

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

SIPCO, LLC, and IP CO, LLC)
(d/b/a INTUS IQ),)
)
Plaintiffs,)

v.)

EMERSON ELECTRIC CO., EMERSON)
PROCESS MANAGEMENT LLLP,)
FISHER-ROSEMOUNT SYSTEMS, INC.,)
ROSEMOUNT INC., BP p.l.c., BP)
AMERICA, INC., and BP AMERICA)
PRODUCTION COMPANY,)
)
Defendants.)

Civil Action
File No. 1:16-cv-02690-AT

**PLAINTIFFS’ OPPOSED MOTION FOR LEAVE TO FILE THE
ATTACHED SUR-REPLY IN OPPOSITION TO BP P.L.C.’S MOTION TO
DISMISS FOR FAILURE TO STATE A CLAIM AND MISJOINDER**

Plaintiffs SIPCO, LLC and IP CO, LLC (collectively, “SIPCO”) respectfully seek leave of Court to file the sur-reply attached as Exhibit 1 in Opposition to BP p.l.c.’s Motion to Dismiss for Failure to State a Claim and Misjoinder. In support of its Motion for Leave, SIPCO states as follows:

1. This Court may exercise its discretion to permit the filing of a sur-reply where a valid reason for additional briefing exists. *Fedrick v. Mercedes-Benz USA, LLC*, 366 F. Supp. 2d 1190, 1197 (N.D. Ga. 2005). “Sur-replies typically will be permitted only in unusual circumstances, such as where a movant raises new arguments or facts in a reply brief....” *Atlanta Fiberglass USA, LLC v. KPI, Co.*, No. 1:11-cv-4367-RWS, 2013 WL 4786912, at *4 (N.D. Ga. Sept. 6, 2013).

2. On July 22, 2016, the above-captioned case was transferred to this Court from the U.S. District Court for the Eastern District of Texas, Civil Action No. 15-907. As of that date, the above-captioned case was closed in the Eastern District of Texas.

3. BP p.l.c. filed its Motion to Dismiss for Failure to State a Claim (Dkt. 87), SIPCO filed its opposition (Dkt. 97), and BP p.l.c. filed its reply (Dkt. 104) in the Eastern District of Texas before the case was transferred to this Court.

4. Local Rule CV-7(F) of the Local Rules of the Eastern District of Texas permits the filing of sur-replies as a matter of right.

5. SIPCO now seeks leave to file a sur-reply before this court to address misrepresentations of fact and incorrect analysis of the law that BP p.l.c. has only alleged and argued in its reply (Dkt. 104).

6. SIPCO did not have an adequate opportunity to address these new misrepresentations and incorrect legal propositions in its opposition.

7. Therefore, SIPCO respectfully requests that the Court grant this Motion for Leave and consider the attached sur-reply so that SIPCO can address these new issues and be fully and fairly heard.

Respectfully submitted this 9th day of August, 2016.

/s/ J. Christopher Fox, II

J. Christopher Fox, II

Georgia Bar No. 272527

Michael Coleman

Georgia Bar No. 177635

Thompson Hine LLP

Two Alliance Center, Suite 1600

3560 Lenox Road

Atlanta, Georgia 30326

Telephone: 404-541-2900

Facsimile: 404-541-2905

Chris.Fox@ThompsonHine.com

Michael.Coleman@ThompsonHine.com

Paul J. Cronin, *Pro hac vice*

James C. Hall, *Pro hac vice*

Nutter, McClennen & Fish LLP

155 Seaport Boulevard

Boston, Massachusetts 02210-2604

Telephone: 617-439-2000

Facsimile: 617-310-9000

pcronin@nutter.com

jhall@nutter.com

Counsel for SIPCO, LLC and IP CO, LLC

CERTIFICATE OF COMPLIANCE WITH LOCAL RULE 7.1

The undersigned hereby certifies that this filing was prepared using one of the font and point selections approved by this Court in Local Rule 5.1C.

Specifically, Times New Roman font was used in 14 point.

/s/ J. Christopher Fox, II

J. Christopher Fox, II

Georgia Bar No. 272527

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