

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
No. 5:14-cv-00369-BO**

FELICITY M. TODD VEASEY and
SECOND AMENDMENT
FOUNDATION, INC.,
Plaintiffs,

v.

BRINDELL B. WILKINS, JR., in his
official capacity as Sheriff of Granville
County, North Carolina

Defendant.

**DEFENDANT'S RESPONSE TO
PLAINTIFFS' MOTION FOR LEAVE TO
FILE AN UNTIMELY REPLY BRIEF**

After Defendant moved to dismiss the Complaint, Plaintiffs filed a Motion for Preliminary Injunction along with a supporting Memorandum. In lieu of filing a true Memorandum in opposition to that Motion, Defendant filed a one-page Response that merely incorporated the arguments made in his filings in connection with his Motion to Dismiss. [DE 26]. If a Reply to this Response were permitted, which it was not, it would have been due on December 1, 2014.

After the December 1, 2014 deadline had expired, Plaintiffs' counsel e-mailed the undersigned on December 2, 2014 at 11:49 p.m. to ask for consent to file an untimely Reply. The undersigned was not able to provide Plaintiffs' counsel with the courtesy of a substantive response because at 11:49 p.m. that night, he and his wife were in the delivery room welcoming their first child into the world. The next day, on December 3, 2014, Plaintiffs filed their Motion for Leave to File an untimely Reply.¹

¹ The Motion included a proposed Reply with arguments that only prove up the weaknesses in Plaintiffs' position.

Plaintiffs' Motion for Leave to File an untimely Reply should be denied because no Reply was permitted in the first place. Local Rule 7.1(f)(2) "discourages" Replies and allow them only when a party deserves the opportunity to respond to new matters "initially raised in [the response]." Here, Defendant's one-page Response merely incorporated by reference the arguments made in support of his Motion to Dismiss. Thus, there were no matters "initially raised in the response" to which a Reply – even a timely one – would have been permitted.

Plaintiffs' Motion for Leave to File an untimely Reply should be denied.

Respectfully submitted the 11th day of December, 2014.

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CERTIFICATE OF SERVICE

I hereby certify that I have this day electronically filed the foregoing document with the Clerk of Court using the CM/ECF system which will send notification of such filing to all counsel and parties of record as follows:

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This the 11th day of December, 2014.

s/Andrew H. Erteschik
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