

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF FLORIDA  
JACKSONVILLE DIVISION

---

SCOTT WYNN, an individual,

Civil Action

No. 3:21-cv-00514-MMH-JRK

Plaintiff,

v.

TOM VILSACK, in his official capacity as  
U.S. Secretary of Agriculture; ZACH  
DUCHENEAUX, in his official capacity  
as Administrator, Farm Service Agency,

Defendants.

---

**PLAINTIFF’S OPPOSITION TO DEFENDANTS’ MOTION FOR  
LEAVE TO FILE A REPLY**

Under Local Rule 3.01(d), “[w]ithout leave, no party may file a reply directed to a response except a response to a motion for summary judgment.” A motion requesting leave to reply must, among other things, “specify the need for . . . the proposed reply.” *Id.* Defendants have provided no justification sufficient to depart from the presumption established in the local rules, especially for a case with an “expedited schedule” that “require[s] the parties to work diligently to prepare this case for final adjudication.” *See* Scheduling Order, ECF No. 43 at 2; *see also* ECF No. 50 (denying Defendants’ motion for an administrative stay and directing the parties to proceed as previously directed while Defendants’ stay motion is pending).

First, Defendants contend that “Plaintiff raises several arguments that Defendants have not had the opportunity to address.” ECF No. 51 at ¶ 1. But Defendants’ failure to discuss all of the factors that this Court must consider when deciding a stay motion is no fault of Mr. Wynn’s. On the contrary, it has always been Defendants’ burden to show that a stay is justified under those factors. It is equally plain that Defendants’ disagreement with Mr. Wynn on whether the factors have been met cannot form the basis for leave to file a reply. If disagreement on the merits were a basis to grant a party leave to file a reply in this case, the exception would swallow the rule.

Second, Defendants state, without example, that Plaintiff’s opposition includes “statements about the scope of the class claims and proceedings in *Miller* that are either factually incorrect or irrelevant.” ECF No. 51 at ¶ 2. Each statement Plaintiff makes about *Miller* comes from publicly available documents that can be viewed by this Court. The Court does not need the Defendants’ gloss to understand them.

Defendants’ Motion for Leave to File a Reply should be denied. In the alternative, Plaintiff respectfully requests leave to file a sur-reply of no more than 10 pages (excluding the certificate of service) no later than 7 days after Defendants file their reply.

DATED: July 27, 2021.

Respectfully submitted,

PACIFIC LEGAL FOUNDATION

Christina M. Martin  
Fla. Bar No. 100760  
4440 PGA Blvd., Suite 307  
Palm Beach Gardens, FL 33410  
Telephone: (561) 619-5000  
Facsimile: (561) 619-5006  
Email: CMartin@pacificlegal.org

s/ Wencong Fa  
Wencong Fa\*  
Cal. Bar No. 301679  
Lead Counsel  
Daniel M. Ortner\*  
Cal. Bar No. 329866  
930 G Street  
Sacramento CA 95814  
Email: WFa@pacificlegal.org  
Email: DOrtner@pacificlegal.org

Glenn E. Roper\*  
Colo. Bar No. 38723  
1745 Shea Center Dr., Suite 400  
Highlands Ranch CO 80129  
Telephone: (916) 419-7111  
Facsimile: (916) 419-7747  
Email: GERoper@pacificlegal.org

*Attorneys for Plaintiff*

\*Special admission

**CERTIFICATE OF SERVICE**

I hereby certify that on July 27, 2021, I submitted the foregoing to the Clerk of the Court via the District Court's CM/ECF system, which will provide notice of the submission of this document to all counsel of record.

s/ Wencong Fa  
Wencong Fa\*  
Cal. Bar No. 301679  
Lead Counsel  
\* Special Admission