

STATE OF VERMONT
PROFESSIONAL RESPONSIBILITY PROGRAM

In Re: Norman Watts
PRB File Nos. 2019-102 and 2020-011

MOTION FOR PERMISSION TO FILE A SURREPLY

Navah C. Spero, Esq., Specially Assigned Disciplinary Counsel (“Special Disciplinary Counsel”) in this matter, moves this Hearing Panel to permit her to file a brief surreply in opposition to Respondent’s Motion to Compel Expert Deposition and Memorandum in Support (“Motion to Compel”) as follows:

Argument

Special Disciplinary Counsel moves the Hearing Panel for permission to file a surreply in opposition to the Motion to Compel to address a new argument, raised for the first time in Respondent’s Reply to Counsel’s Opposition to His Motion to Compel a Deposition of Counsel’s Substitute Expert (“Reply”). It is settled Vermont law that when a party raises an argument for the first time in a reply brief, the opposing party is entitled to a surreply. *In re Champlain Parkway Wetland Cu Determination Time Extension Cud No. 2010-125*, Docket No. 123-10-16 Vtec, 2017 Vt. Super. LEXIS 37, *5 (Vt. Env. Ct. April 14, 2017) (“However, when new issues are raised in a reply, the opposing party may be entitled to file a sur-reply.”) (citing *Meulrath v. Fisher*, No. 3-1-07 Wmcv, n.3 (Vt. Super. Ct. Jul. 16, 2008)).

Respondent asserts in his Reply that the delays in this case should be attributed to Special Disciplinary Counsel, not him. This argument is pertinent under the analysis required by V.R.C.P. 6(b), which considers the length of any delay, the reason for the delay and whether the movant acted in good faith. *See Clark v. Baker*, 2016 VT 42, ¶ 18.

Specifically, Respondent claims that he has complied with his discovery obligations and the delay is attributable to Special Disciplinary Counsel's unreasonable discovery requests. In addition, Respondent notes that since he filed the Motion to Compel, he produced additional documents on March 8, 2022. He asserts that this eight month delay in production was due to a miscommunication. *See Reply*, at 3, n.1.

These arguments are inaccurate and misleading. Special Disciplinary Counsel seeks permission to file a brief surreply to respond to these new arguments and provide information learned at the deposition of Margaux Reckard, Respondent's paralegal.

Conclusion

Based on the foregoing, Special Disciplinary Counsel asks the Hearing Panel to consider the attached surreply.

Dated: Burlington, Vermont
March 23, 2022

/s/ Navah C. Spero

Navah C. Spero, Esq.
Gravel & Shea PC
76 St. Paul Street, 7th Floor, P.O. Box 369
Burlington, VT 05402-0369
(802) 658-0220
nspero@gravelshea.com
Special Disciplinary Counsel