

**DISTRICT COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

ATLANTIC BASIN REFINING, INC.,	)	
Plaintiff,	)	
v.	)	Civil Action No. 15-0071
	)	
ARCLIGHT CAPITAL PARTNERS, LLC,	)	
and JP ENERGY PARTNERS, LP,	)	
Defendants.	)	

Appearances:

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For Atlantic Basin Refining, Inc.

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*For Arclight Capital Partners, LLC, and
JP Energy Partners, LP*

MEMORANDUM OPINION AND ORDER

Lewis, Senior District Judge

THIS MATTER comes before the Court on Defendants Arclight Capital Partners, LLC (“ArcLight”) and JP Energy Partners, LP’s (“JP Energy”) (collectively, “Defendants”) “Motion for Leave to File Sur-Reply to Plaintiff’s Notice of Supplemental Authority” (“Motion for Leave”) (Dkt. No. 372), in which Defendants request leave to file a surreply pursuant to Local Civil Rule 7.1 in response to arguments raised in Plaintiff Atlantic Basin Refining, Inc.’s (“ABR,” or

“Plaintiff”) “Reply to Defendants’ Response to ABR’s Notice of Supplemental Authority” (“Reply”) (Dkt. No. 371). Plaintiff opposes the Motion for Leave in its “Opposition to Defendants’ Motion for Leave to File a Surreply” (“Opposition”). (Dkt. No. 373).

This extended briefing stems from the Magistrate Judge’s Order on December 5, 2023 directing Plaintiff and Defendants to brief their respective theories of damages. (Dkt. No. 358). That briefing was completed on March 14, 2024. (Dkt. Nos. 362, 365, 366). On June 27, 2024, Plaintiff filed a “Notice of Supplemental Authority” (“Notice”) (Dkt. No. 367) related to the Supreme Court’s decision in *Harrington v. Purdue Pharma L.P.*, 603 U.S. 204 (2024). On July 10, 2024, Defendants requested leave to file a response to Plaintiff’s Notice (Dkt. No. 368) and attached their proposed “Response to Plaintiff’s Notice of Supplemental Authority” (“Response”) as Exhibit 1 to their filing (Dkt. No. 368-1). On July 24, 2024, Plaintiffs stated that they had “no objection” to the Court accepting Defendants’ Response, “provided ABR is given leave to reply to [the] same.” (Dkt. No. 369 at 1). On July 26, 2024, this Court ordered that Defendants’ Response was accepted and granted leave to Plaintiffs to file a reply. (Dkt. No. 370). On August 2, 2024, Plaintiff filed its Reply. (Dkt. No. 371). On August 12, 2024, Defendants then filed the instant Motion for Leave on the grounds that they wanted an opportunity to respond to arguments in Plaintiff’s Reply that were “not raised in previous briefing.” (Dkt. No. 372 at 1). Plaintiff opposes the Motion for Leave as being both uncompliant with Local Rule 7.1(f)¹ and unwarranted

¹ All non-dispositive motions, including a Motion for Leave to File a Surreply, are subject to Rule 7.1(f), which requires—absent exigent circumstances—all non-dispositive motions to “contain a representation that the movant sought concurrence in the motion from each party, and that it has been either given or denied.” LRCi 7.1(f). Defendants’ Motion for Leave to File Surreply did not contain such a representation, and thus is noncompliant with Rule 7.1(f). The Court notes that “compliance with the Local Rules is expected and enforced by the Court, and the Court may impose sanctions for any violation thereof.” *Harthman Leasing III, LLLP v. FirstBank Puerto Rico*, 2024 WL 195936 at n.2 (D.V.I. Jan. 18, 2024); *see also McIntosh-Luis v. Petty*, 2024 WL 3566782 at n.1 (D.V.I. July 29, 2024) (“the Court expects compliance with the Local Rule[s]”).

due to Defendants’ failure to “identify any such [new] arguments in their motion.” (Dkt. No. 373 at 1).

“Sur-reply submissions are not permitted as of right.” *Gentry v. Sikorsky Aircraft Corp.*, 2018 WL 6329147 at *2 (E.D. Pa. Dec. 4, 2018). Instead, permission for leave to file a surreply “is a matter committed to the District Court’s sound discretion.” *Levey v. Brownstone Inv. Grp., LLC*, 590 F. App’x 132, 137 (3d Cir. 2014) (quotations omitted).

Upon review of Plaintiff’s Reply, the Court has determined that it will exercise its discretion to permit Defendants to file a surreply. The Court finds that the arguments contained in Plaintiff’s Reply were not previously included in Plaintiff’s Notice or prior briefings, and, as a result, Defendants did not have an opportunity to address them. *See Carlins v. Bd. of Directors of Gallows Point Condo. Corp.*, 2004 WL 3222762 at *2 (D.V.I. Nov. 29, 2004) (permitting leave to file a surreply in response to “arguments raised for the first time in the movant’s reply to the non-movant’s response in opposition to the issues raised in the motion” in order to “keep[] the playing field even.”); *cf. Amlin Underwriting, Ltd. v. Caribbean Auto Mart of St. Croix, Inc.*, 2010 WL 3825106 at *2 (D.V.I. Sept. 28, 2010) (denying leave to file a surreply when a party has previously raised the issue that they seek to address in their surreply). Additionally, the Court finds the proposed surreply may be helpful in resolving the issues presented. *See Mallory v. Wells Fargo Bank, N.A.*, 2021 WL 5826211 at *2 (M.D. Pa. July 20, 2021) (considering whether “the brief was helpful in resolving the issues presented in the case” when determining whether to grant leave to file a surreply).

Accordingly, the Court will grant Defendants Arclight and JP Energy’s Motion for Leave and accept Defendants’ proposed surreply as filed. The Court will further grant, *sua sponte*, Plaintiff leave to file a sur-surreply to Defendants’ surreply.

UPON CONSIDERATION of the foregoing, it is hereby

ORDERED that Defendants Arclight Capital Partners, LLC and JP Energy Partners, LP's "Motion for Leave to File Sur-Reply to Plaintiff's Notice of Supplemental Authority" (Dkt. No. 372) is **GRANTED**; and it is further

ORDERED that Exhibit 1 (Dkt. No. 372-1) to Defendants Arclight Capital Partners, LLC and JP Energy Partners, LP's "Motion for Leave to File Sur-Reply to Plaintiff's Notice of Supplemental Authority" (Dkt. No. 372) is **ACCEPTED**; and it is further

ORDERED that Plaintiff Atlantic Basin Refining, Inc. shall have up to and including **April 4, 2025** to file a Sur-surreply to Defendants Arclight Capital Partners, LLC and JP Energy Partners, LP's "Sur-Reply to Plaintiff's Notice of Supplemental Authority" (Dkt. No. 372-1).

SO ORDERED.

Date: March 21, 2025

_____/s/_____
WILMA A. LEWIS
Senior District Judge