

IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF MARYLAND

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.) Civil No. **WMN05CV1297**
)
JOHN BAPTIST KOTMAIR, JR.,)
et al.,)
)
Defendants.)

**DEFENDANT SAVE-A-PATRIOT FELLOWSHIP'S MOTION IN OPPOSITION TO
UNITED STATES' MOTION TO FILE EXCESS PAGES**

Defendant Save-A-Patriot Fellowship opposes the United States' motion to file excess pages (Docket 56) in reply to Defendant's opposition to United States' motion for summary judgment (or in the alternative, its request to strike Defendant's motion), for the reasons set forth below.

FACTS

Defendant Save-A-Patriot Fellowship timely filed its opposition to the United States' motion for summary judgment on July 7, 2006 (Docket 54). Plaintiff now claims that Defendant's opposition brief was beyond the twenty-five page limit for reply briefs set forth by Local Rule 105.3.

Plaintiff now requests leave of this Court to enlarge its own reply due July 21, 2006 beyond the twenty-five pages mandated by Local Rule 105.3, or in the alternative, requests that Defendant Save-A-Patriot Fellowship's brief be struck.

ARGUMENT

Plaintiff's claim that Defendant's "reply" brief was beyond the twenty-five page limit set by L.R. 105.3 is spurious. First, Plaintiff misrepresents Defendant's motion in opposition as a mere "reply" brief. Local Rule 105.2(c), set forth below, shows that the nature of the brief in question was an "opposition/reply":

"c. Where More Than One Party Plans To File Summary Judgment Motions

In a two-party case, if both parties intend to file summary judgment motions, counsel are to agree among themselves which party is to file the initial motion. After that motion has been filed, the other party shall file a cross-motion accompanied by a single memorandum (both opposing the first party's motion and in support of its own cross-motion), the first party shall then file an opposition/reply, and the second party may then file a reply. If more than two parties intend to file motions in a multi-party case, counsel shall submit a proposed briefing schedule when submitting their status report." [emphasis added]

This Court's own amended scheduling order for briefing motions, dated March 22, 2006, shows that Local Rule 105.2 is being followed. The Court termed the motion in question: "Defendant's Reply in Support of Its Motion and Opposition to Plaintiff's Motion." (Docket 26).

Second, Local Rule 105.3, set forth below, states that opposition memoranda shall not exceed fifty pages:

"Unless otherwise ordered by the Court, memoranda in support of a motion or in opposition thereto and trial briefs shall not exceed fifty pages, and reply memoranda shall not exceed twenty-five pages, exclusive of (a) affidavits and exhibits, (b) tables of contents and citations, and (c) addenda containing statutes, rules, regulations and similar material." [emphasis added]

It is clear that the fifty-page limit excludes "(b) tables of contents and citations, and (c) addenda containing statutes, rules, regulations and similar material." Therefore, Plaintiff's contention that Defendant's brief (Docket 54) is 51 pages is clearly misleading, since the actual brief containing facts

and argument is only 46 pages. The additional five pages consist of a table of contents (2 pages), list of citations (2 pages), and index to the exhibits (1 page).

CONCLUSION

Since Plaintiff provided no reason for its requests other than the spurious claims disposed of *supra*, its request for leave to file excess pages is without merit. Therefore, Defendant respectfully requests that this Court deny both Plaintiff's demand for leave to file excess pages in its reply brief and its alternative request that Defendant's brief (Docket 54) be struck.

Respectfully submitted on this 17th day of July, 2006.

/s/ George Harp
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CERTIFICATE

IT IS HEREBY CERTIFIED that service of the foregoing “DEFENDANT SAVE-A-PATRIOT FELLOWSHIP’S MOTION IN OPPOSITION TO UNITED STATES’ MOTION TO FILE EXCESS PAGES” has been made upon the following by depositing a copy in the United States mail, postage prepaid, this 17th day of July, 2006, to the following:

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