

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
SOUTHERN DIVISION

NO. 7:13-CV-00081-FL

ANDREW GENTILE, CHRISTINE)
GENTILE, and REDGATOR PAWN)
SHOP,)

Plaintiffs,)

v.)

ORDER

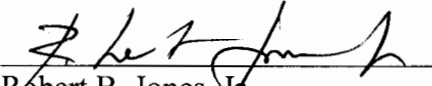
BRUNSWICK COUNTY SHERIFF'S)
DEPARTMENT, JOHN INGRAM,)
in his individual and official capacity as)
Sheriff of Brunswick County, RYAN)
NEWMAN, *in his individual and official*)
capacity as a Detective for the Brunswick)
County Sheriff's Department, MICHAEL)
MURRAY, *in his individual and official*)
capacity as a Detective for the Brunswick)
County Sheriff's Department,)
BRUNSWICK COUNTY, WESTERN)
SURETY COMPANY, BRUNSWICK)
COUNTY DISTRICT ATTORNEY'S)
OFFICE, and MEREDITH EVERHART,)
in her individual and official capacity as)
an Assistant District Attorney with the)
Brunswick County District Attorney's)
Office,)

Defendants.)

This matter is before the court on Plaintiffs' motion to strike the Reply Memorandum filed by Defendants Meredith Everhart and Brunswick County District Attorney's Office ("Defendants") in response to Plaintiffs' Memorandum in Opposition to Defendants Motion to Dismiss or, alternatively, for leave to file a surreply. [DE-43]. Plaintiffs contend that Defendants' reply violates Local Civil Rule 7.1(f)(1), stating that on a non-discovery motion the movant's reply is limited to

matters first presented in the nonmovant's response. *See* Local Civ. R. 7.1(f)(1). Specifically, Plaintiffs assert that Defendants' reply contains three separate arguments that were either already addressed in Defendants' memorandum in support of their motion or are being raised for the first time in Defendants' reply, but were not initially raised in Plaintiffs' memorandum in opposition. While the reply does contain some repetition of argument found in Defendants' original motion, the reply is generally responsive to points first raised by Plaintiffs in the response. For example, in their response Plaintiffs assert that while Defendants did not specifically take issue with the adequacy of pleading with respect to the RICO claim, Plaintiffs have sufficiently pled the RICO elements. Pls.' Mem. in Opp'n to Defs.' Mot. to Dismiss [DE-33] at 8. Thus, Plaintiffs specifically raised the adequacy of the RICO claim in their response, and Defendants' address of the issue in reply was not improper under Local Civil Rule 7.1(f). Accordingly, the court in its discretion will deny the motion to strike and, alternatively, will allow Plaintiffs to file a surreply by no later than **December 30, 2013**.

SO ORDERED, this the 23 day of December 2013.


Robert B. Jones, Jr.
United States Magistrate Judge