

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

Civil Action No. 1:17-CV-00884-CMA-STV

CHAYCE AARON ANDERSON,

Plaintiff,

vs.

JASON SHUTTERS,

Defendant.

**MOTION FOR LEAVE TO FILE SURREPLY IN OPPOSITION TO
DEFENDANT’S MOTION FOR SUMMARY JUDGMENT**

Plaintiff Chayce Aaron Anderson (“Plaintiff”), by and through undersigned counsel, requests leave to file a brief surreply in opposition to Defendant’s motion for summary judgment. Pursuant to Local Rule 7.1, Mr. Anderson’s counsel conferred with Defendant’s counsel, who opposes this motion. In support of his Motion, Plaintiff states as follows:

1. Defendant filed his motion for summary judgment (Dkt. 128) (“Motion for Summary Judgment”) on July 5, 2019. Plaintiff filed his response in opposition to Defendant’s Motion for Summary Judgment (Dkt. 133) (“Response”) on July 26, 2019.

2. On August 7, 2019, Defendant filed his reply in support of the Motion for Summary Judgment (Dkt. 136) (“Reply”). Defendant’s Reply misstates the record regarding Plaintiff’s diagnoses and the conduct of Plaintiff’s arrest.

3. Plaintiff should be entitled to correct the record and respond to the arguments raised for the first time in the Reply. *See, e.g., Pippin v. Burlington Res. Oil & Gas Co.,*

440 F.3d 1186, 1191-92 (10th Cir. 2006). As such, Plaintiff requests that the Court grant leave to file the Surreply attached as Exhibit A.

4. The proposed Surreply is limited to correcting the record and addressing any new arguments and factual contentions raised in Defendant's Reply, which will help the court "more fully and fairly evaluate" the pending Motion for Summary Judgment.

WHEREFORE, Plaintiff respectfully requests that the Court grant its motion for leave to file a surreply and accept the Surreply attached as Exhibit A for filing.

Dated this 19th day of August, 2019.

s/Christopher J. Casolaro _____

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CERTIFICATE OF SERVICE

The undersigned certifies that on August 19, 2019, a true and correct copy of the foregoing **MOTION FOR LEAVE TO FILE SURREPLY IN OPPOSITION TO DEFENDANT'S MOTION FOR SUMMARY JUDGMENT** was served on the following counsel of record via the Court's CM/ECF e-file system:

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s/Carol Wildt
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