

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

LIBERTARIAN PARTY OF OHIO, et al.,)	CASE NO. 2:13-cv-953
)	
Plaintiffs,)	
)	
- and -)	JUDGE MICHAEL H. WATSON
)	
ROBERT HART, et al.,)	
)	MAG. JUDGE TERENCE P. KEMP
Intervenor-Plaintiffs,)	
)	
v.)	
)	
JON HUSTED,)	
)	
Defendant,)	
)	
- and -)	
)	
THE STATE OF OHIO, et al.,)	
)	
Intervenor-Defendants.)	

PLAINTIFFS' MOTION TO STRIKE DEFENDANT JON HUSTED'S SUR REPLY

Plaintiffs move to strike the Sur Reply of Defendant Jon Husted as out of rule. *See* Doc. No. 153. A memorandum in support is attached hereto stating more fully the grounds for this motion.

Respectfully submitted,

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MEMORANDUM IN SUPPORT

Defendant Husted did not seek leave of court prior to filing his Sur Reply to Plaintiffs' Motion to Compel as required by S.D. Ohio Civ. R. 7.2(a)(2). *See* Doc. No. 153. Nor did the Court's Briefing Order provide for the filing of a Sur Reply by Defendant Husted. *See* Document No. 131.

"The Local Civil Rules permit the filing of motion and memorandum in support, a memorandum in opposition, and a reply memorandum. S.D. Ohio Civ. R. 7.2(a)(1), (2)." *Teasdale v. Heck*, 499 F. Supp.2d 967, 968 (S.D. Ohio, 2007) (striking sur reply as not properly before the Court when filed without leave); *see also CareToLive v. von Eschenbach*, 525 F. Supp.2d 938, 945 (S.D. Ohio, 2007) (striking supplemental memorandum in opposition to motion to dismiss filed without leave). ""The rule specifically states that "[n]o additional

memoranda beyond those enumerated will be permitted except upon leave of court for good cause shown.” S.D. Ohio Civ. R. 7.2(a)(2).” *Teasdale* at 968. There is no provision in the Local Rules for the filing of Defendant Husted’s Sur Reply absent leave of court, which was not obtained here nor requested at the scheduling conference that resulted in the Briefing Order governing Plaintiffs’ Motion to Compel.

WHEREFORE, Plaintiffs pray that the Court STRIKE Defendant Husted’s Sur Reply as out of rule.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that this Motion was electronically filed on July 28, 2014 using the Court's electronic filing system. Parties to this case will have access through the Court’s system.

/s/ Mark Kafantaris
Mark Kafantaris