

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

SHARON PITTS, et al.,)	
)	
Plaintiffs,)	
)	
vs.)	Case No. 4:10CV00274 ERW
)	
CITY OF CUBA, et al.,)	
)	
Defendants.)	

MEMORANDUM AND ORDER

This matter comes before the Court on Plaintiffs’ Motion to Quash Defendants Magel, Spratt, and the South Central Drug Task Force’s Motion to Dismiss [doc. #110]; Plaintiffs Sharon Pitts, Lisa King, Marilyn Copling, and Daniel Pitts Reply to Defendants Shane Spratt, Frank Magel, and South Central Drug Task Force Doc 114 Motion to Dismiss [doc. #115]; Defendants Magel and Spratt and South Central Drug Task Force’s Motion to Strike Plaintiffs’ Reply to Defendants’ Motion to Dismiss [doc. #117]; Plaintiffs’ Motion for Leave to File Plaintiffs’ Motion to Quash and Memorandum of Law in Support of Motion to Quash [doc. #118]; Defendants Magel and Spratt and South Central Drug Task Force’s Motion to Oppose Plaintiffs’ Motion for Leave to File Plaintiffs’ Motion to Quash [doc. #119]; and Plaintiffs Sharon Pitts, Lisa King, Marilyn Copling, and Daniel Pitts Motion to Oppose Defendants Shane Spratt, Frank Magel, and South Central Drug Task Force Doc 119 Motion to Oppose [doc. #120].

As similarly emphasized by this Court in its January 7, 2011 Memorandum and Order [doc. #87], the Court notes that Plaintiffs’ filing of its Motion to Quash Defendants Magel,

Spratt, and the South Central Drug Task Force's Motion to Dismiss [doc. #110] is titled "Motion to Quash," although it appears to simply be a responsive brief to Defendants Spratt, Magel, and South Central Drug Task Force's Motion to Dismiss [doc. #98]. Plaintiffs have filed similar documents in response to other motions in this case. Because Plaintiffs refer to these filings as "Motions," it is necessary for the Court to make a ruling on them, although there is no real relief requested, other than the denial of the motion to which it is responding. Upon review of the aforementioned documents, the Court finds that Plaintiff's Motion to Quash Defendants Magel, Spratt, and the South Central Drug Task Force's Motion to Dismiss [doc. #110] should be properly construed as Plaintiffs' Response to Defendants Spratt, Magel, and South Central Drug Task Force's Motion to Dismiss [doc. #98], which was filed on February 22, 2011. The Court will therefore deny Plaintiffs' Motion to Quash.

In addition, Plaintiffs Sharon Pitts, Lisa King, Marilyn Copling, and Daniel Pitts Reply to Defendants Shane Spratt, Frank Magel, and South Central Drug Task Force Doc 114 Motion to Dismiss [doc. #115] is an improperly filed Sur-Reply to Defendants Shane Spratt, Frank Magel, and South Central Drug Task Force's Reply to Plaintiffs' Response to Defendants' Motion to Dismiss [doc. #114]. When a moving party files a motion, the non-moving party may file an opposition memorandum. The moving party may then file a reply memorandum. The non-moving party may not file another memorandum unless it obtains leave of court to do so. *See* E.D.Mo. L.R. 7 - 4.01. The Plaintiffs received their opportunity to respond to the Motion to Dismiss which, as previously noted, was filed as a Motion to Quash. As the Sur-Reply was filed without leave from this Court, the Court will only consider the Defendants' Motion to Dismiss [doc. #98], Plaintiffs' Response to the Motion to Dismiss [doc. #110], and Defendants' Reply to Plaintiffs' Response to Defendants' Motion to Dismiss [doc. #114], in ruling on the Motion to

Dismiss.

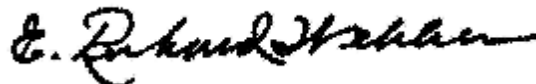
Accordingly,

IT IS HEREBY ORDERED that Plaintiffs' Motion to Quash Defendant Magel, Spratt, and the South Central Drug Task Force's Motion to Dismiss [doc. #110], which is actually a responsive brief, is **DENIED, as moot**.

IT IS HEREBY FURTHER ORDERED that the Court will not consider Plaintiffs Sharon Pitts, Lisa King, Marilyn Copling, and Daniel Pitts Reply to Defendants Shane Spratt, Frank Magel, and South Central Drug Task Force Doc 114 Motion to Dismiss [doc. #115], as it is an improperly filed Sur-Reply.

IT IS HEREBY FURTHER ORDERED that Defendants Magel and Spratt and South Central Drug Task Force's Motion to Strike Plaintiffs' Reply to Defendants' Motion to Dismiss [doc. #117]; Plaintiffs' Motion for Leave to File Plaintiffs' Motion to Quash and Memorandum of Law in Support of Motion to Quash [doc. #118]; Defendants Magel and Spratt and South Central Drug Task Force's Motion to Oppose Plaintiffs' Motion for Leave to File Plaintiffs' Motion to Quash [doc. #119]; and Plaintiffs Sharon Pitts, Lisa King, Marilyn Copling, and Daniel Pitts Motion to Oppose Defendants Shane Spratt, Frank Magel, and South Central Drug Task Force Doc 119 Motion to Oppose [doc. #120] are **DENIED, as moot**.

Dated this 9th Day of June, 2011.



E. RICHARD WEBBER
SENIOR UNITED STATES DISTRICT JUDGE