

**COURT OF APPEAL  
FIRST CIRCUIT  
STATE OF LOUISIANA**

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**DOCKET NO. 2021-CA-0703**

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**JAMES J. DONELON, COMMISSIONER OF INSURANCE FOR THE  
STATE OF LOUISIANA, IN HIS CAPACITY AS REHABILITATOR OF  
LOUISIANA HEALTH COOPERATIVE, INC.,  
Plaintiff,**

**VERSUS**

**GROUP RESOURCES INCORPORATED, MILLIMAN, INC.,  
BUCK GLOBAL, LLC, AND IRONSHORE SPECIALTY COMPANY,  
Defendants**

**MILLIMAN, INC.  
Defendant-Appellant.**

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**CIVIL PROCEEDING**

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**DEFENDANT-APPELLANT MILLIMAN, INC.'S OPPOSITION TO  
APPELLEE'S MOTION FOR LEAVE TO FILE SUR-REPLY**

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**On Appeal from the 19th Judicial District Court, Parish of East Baton Rouge,  
State of Louisiana, Its Docket No. 651,069, Section 22, Division F  
Honorable Timothy E. Kelley, Presiding**

Respectfully submitted,

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Inc.*

## **MAY IT PLEASE THE COURT:**

Defendant-Appellant Milliman, Inc. (“Milliman”) respectfully requests that this Court deny the Louisiana Department of Insurance’s (the “LDI”) Motion for Leave to File Sur-Reply Brief (the “Motion”). The purpose of a sur-reply is to enable a party to contest matters presented for the first time in the opposing party’s brief. Because the LDI does not identify any new arguments, facts or authority Milliman raised in its Reply Brief, there is no justification for a sur-reply.

On the contrary, the LDI improperly raises a new argument in its proposed sur-reply—that Milliman failed to proffer any witnesses, affidavits or other evidence to the Trial Court in support of its motion to compel. While the Court should not consider this belated argument, it fails because Milliman’s motion to compel (and its Briefs submitted on this appeal) demonstrated that its document requests are closely tied to the Receiver’s own allegations, and neither the LDI, nor the Receiver, nor the Trial Court addressed any of Milliman’s specific document requests, or tried to refute Milliman’s arguments showing that those requests are necessary and proper. For example, it is undisputed that Milliman needs information concerning other Louisiana carriers’ rate information to refute the Receiver’s allegation that Milliman’s assumptions were unreasonable when compared to those other carriers. The Trial Court’s Judgment was not based on a failure of proof, but rather on the its misapplication of La. R.S. § 22:2043.1 and La. R.S. § 2045, which the Court erroneously held vitiates Milliman’s rights to discovery.

For all of the foregoing reasons, the LDI’s Motion should be denied, and the Trial Court’s Judgment should be reversed.

Dated: September 13, 2021

New Orleans, Louisiana

Respectfully submitted,

/s/ Harry Rosenberg

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## **CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished via U.S. Mail, postage prepaid, and via-email, to the trial court and all counsel of record as follows:

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New Orleans, Louisiana this 13th day of September, 2021

/s/ Harry Rosenberg