

November 27, 2017

Honorable Scott S. Harris  
Clerk of Court  
Supreme Court of the United States  
1 First Street, NE  
Washington, DC 20543

**Re: *Cyan, Inc., et al. v. Beaver County Employees Retirement Fund, et al., No. 15-1439***

Dear Mr. Harris:

On November 22, respondents filed a document styled a “supplemental brief” in which they responded to several arguments made in petitioners’ reply brief. That filing is entirely inappropriate. The Court’s rules place very clear limits on the circumstances in which a party may file a supplemental brief: To inform the Court of “late authorities, newly enacted legislation, or other intervening matter that was not available in time to be included in a brief.” S. Ct. R. 25.6. Respondents do not even try to explain how their supplemental brief falls within that rule, and it does not. The “new assertions” to which respondents wish to respond were either made in earlier filings, Pet. 8 & n.5, accurately described respondents’ failure to identify certain authorities, Reply Br. 22, or characterized a single pertinent district-court decision, Reply Br. 24 n.5. The allowance for supplemental briefs is not a backdoor for parties to file surreplies. Because respondents’ supplemental brief is so manifestly improper, it should be stricken. S. Shapiro et al., *Supreme Court Practice* 13.15, at p. 760 (10th ed. 2013) (“An improper supplemental brief will \* \* \* be stricken”); see, e.g., *South Dakota v. Yankton Sioux Tribe*, 522 U.S. 1013 (1997). In the event that this Court wishes to consider the filing, petitioners have filed a supplemental brief rebutting each of respondents’ misleading and incorrect statements.

Sincerely,

Neal Kumar Katyal

cc: Counsel of Record