

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

WE THE PEOPLE FOUNDATION, INC.,  
et al.,

Plaintiffs,

v.

No. 1:04-cv-01211 EGS

UNITED STATES, et al.,

Defendants

**PLAINTIFFS' MOTION FOR LEAVE TO FILE A SUR-REPLY**

On January 10, 2005, Mark Lane, attorney for the plaintiffs, placed a call to the offices of Ivan C. Dale, attorney for the defendants in this case.

In that detailed message Mr. Lane stated that he wished to file a motion for leave to submit a sur-reply in this matter since the defendants had submitted a reply raising new arguments which previously had not been made in any pleading.

Mr. Lane stated specifically that footnote 4 on page 5 of defendants' reply asserted that the defendants had already responded to arguments identical to those raised by the plaintiffs.

Previously the defendants had asserted only that they were not obligated to reply to the petitions of the plaintiffs. Now, for the first time, defendants were asserting that there had been a reply.

Mr. Lane asked Mr. Dale if he would consent to the motion for leave to file a sur-reply.

Later that day, Mr. Dale called Mr. Lane's office and stated that the government was not saying that the defendants had replied to the petitions. He stated that the government's position remained the same, that it need not reply to the petitions and that it had not done so. However, Mr. Dale did not state that he was withdrawing the allegations of his reply which were, at the very least, ambiguous on that point.

Mr. Dale said that he would oppose the motion for leave to file a sur-reply since the government was not relying in any respect upon any assertion that the defendants had responded to the petitions submitted by the plaintiffs.

For the reasons set forth above, plaintiffs respectfully request that the Court grant leave to file the sur-reply that is submitted herewith.

Respectfully submitted,

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MARK LANE  
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Dated: January 12, 2005