

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO**

Criminal Action No. 05-cr-00545-EWN

UNITED STATES OF AMERICA

Plaintiff,

v.

JOSEPH P. NACCHIO,

Defendant.

---

**MOTION BY JOSEPH P. NACCHIO FOR LEAVE TO  
FILE SUR-RESPONSE TO THE REPLY OF THE UNITED STATES  
IN SUPPORT OF ITS MOTION FOR ENTRY OF A MONEY JUDGMENT**

---

Defendant Joseph P. Nacchio, by and through undersigned counsel, respectfully requests that the Court grant him leave to file a Sur-Response to the United States's Reply In Support Of Motion For Money Judgment. As grounds therefore, Mr. Nacchio states as follows:

1. On April 26, 2007, the government filed a Motion For Entry Of Money Judgment. [Doc. No. 412]. Mr. Nacchio filed a substantive Response on July 6, 2007. [Doc. No. 440]. The government filed a Reply In Support Of Motion For Money Judgment on July 17, 2007. [Doc. No. 443].

2. Mr. Nacchio now seeks leave to file a Sur-Response to the government's reply, in the form annexed as an Exhibit hereto. The Sur-Response addresses issues first raised by the government in its Reply [Doc. No. 443] and which the Court may need to resolve, and is not intended to restate

arguments already made to which a Sur-Response is not necessary, nor does it concede any arguments to which Sur-Response is not made.

3. Counsel for Mr. Nacchio has consulted with Assistant U.S. Attorney Kevin Traskos regarding this motion and was informed that the government does not oppose this motion on the condition that if the brief raises new issues, the government have an opportunity to reply.

WHEREFORE, Mr. Nacchio respectfully asks for grant of leave to file a Sur-Response To The Reply Of The United States In Support Of Its Motion For Entry Of A Money Judgment.

Respectfully submitted this 23<sup>rd</sup> day of July, 2007.

s/Herbert J. Stern  
Herbert J. Stern  
Jeffrey Speiser  
Edward S. Nathan  
Mark Rufolo  
Stern & Kilcullen  
75 Livingston Avenue  
Roseland, New Jersey 07068  
(973) 535-2600  
(973) 535-9664 (facsimile)

### CERTIFICATE OF SERVICE

I hereby certify that on this 23<sup>rd</sup> day of July 2007, a true and correct copy of the foregoing **MOTION BY JOSEPH P. NACCHIO FOR LEAVE TO FILE A SUR-RESPONSE TO THE REPLY OF THE UNITED STATES IN SUPPORT OF ITS MOTION FOR ENTRY OF A MONEY JUDGMENT** was served on the following via email:

James O. Hearty  
[james.hearty@usdoj.gov](mailto:james.hearty@usdoj.gov)  
[victoria.soltis@usdoj.gov](mailto:victoria.soltis@usdoj.gov)  
[USACO.ECFcriminal@usdoj.gov](mailto:USACO.ECFcriminal@usdoj.gov)

Cliff Stricklin  
[Cliff.stricklin@usdoj.gov](mailto:Cliff.stricklin@usdoj.gov)

Leo J. Wise  
[leo.wise@usdoj.gov](mailto:leo.wise@usdoj.gov)  
[dorothy.burwell@usdoj.gov](mailto:dorothy.burwell@usdoj.gov)

Colleen Ann Conry  
[colleen.conry@usdoj.gov](mailto:colleen.conry@usdoj.gov)

Paul E. Pelletier  
[paul.pelletier@usdoj.gov](mailto:paul.pelletier@usdoj.gov)

Kevin Traskos  
[kevin.traskos@usdoj.gov](mailto:kevin.traskos@usdoj.gov)

s/Mark Rufolo  
Mark Rufolo