Court does not require it.

Respectfully submitted,

/s/ Claire J. Evans

Jan Witold Baran (D.C. Bar No. 233486)

jbaran@wileyrein.com

Caleb P. Burns (D.C. Bar No. 474923)

cburns@wileyrein.com

Claire J. Evans (D.C. Bar No. 992271)

cevens@wileyrein.com

Wiley Rein LLP

1776 K Street NW

Washington, DC 20006

Tel.: 202.719.7000

Fax: 202.719.7049

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Counsel for American Action Network