

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 17-cv-00884-CMA-STV

CHAYCE AARON ANDERSON,

Plaintiff,

v.

JASON SHUTTERS

Defendant.

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**DEFENDANT JASON SHUTTERS' OBJECTION TO PLAINTIFF'S RESPONSE IN  
SUPPORT OF MOTION FOR LEAVE TO FILE SUR-REPLY (ECF No. 140)**

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Defendant, Jason Shutters, through his Attorneys, Hall & Evans, LLC, submits the following as his Objection to Plaintiff's Reply in Support of Motion for Leave to File Sur-Reply (ECF No. 140):

1. On July 5, 2019, Detective Shutters filed his Motion for Summary Judgment (ECF No. 128) ("MSJ").
2. A Response to Detective Shutters' Motion was filed by the Plaintiff on July 26, 2019 (ECF No. 133), and a Reply in Support of the MSJ was filed on August 7, 2019 (ECF No. 136).
3. On August 19, 2019, the Plaintiff filed a Motion seeking leave to file a sur-reply, to the MSJ (ECF No. 137) ("Sur-Reply").
4. Detective Shutters filed a Response in Opposition to the Sur-Reply on August 26, 2019 (ECF No. 140).

5. On August 29, 2019, Plaintiff filed a Reply in Support of the Sur-Reply (ECF No. 141). As part of the requested relief, Plaintiff asked the Court to strike any new arguments raised in the MSJ (ECF No. 141 at 2-3, 7).

6. The request to strike a portion of the MSJ, was first raised in the Reply (*See* generally, ECF No. 137). Such an approach is improper.

7. D.C.COLO.LCivR 7.1(d) provides in pertinent part, “A motion shall not be included in a response or reply to the original motion.”

8. Plaintiff’s original motion was for leave to file a sur-reply. It does not contain any reference or requested relief to strike portions of Detective Shuttles’ MSJ. The request to strike is separate and distinct from a request for leave to file a sur-reply (*See* eg, Fed, R, Civ. P. 12(f) (allowing a motion to strike addressing a responsive pleading, and CMA Civ Practice Standard 7.1A(a) (addressing a motion to strike another party’s motion)). Therefore, any request to strike is a separate Motion, and should be filed as such.

9. Pursuant to D.C.COLO.LCivR 7.1, any request to strike raised for the first time in Plaintiff’s Reply, should not be considered by the Court.

10. Undersigned Counsel conferred with Counsel for the Plaintiff via an exchange of voice-mails. Counsel for the Plaintiff first filed a “Notice of Errata” (ECF No. 142). However, the Notice of Errata did not address the request to strike. Counsel for the Plaintiff subsequently indicated no further corrections to the Reply would be made.

Dated this 6<sup>th</sup> day of September 2019.

**HALL & EVANS, L.L.C.**

*s/Mark S. Ratner*\_\_\_\_\_

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**ATTORNEYS FOR DEFENDANT**

**JASON SHUTTERS**

**CERTIFICATE OF SERVICE (CM/ECF)**

I HEREBY CERTIFY that on the 6<sup>th</sup> day of September 2019, I electronically filed the foregoing **DEFENDANT JASON SHUTTERS' OBJECTION TO PLAINTIFF'S REPLY IN SUPPORT OF MOTION FOR LEAVE TO FILE A SUR-REPLY** with the Clerk of Court using the CM/ECF system which will send notification of such filing to the following e-mail addresses:

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