

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION

JOHN EAKIN

Plaintiff,

v.

UNITED STATES  
DEPARTMENT OF DEFENSE

Defendant

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Civil Case No. 5:16-16-cv-0972-RCL

**PLAINTIFF'S UPOPOSED MOTION FOR LEAVE TO FILE SUR REPLY TO HIS  
OPPOSED MOTION FOR CLARIFICATION AND TO COMPEL PRODUCTION  
OF DOCUMENTS**

1. Plaintiff John Eakin *pro se* moves the court for leave to file a sur reply to his Motion for Clarification and to Compel Production of Documents (ECF doc 31).
2. On May 21, 2018, Plaintiff John Eakin received from Defendants a computer hard drive containing a semi-annual document release in accordance with this Court's August 2, 2017 Order. Contained in this document release were two files containing the documents apparently removed ("purged") as non-responsive from those released to Plaintiff in compliance with the Court's Order. Review of the material reveals that these two files contain documents improperly redacted and unlawfully withheld from Plaintiff in violation of this Court's Order and Title 5 US Code § 552(a).
3. Further, this Court ordered semi-annual document release has revealed additional violations by Defendants of the FOIA Statute and this Court's Order.
4. This newly obtained information was not available to Plaintiff at the time of filing the original motion.

5. Plaintiff asks leave to submit a sur reply to allow the Court to consider this newly obtained information.

6. Plaintiff and Counsel for Defendant confired telephonically on May 24, 2018. Defendant does not oppose this motion if the "purged" files are not attached and are simply described as similar to the exemplar attached to Plaintiff's original motion as Exhibit 4 (ECF doc 31-4).

Respectfully submitted,

/s/ John Eakin

John Eakin, Plaintiff *pro se*  
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**CERTIFICATE OF SERVICE**

I hereby certify that on the 24th day of May, 2018, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will send notification of such filing to all parties of record.

/s/ John Eakin

John Eakin, Plaintiff *pro se*

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