

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

ELOY ROJAS MAMANI, <i>et al.</i> ,)	Case No. 08-21063-Civ-(JORDAN)
)	
Plaintiffs,)	
)	
vs.)	
)	
GONZALO DANIEL SÁNCHEZ DE)	
LOZADA SÁNCHEZ BUSTAMANTE,)	
)	
Defendant.)	
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ELOY ROJAS MAMANI, <i>et al.</i> ,)	Case No. 07-22459-Civ-(JORDAN/MCALILEY)
)	
Plaintiffs,)	
)	
vs.)	
)	
JOSÉ CARLOS SÁNCHEZ BERZAÍN,)	
)	
Defendant.)	
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**PLAINTIFFS’ MOTION FOR LEAVE TO FILE A SURREPLY TO DEFENDANTS’
REPLY IN SUPPORT OF JOINT MOTION TO DISMISS**

Plaintiffs file this Motion for Leave to File a Surreply to Defendants’ Reply in Support of Joint Motion to Dismiss and would respectfully show as follows:¹

In their Reply, Defendants improperly submit new evidence of pending legislation in Bolivia which they argue provides Plaintiffs with an adequate alternative domestic remedy. This is the first time that Defendants raise the argument that Plaintiffs must exhaust remedies that are not presently available and that were not available at the time Plaintiffs filed their complaints.

¹ Plaintiffs’ Surreply in Opposition to Motion to Dismiss is attached as Exhibit A.

Defendants also suggest for the first time, in a footnote to their Reply, that this Court should apply the exhaustion requirement to Plaintiffs' claims under the Alien Tort Statute. Finally, Defendants introduce new evidence and argument in their Reply that demonstrations protesting the United States' grant of asylum to Defendant Sánchez Berzaín proves that this case will disrupt diplomatic relations between Bolivia and the United States.²

Plaintiffs request leave to file a brief five-page Surreply to respond to these new arguments. The filing of this Surreply will not prejudice Defendants. On the contrary, an inability to submit a Surreply would prejudice Plaintiffs by depriving them of a fair chance to address Defendants' new arguments, which introduce new evidence and statements contrary to Eleventh Circuit precedent. The filing of a short Surreply will not delay these proceedings. Per Local Rule 7.1.A.3, counsel for the parties conferred prior to the filing of this motion. Counsel for Defendants stated that they do not agree that they have raised new issues in their opposition. They stated that they "do not take a position on the motion" for leave to file a Surreply.

Dated: August 5, 2008
Miami, Florida

Respectfully submitted,

By: _____ /s/ Ira J. Kurzban

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² Even if the timing of the events at issue might excuse the fact Defendants are raising them for the first time on reply, without a surreply these exhibits would be before the Court without the opportunity for Plaintiffs' briefing.

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