

IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. THOMAS & ST. JOHN

* * * * *

JEFFREY EPSTEIN, et al.,)	
)	
)	
Plaintiffs,)	
)	
v.)	NO. ST-10-CV-443
)	
FANCELLI PANELING, INC.,)	
)	
Defendant.)	(CARROLL, J.)

**DEFENDANT'S MOTION FOR LEAVE TO FILE AN AMENDED REPLY
WITH POINTS AND AUTHORITIES**

COMES NOW Defendant, FANCELLI PANELING, INC. ("Fancelli"), by and through its undersigned counsel, to move this Honorable Court for its **Order** granting Defendant in this action leave to file an **Amended Reply**, pursuant to *Fed. R. Civ. P. 7, 12 & 15, LRCi 7.1(d), Super. Ct. Rules 7, 48 U.S.C. §1561* and the Constitutional considerations embodied therein.

In support of its **Motion**, Defendant states the following facts and circumstances:

1. Defendant incorporates by reference the matter contained in its May 10th **Motion to Extend Time to File Leave to File Out of Time** and in its May 14th **Motion for Leave to File (Amended) Reply Out of Time (nunc pro tunc)**.¹

¹ Although the **Amended Reply** is 21 pages, the Court has previously granted leave to exceed the page limit and that **Order** is applicable hereto. *LRCi 12.1(d)*.

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2. In filing its *Amended Reply* May 11th, Counsel then considered its jurisdictional challenges to the pleadings pursuant to *Fed. R. Civ. P. 12(b)(1-6)*, subject to a first time permissible amendment as a matter of course and without need of leave, pursuant to *Fed. R. Civ. P. 15(a)(1)*. Counsel raised those specific objections by motion, as permitted by *Rule 12(b)*. A jurisdictional motion is not within the definition of pleading provided by *Fed. R. Civ. P. 7(a)*, but several of its jurisdictional challenges must be initially raised in direct response to this pleading, the *First Amended Complaint*, upon pain of waiver and before pleading further. *Rule 12(g)(2) & (h)*.
3. In reviewing the interaction of rules and time limits between the Courts from a less hectic vantage yesterday, Counsel noted that leave of Court is required for filings subsequent to the reply in local motions practice. *LRCi 7.1(a)*.
4. Accordingly, counsel moves that the instant *Motion* be accepted, *nunc pro tunc*, to the May 10th & 14th *Motions* and/or the May 11th filing of the *Amended Reply* and to accept it as filed.
5. Should the Court deem a sanction appropriate after considering the foregoing, counsel requests that it be exclusively his, for the least amount, pursuant to *LRCi 11.2*.

WHEREFORE, Defendant respectfully requests this Honorable Court to grant the following relief:

- A. **To Permit Defendant to amend its Reply, *nunc pro tunc*; and**
- B. **For such other and further relief as the Court deems just and proper.**

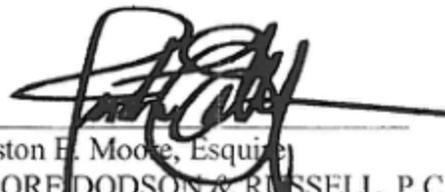
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DATED this **15th** day of March, 2011.

Respectfully submitted,



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PHONE: 
FAX:
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CERTIFICATE OF SERVICE

I hereby certify that on this **15th** day of March, 2011, a copy of the foregoing was served by first class mail, postage prepaid, upon Denise Francois, Esquire, Hodge & Francois, #1340 Taarneberg, St. Thomas, V.I. 00802.



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JEFFREY EPSTEIN, et al.,)	
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v.)	NO. ST-10-CV-443
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FANCELLI PANELING, INC.,)	
)	
Defendant.)	(CARROLL, J.)
_____)	

ORDER

THIS MATTER comes on the Defendant's March 10, 2011 *Motion to Extend Time in Which to Respond to the Court's Order to Show Cause*, March 14, 2011 *Motion for Leave to File its (Amended) Complaint Out of Time* and the instant *Motion for Leave to File Amended Reply (nunc pro tunc)* and it

APPEARING TO THE COURT that said *Motion* should be granted for excusable neglect and/or good cause shown, it is hereby

ORDERED that the Defendant's *Amended Reply* shall be accepted as filed March 11, 2011; and it is further

ORDERED _____

ORDER

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ENTERED THIS ____ DAY OF _____, 2011:

Hon. JAMES CARROLL, JUDGE
SUPERIOR COURT OF THE V.I.

A T T E S T:

Venetia H. Velazquez, Esq.
CLERK OF COURT

By: _____
(Deputy) clerk

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