

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION**

YOUNG AMERICA’S FOUNDATION

Plaintiff,

Case No.: 1:24-cv-00923-RDA-LRV

v.

MATTHEW SITMAN, an individual; SAM
ADLER-BELL, an individual;
FOUNDATION FOR THE STUDY OF
INDEPENDENT SOCIAL IDEAS, INC.; and
KNOW YOUR ENEMY, INC.

Defendants

**PLAINTIFF’S MOTION TO FILE SUR-REPLY TO DEFENDANT’S REPLY IN
OPPOSITION TO MOTION TO DISMISS**

Plaintiff, YOUNG AMERICA’S FOUNDATION (“Plaintiff”), by and through its undersigned attorneys, respectfully moves the Court, pursuant to E.D. Va. Loc. Civ. R. 7(F)(1), for leave to file a sur-reply to Defendants’ Reply Memorandum in Support of Motion to Dismiss.

1. On August 26, 2024, Defendants filed their Reply Memorandum in Support of Motion to Dismiss (“Reply Brief”) (Dkt-36). The Reply Brief advances a new argument related to of the use of Plaintiff’s Trademarks.

2. Courts in this district allow sur-replies where “a party brings forth new material or deploys new arguments in a reply brief.” *Thorne v. Astrue*, 2012 WL 4801840, at *1 (E.D. Va. Sept. 20, 2012); see also *Artis v. Lyon Shipyard, Inc.*, 2018 WL 2013073, at *1 (E.D. Va. Apr. 26, 2018) and *Fed. Ins. Co. v. Locash*, No. 2:12CV504, 2014 WL 12588635, at *1 (E.D. Va. Feb. 18, 2014).

3. Plaintiff seeks leave to file a Sur-Reply in Opposition to Defendants' Motion to Dismiss to respond to these new arguments.

4. In addition, on August 28, 2024, the Sixth Circuit issued its opinion in *Libertarian National Committee, Inc. v. Saliba*, 2024 WL 3964005 (6th Cir. 2024), which interpreted *Jack Daniel's Properties, Inc. v. VIP Prod. LLC*, 599 U.S. 140 (2023), in the context of political speech and Plaintiff believes this new decision has bearing on the case at bar.

5. A copy of Plaintiff's proposed Sur-Reply in Opposition to Defendant's Motion to Dismiss is attached as Exhibit A.

Respectfully submitted this 5th day of September, 2024.

/s/ Jeffrey R. Adams

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CERTIFICATE OF SERVICE

I, Jeffrey R. Adams, certify that on September 5, 2024, a true and correct copy of the foregoing document was filed electronically with the Clerk of the Court for the U.S. District Court for the Eastern District of Virginia by using the CM/ECF system. I certify that all counsel in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

/s/ Jeffrey R. Adams
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