

**IN THE UNITED STATES DISTRICT COURT FOR
THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
1:16 CV 294**

GREGORY BADER,)
)
 Plaintiff)
)
 v)
)
 MARK KURDYS and ROBERTS &)
 STEVENS, P.A.,)
)
 Defendants.)

ORDER

THIS MATTER is before the undersigned pursuant to Plaintiff's Supplemental Respond to Memorandum in Support of Motion to Dismiss and Reply to Defendants' Reply Memorandum in Support of Motion to Dismiss (#18) filed by Attorney Robert Lewis, Jr. who has now filed a Notice of Appearance (#17) on behalf of Plaintiff. On November 1, 2016, Defendants filed a Motion to Dismiss and Supporting Memorandum (#8) & (#9). On December 19, 2016, Plaintiff's counsel filed a Response in opposition to the Motion to Dismiss (#13). On December 22, 2016, Defendants filed a Reply (#15). As a result, the briefing in this matter was completed on December 22, 2016.

LCvR 7.1(E) states as follows:

(E) Time Frames for the Filing of Responses to Motions and for Replies.

Responses to motions, if any, shall be filed within fourteen (14) days of the date on which the motion is served, as evidenced by the certificate of service attached to said motion. A reply to the response to a motion, if any, shall be filed within seven (7) days of the date on which the response is served, as evidenced by the certificate of service attached to said response. The filing of a reply brief is not mandatory. In any event, a reply brief should be limited to a discussion of matters newly raised in the response. If the party making the motion does not wish to file a reply brief, it must so inform the Court and opposing counsel promptly in an electronically filed notice.

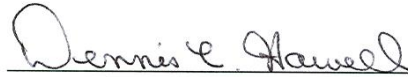
The Plaintiff's supplemental response filed on January 11, 2017, has been filed outside of the time frames provided by Local Rule 7.1(E). Prior to filing the Plaintiff's supplemental response, Plaintiff's counsel did not file a motion requesting permission for the filing of such a pleading outside of the time set forth in the Local Rules. The Court also notes that this Court rarely, if ever, allows the filing of such a pleading absent new binding legal authority from the United States Court of Appeals for the Fourth Circuit or the United States Supreme Court that was decided after briefing closed. As a result, the undersigned will enter an Order striking Plaintiff's Supplemental Response.

ORDER

IT IS, THEREFORE, ORDERED that the Plaintiff's Supplemental Response to Memorandum in Support of Motion to Dismiss and Reply to

Defendants' Reply Memorandum in Support of Motion to Dismiss (#18) is ordered to be **STRICKEN** from the record and will not be considered by the Court.

Signed: January 17, 2017



Dennis L. Howell
United States Magistrate Judge

