

Case No. 15-8016

IN THE UNITED STATES COURT OF APPEALS  
FOR THE SEVENTH CIRCUIT

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WOODMAN'S FOOD MARKET, INC.,

Plaintiff-Respondent,

v.

THE CLOROX COMPANY

-and-

THE CLOROX SALES COMPANY,

Defendants-Petitioners.

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On Appeal from the United States District Court  
for the Western District of Wisconsin  
Case No. 14-CV-734-slc  
The Honorable Magistrate Judge Stephen L. Crocker

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**PLAINTIFF'S-RESPONDENT'S MOTION FOR LEAVE TO FILE  
SUR-REPLY BRIEF IN RESPONSE TO  
DEFENDANT'S-PETITIONER'S PETITION FOR PERMISSION TO  
APPEAL PURSUANT TO 28 U.S.C. § 1292(B)**

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Dated at Madison, Wisconsin, this 14<sup>th</sup> day of August, 2015.

*Counsel of Record:*

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Woodman's Food Market, Inc. (hereinafter "Woodman's") respectfully requests leave to file the attached Plaintiff's-Respondent's Sur-Reply Brief in Response to Defendant's-Petitioner's Petition for Permission to Appeal Pursuant to 28 § U.S.C. § 1292(B). ("sur-reply brief.")

On August 13, 2015, the Defendants-Appellants The Clorox Company and The Clorox Sales Company (hereinafter collectively "Clorox") filed a Motion for Leave to file Reply in Support of Petition for Permission to Appeal Pursuant to 28 U.S.C. § 1292(b), together with a copy of its proposed reply brief. [Docs. 8-1 and 8-2]. On that same date, the District Court filed its Opinion and Order [Doc. # 113] in which the District Court makes certain rulings that contradict arguments made by Clorox in its proposed reply brief.

Woodman's sur-reply brief will show that the District Court's ruling negates arguments made by Clorox that an interlocutory appeal is likely to resolve the entire dispute between the parties.

Dated at Madison, Wisconsin, this 14<sup>th</sup> day of August, 2015.

Respectfully submitted:

By: /s/ John A. Kassner

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**CERTIFICATE OF SERVICE**

I, John A. Kassner, declare:

I am a resident of Wisconsin, and I am employed in Wisconsin. I am over the age of 18, and not a party to this action. My business address is: von Briesen & Roper, s.c., 10 East Doty Street, Suite 900, Madison, Wisconsin 53703.

I hereby certify that I filed the document described as PLAINTIFF'S-RESPONDENT'S MOTION FOR LEAVE TO FILE SUR-REPLY BRIEF IN RESPONSE TO DEFENDANT'S-PETITIONER'S PETITION FOR PERMISSION TO APPEAL PURSUANT TO 28 U.S.C. § 1292(B) with the Clerk of the Court for the United States Court of Appeals for the Seventh Circuit by using e-mail on August 14, 2015.

I further certify that some of the participants in the case are not registered CM/ECF users in the Seventh Circuit. I have transmitted the foregoing document via e-mail and First-Class Mail to the following registered and non-CM/ECF participants:

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Executed on August 14, 2015, at Madison, Wisconsin.

/s/ John A. Kassner

DECLARANT'