

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 09-1663**

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VALUEPEST.COM OF CHARLOTTE, INCORPORATED, f/k/a Budget Pest  
Prevention, Incorporated; NATIONAL PEST CONTROL,  
INCORPORATED; PEST PROS, INCORPORATED,

Plaintiffs - Appellants,

v.

BAYER CORPORATION; BAYER CROPSCIENCE LP; BASF CORPORATION,

Defendants - Appellees,

and

ORKIN; THE TERMINIX INTERNATIONAL COMPANY LIMITED  
PARTNERSHIP,

Defendants.

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Appeal from the United States District Court for the Western  
District of North Carolina, at Asheville. Lacy H. Thornburg,  
District Judge. (1:05-cv-00090-LHT)

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Submitted: December 2, 2009

Decided: December 16, 2009

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Before WILKINSON, MICHAEL, and SHEDD, Circuit Judges.

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Affirmed by unpublished per curiam opinion.

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Michael David Bland, WEAVER, BENNETT & BLAND, PA, Matthews,  
North Carolina; Forrest A. Ferrell, Warren A. Hutton, SIGMON,  
CLARK, MACKIE, HUTTON, HANVEY & FERRELL, PA, Hickory, North

Carolina; David Barry, BARRY & ASSOCIATES, San Francisco, California, for Appellants. Douglas W. Ey, Jr., Catherine E. Thompson, Jason D. Evans, MCGUIREWOODS, LLP, Charlotte, North Carolina; Glen D. Nager, Lawrence D. Rosenberg, JONES DAY, Washington, D.C.; Larry S. McDevitt, VAN WINKLE, BUCK, WALL, STARNES AND DAVIS, P.A., Asheville, North Carolina, for Appellees.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Valuepest.com of Charlotte, Incorporated, National Pest Control, Incorporated and Pest Pros, Incorporated (collectively "Valuepest.com") appeal the district court's order denying their amended motion to correct the judgment under Fed. R. Civ. P. 60(a) and for relief from judgment pursuant to Fed. R. Civ. P. 60(b)(6). The court denied the motion because Valuepest.com abandoned the issue raised in the motion by failing to raise it on appeal and because granting the requested relief would be an improper deviation from the mandate rule. We affirm.

In the opening brief, Valuepest.com argues the merits of the Rule 60 motion. However, it fails to discuss the mandate rule or whether the court correctly found it had abandoned the issue by failing to raise it on appeal. It is not until the reply brief that Valuepest.com raises either of these issues. In A Helping Hand, LLC v. Baltimore County, MD, 515 F.3d 356, 369 (4th Cir. 2008), this court stated that "[i]t is a well settled rule that contentions not raised in the argument section of the *opening brief* are abandoned.'" (quoting United States v. Al-Hamdi, 356 F.3d 564, 571 n.8 (4th Cir. 2004)). This court does not normally consider arguments raised for the first time in a reply brief. See SEC v. Pirate Investor, 580 F.3d 233, 255 n.23 (4th Cir. 2009).

Because Valuepest.com failed to discuss the merits of the district court's reasons for denying the Rule 60 motion in the argument section of the opening brief, we consider any challenge to be abandoned. Accordingly, we affirm the district court's order. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

AFFIRMED