

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION**

ACLU OF TENNESSEE, Inc.)	
)	
Intervening Plaintiff,)	
v.)	No. 2:17-cv-02120-jpm-DKV
)	
THE CITY OF MEMPHIS,)	
)	
Defendant.)	

**DEFENDANT’S MOTION FOR LEAVE TO REPLY AND INCORPORATED
MEMORANDUM OF LAW**

The Defendant, the City of Memphis (“the City”), by and through counsel, and pursuant to Local Rule 7.2(c), respectfully submits the following Motion for Leave to file a reply brief in further support of its Post Trial Brief. (ECF No. 348.)

The Local Rules provide that reply memoranda may be filed only upon court order granting a motion for leave to reply.¹ Local Rule 7.2(c); *see also Spec’s Family Partners, Ltd. v. First Data Merch. Servs. Corp.*, No. 2:14-CV-02995-JPM, 2015 WL 6869206, at *2 (W.D. Tenn. Nov. 9, 2015). If a party believes that a reply is necessary, it shall file a motion for leave to file a reply within 7 days of service of the response, setting forth the reasons why a reply is required pursuant to Local Rule 7.2(c). *See Fed. Express Corp. v. Caruso*, No. 214CV02337JPM-DKV, 2014 WL 12634495, at *2 (W.D. Tenn. Sept. 18, 2014).

¹ During the evidentiary hearing, the Court mentioned the possibility of the City submitting a short reply brief. (*See* Trial Tr., ECF No. 346, PageID 11369-70.) The Order Memorializing Post-Modification Hearing Briefing Schedule later entered by the Court, however, did not mention a Reply Brief. (*See* ECF No. 347.) Accordingly, and out of an abundance of caution, the City seeks leave to reply to the ACLU-TN’s Post Trial Brief.

On July 10, 2020, ACLU of Tennessee, Inc. (“ACLU-TN”) filed its Post-Trial Brief. (ECF No. 349.) In it, ACLU-TN argues that the City failed to meet its burden of proof justifying modification of Section I of the Consent Decree. (ECF No. 349, PageID 11419-25.) ACLU-TN further asserts that the City failed to meet its burden of establishing that its “surprise” request for an additional modification to Section H of the Consent Decree is warranted to allow for the sharing of personal information collected in the course of lawful criminal investigations with private entities under certain circumstances. (ECF No. 349, PageID 11417-18.)

The City respectfully asserts that it has met its burden of proof justifying modifications to Section H and Section I, and the City believes that a reply brief is appropriate and necessary.

The City, therefore, requests that the Court grant its Motion for Leave to Reply so that it may clarify these issues.

Respectfully Submitted,

BAKER, DONELSON, BEARMAN,
CALDWELL & BERKOWITZ, P.C.

s/ Bruce McMullen

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CERTIFICATE OF CONSULTATION

Pursuant to Local Rule 7.2(a)(B), on July 13, 2020, Jennie Silk communicated with counsel for Intervening Plaintiff, Thomas Castelli, via email regarding the relief sought in this motion. Mr. Castelli advised that the Intervening Plaintiff opposes the relief sought in this Motion.

s/ Bruce McMullen _____

CERTIFICATE OF SERVICE

I hereby certify that on the 13th day of July 2020, a copy of the attached pleading was filed electronically. Notice of this filing will be served by operation of the Court's electronic filing system to all counsel of record.

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s/ Bruce McMullen _____
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