

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

IN RE RAIT FINANCIAL TRUST
SECURITIES LITIGATION

Master File No. 2:07-cv-03148-LDD

**LEAD PLAINTIFF'S RESPONSE
TO THE RAIT DEFENDANTS' AND THE UNDERWRITER DEFENDANTS'
MOTION FOR LEAVE TO FILE REPLY BRIEFS
IN SUPPORT OF THEIR MOTIONS TO DISMISS**

Court-Appointed Lead Plaintiff respectfully submits this response to the RAIT Defendants' and the Underwriter Defendants' Motion For Leave To File Reply Briefs In Support Of Their Motions To Dismiss.

This Court's Motions Practices and Procedures provide that reply briefs "will be permitted only when necessary to rebut an issue or factual assertion not covered by the party's original submission." *See* Motions Practices and Procedures of Judge Legrome D. Davis, No. 3. The Court's February 6, 2008 Order is consistent with this rule, confirming that "To the extent that reply papers are necessary, defendants shall file any reply papers by no later than June 5, 2008." *See* Docket No. 60 (emphasis added). The RAIT and Underwriter Defendants have not even attempted to make a showing that reply briefs are "necessary," as is required under this Court's rules and the February 6, 2008 Order.

The RAIT and Underwriter Defendants do not identify a single legal issue or factual assertion in Lead Plaintiff's opposition brief that Defendants have not already addressed in their 106 pages of briefing on their motions to dismiss. As the briefing now stands, both sides have submitted the same number of pages (106 each), which is consistent with this Court's rules. Defendants seek an opportunity to submit at least 40 additional pages of briefing beyond that submitted by Lead Plaintiff (and up to 60 additional pages if the Trustee Defendants and Grant Thornton also intend to submit reply briefs without making the required showing of

“necessity”).¹ Defendants have had ample opportunity—and more than sufficient pages already—to present their arguments. Accordingly, Lead Plaintiff respectfully submits that further briefing by the RAIT and Underwriter Defendants (or any Defendant) is unnecessary and should not be permitted under the circumstances.

Dated: May 23, 2008

Respectfully submitted,

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¹ In the absence of a new issue or fact necessitating a reply, the RAIT and Underwriter Defendants base their request solely on the length of Lead Plaintiff’s opposition memorandum. However, the Court specifically authorized Lead Plaintiff to file an opposition brief longer than the one it filed. *See* Docket No. 69 (authorizing Lead Plaintiff to file an omnibus memorandum “equal to the combined page limits of all defense memoranda,” *i.e.*, 115 pages).