

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

MATTHEW HALE,

Plaintiff,

v.

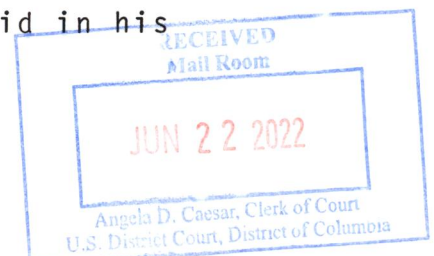
Civil Action No. 21-1469(JEB)

MICHAEL COLLIS, et al.,

Defendants.

Motion to Strike, in part, Defendants'
"Reply to Plaintiff's Opposition to Defendants' Motion to Dismiss"
(Doc. 26) Due to Failure to Comply with Court Procedure

Having finally received a copy of said Reply on June 9, 2022 thanks to the efforts of a friend of his who has fortunately begun monitoring the Court's docket, Hale is again obliged to hold the Defendants to the strictures of the law, especially when their unlawful conduct--the conduct of their attorney in this instance--is deliberately calculated to libel his person and prejudice him unfairly with this Court. Here, as the Court can see for itself, the first four pages of their Reply brief is not actually a "reply" to anything Hale said in his opposition. Indeed, the Defendants do not even offer the pretense of citing to his opposition brief at all. Rather, those pages bring forth a new argument, that Hale is in essence an historically 'bad person' and that his case should therefore be dismissed on that new and unlawful basis which is legally impermissible for a reply brief. Accordingly, the Court should strike and otherwise disregard those pages. The Defendants should have presented this material within their opening brief since it in no way "replies" to anything Hale said in his opposition brief.



"It is a well-settled prudential doctrine that courts generally will not entertain new arguments first raised in a reply brief." Berlin v. Bank of America, N.A., 101 F. Supp. 3d 1, 16 (D.D.C. 2015)(Judge Boasberg, presiding), quoting Aleutian Pribilof Islands Ass'n, Inc. v. Kempthorne, 537 F. Supp. 2d 1, 12 n.5 (D.D.C. 2008). "To consider an argument discussed for the first time in reply would be manifestly unfair to the other litigant who does not typically have an opportunity to respond, and would risk the possibility of an improvident or ill-advised opinion, given the court's dependence as an Article III court on the adversarial process for sharpening the issues for decision." Id. Worse still, Defense Counsel's personal attacks upon Hale here are not "law" at all, are purely gratuitous, and have no connection whatever with the issues of this case including the particular and current actions of Defendant Collis against Hale as alleged by his Complaint. Simply put, there is no reason to believe that any of the supposed background of Hale has played a role in Defendant Collis treating Hale's mail as he has, nor does the Defendants' supposed history lesson even bother to explain exactly how Hale's Complaint in this case is legally insufficient, which is supposed to be the only issue that matters with regard to a 12(b)(6) motion to dismiss. In sum, the Defendants' new argument--wrongly brought only now within the Defendants' reply brief so that Hale would not have the chance to respond to it--is a pathetic attempt to prejudice Hale's case unfairly and muddy the actual issues before this Court. A reply brief is supposed to be just that: a reply to what the non-moving

party had to say, not a last-ditch opportunity to trash the other side just because your clients have a weak defense to the Plaintiff's case.

"If the movant raises arguments for the first time in his reply to the non-movant's opposition, the court will either ignore those arguments in resolving the motion or provide the non-movant an opportunity to respond to those arguments by granting leave to file a sur-reply." Benton v. Laborers' Joint Training Fund, 121 F. Supp. 3d 41, 51 (D.D.C. 2015), quoting Baloch v. Norton, 517 F. Supp. 2d 345, 348 n.2 (D.D.C. 2007). Here, the former remedy is appropriate since the Defendants' "argument"--if one can even call it that--is composed entirely of matters which it was aware of long before it filed its motion to dismiss and which are hearsay and libelous in nature to boot. (How exactly is Hale to respond to a 23 year old (false) newspaper article, for example? Defendants' Reply at 2, note 2. And what connection does Smith's actions nearly a quarter century ago have to do with Defendant Collis' actions as alleged within Hale's Complaint? None, none at all.) "Fairness and prudence [thus] require that the Court reject [the Defendants'] argument." Story of Stuff Project v. United States Forrest Service, 366 F. Supp. 3d 66, 76 (D.D.C. 2019).

For all of these reasons, Hale moves the Court to strike the first four pages of the Defendants' Reply (Doc. 26), thus making it part of the record that the Defendants' trash will not be part of its ensuing judgment.

Respectfully submitted,

Matthew Hale
Matthew Hale: Plaintiff, pro se

June 11, 2022

Matthew Hale #15177-424
USP Marion CMU
P.O. Box 1000
Marion, IL 62959

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Motion to Strike, in part, Defendants' "Reply to Plaintiff's Opposition to Defendants' Motion to Dismiss" was placed into the inmate mailing system where I am housed on June 13, 2022, 1st class mail prepaid, addressed to the following attorney who represents the Defendants in this case:

Kenneth Adebonojo
Asst. U.S. Attorney
555 4th Street, N.W.--Civil Division
Washington, D.C. 20530

Matthew Hale
Matthew Hale: Plaintiff, pro se

Matthew Hale #15177-424
USP Marion CMU
P.O. Box 1000
Marion, IL 62959

SAINT LOUIS MO 630



⇔15177-424⇔
District Court Clerk
333 Constitution AVE NW
Room 1225
Washington, DC 20001
United States

Mailed
6-13

20001-269999

