

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

DANIEL S. NEWMAN, as a Receiver for
Founding Partners Capital Management
Company; Founding Partners Stable-
Value Fund, L.P.; Founding Partners
Stable-Value Fund, II, L.P.;
Founding Partners Global Fund, Ltd.,
and Founding Partners Hybrid-Value
Fund, L.P.,

Plaintiff,

vs.

Case No. 2:09-cv-445-FtM-29SPC

SUN CAPITAL, INC. a Florida
corporation; SUN CAPITAL HEALTHCARE,
INC., a Florida corporation; HLP
PROPERTIES OF PORT ARTHUR, LLC, a
Texas limited liability company,

Defendants.

ORDER

This matter comes before the Court on the Receiver's Motion for Leave to File Sur-reply (Doc. #183) filed on April 16, 2010. The Receiver seeks to file a 25 page surreply to "Sun Capital's 117-page" reply.¹ The motion for leave to file a surreply seeks to address the issues therein because it "contains an avalanche of new

¹Sun Capital was granted permission to file a Reply Brief limited to 125 pages without opposition from the Receiver. (Doc. #156.) On March 3, 2010, Sun Capital filed a 137-page redacted Reply, not including exhibits. (Doc. #161.) The last 12 pages of the Reply Brief will be stricken.

cases, new work product, new arguments, and new positions.” (Doc. #183, p. 2.) Simultaneously with the filing of the motion, the Receiver filed a 28-page Motion to Strike Reply Declarations (Doc. #182) with almost 200 pages in exhibits, and a corresponding Unopposed Motion to File Under Seal Pursuant to Confidentiality Order (Doc. #184).²

The Court finds that a surreply is not required at this time. If the Court desires a surreply at a later time, it will be requested. Therefore, the motion for leave to file a surreply will be denied.

Accordingly, it is now

ORDERED:

²The Court would note violations of the following Local Rules, although no action will be taken at this time:

(a) In a motion or other application for an order, the movant shall include a concise statement of the precise relief requested, a statement of the basis for the request, and a memorandum of legal authority in support of the request, all of which the movant shall include in a single document **not more than twenty-five (25) pages**.

. . .

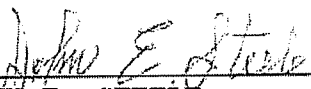
(d) A motion requesting leave to file either a motion in excess of twenty-five (25) pages, a response in excess of twenty (20) pages, or a reply or further memorandum shall **not exceed three (3) pages**, shall specify the length of the proposed filing, and shall not include, as an attachment or otherwise, the proposed motion, response, reply, or other paper.

M.D. Fla. L.R. 3.01(a), (d) (emphasis added).

1. The Receiver's Motion for Leave to File Sur-reply (Doc. #183) is **DENIED**.

2. The last 12 pages of Sun Capital's Reply Memorandum (Doc. #161) are **stricken**. The Clerk shall note this on the docket.

DONE AND ORDERED at Fort Myers, Florida, this 19th day of April, 2010.



JOHN E. STEELE
United States District Judge

Copies:
Counsel of record