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Steven D. Grierson
CLERK OF THE COURT

OBJ
LUBA DACE
[redacted]
Las Vegas NV, 89178
[redacted]

EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

LUBA DACE, Plaintiff, v. MELVIN GRIMES, BEN CHILDS, LAW OFFICE OF BENJAMIN B. CHILDS, ROBERTS STOFFEL FAMILY LAW GROUP, Defendants.	Case No.: A-25-922833-C Dept. No.: 29 **PLAINTIFF'S OBJECTION TO NEW ARGUMENTS AND EVIDENCE RAISED FOR FIRST TIME IN DEFENDANT CHILDS' REPLY**

Plaintiff Luba Dace, in proper person, respectfully submits this objection to preserve the record and request appropriate relief.

I. INTRODUCTION

Defendant Childs's Reply in support of his Anti-SLAPP and Rule 12(b)(5) motions raises arguments and introduces new material not contained in his moving papers. Nevada procedure does not permit new arguments or new evidence to be raised for the first time in reply, which deprives the non-moving party of a fair opportunity to respond. See *Francis v. Wynn Las Vegas, LLC*, 127 Nev. 657, 671 (2011). Courts in this District likewise require leave of court for

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supplemental briefing and disfavor new theories raised for the first time in reply. See EDCR 2.20(e); EDCR 5.502; NRCP 7(b)(1).

MEMORANDUM OF POINTS AND AUTHORITIES

II. NEW MATTERS IMPROPERLY RAISED IN REPLY

1. **Invited Error Doctrine:**

   Raised for the first time in Reply; this appellate principle was not in the Motion.

2. **"Insignificant Role / Page-Count" Theory:**

   New causation theory based on how many pages of the custody order mention Childs. Not in the Motion.

3. **"Undisputed" Emails Argument:**

   Reply newly characterizes March 2023 emails as "undisputed" and uses them as affirmative defense facts. This is particularly problematic because Defendant Grimes takes the opposite position in his Reply, claiming there was "no stipulation" at all. Thus, Defendants themselves are not consistent about the March 2023 stipulation memorialized in an email. That factual dispute underscores why these reply-only arguments are improper and prejudicial.

4. **Fee-Waiver / IFP Narrative and Exhibit F:**

   New evidentiary material and new theory accusing Plaintiff of abusing in forma pauperis status. Not in the Motion. This narrative and Exhibit F should also be stricken as immaterial and prejudicial under NRCP 12(f) and excluded under NRS 48.035(1), because any probative value is substantially outweighed by unfair prejudice and risk of confusing the issues.

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5. **Shifted Public Concern Theory:**

Motion argued that testimony was of public concern because it was "honest testimony." Reply pivots to "custody of children is a hugely important public concern," a new framing.

Allowing new issues at the reply stage sandbags the non-movant and defeats the orderly sequence contemplated by Nevada's motion practice (motion → opposition → reply). That is precisely why *Francis* and the local rules bar consideration of reply-only arguments.

III. NEW ARGUMENTS ARE NOT "CLARIFICATIONS"

Defendant may argue that these additions simply "respond" to Plaintiff's Opposition, particularly her arguments about the *Greenberg* exception to privilege. That is incorrect.

• A clarification expands upon an argument already raised in the Motion.

• A new argument introduces a different legal doctrine, factual contention, or evidentiary submission not briefed previously.

Here, Childs's Reply goes beyond rebuttal:

1. The invited error doctrine is a wholly new legal theory. Plaintiff's Opposition argued that *Greenberg* limits privilege against clients. A proper rebuttal would have been to cite contrary privilege cases. Instead, Defendant raised an appellate doctrine—never briefed in the Motion—that applies only on appeal, not in the trial court. Injecting an appellate-only standard into a trial-level Anti-SLAPP motion is procedurally improper and underscores that Defendant is advancing new theories beyond the scope of reply.

2. The page-count theory is a new causation argument, not a rebuttal to *Greenberg*.

3. Defendant Childs's Reply labels the March 2023 stipulation emails as "UNDISPUTED." Plaintiff does not seek to strike this admission, as it supports her position. The significance is that Defendant Grimes takes the opposite view, denying any

stipulation. This inconsistency between co-defendants underscores that the Reply introduces new factual disputes, not clarifications.

4. The fee-waiver/IFP narrative and Exhibit F are brand-new materials, not responsive to Plaintiff's *Greenberg* or fiduciary-duty arguments.

5. The shifted public concern framing reframes prong one on grounds not briefed in the Motion.

These are not clarifications of arguments already raised; they are new arguments. As the Nevada Supreme Court explained in *Francis v. Wynn Las Vegas, LLC*, courts "may decline to consider issues raised for the first time in a reply brief." Allowing Defendant to introduce new doctrines and exhibits at the reply stage would prejudice Plaintiff.

IV. LEGAL STANDARD

Nevada appellate precedent authorizes district courts to disregard reply-only content. *Francis v. Wynn Las Vegas, 127 Nev. at 671* (issues first raised in reply may be disregarded). The EDCR and NRCP reinforce orderly motion practice, requiring that moving papers contain the arguments and authorities on which the movant relies. See EDCR 2.20(e); EDCR 5.502; NRCP 7(b)(1).

V. ARGUMENT

A. The Court should strike or disregard new arguments and new evidence presented only in reply.

The new theories and materials identified above exceed permissible reply scope. Considering them would deprive Plaintiff of a fair opportunity to respond and would contravene *Francis* and the local rules. The Court should strike or disregard them.

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B. Alternatively, the Court should grant narrowly tailored leave for a consolidated sur-reply.

If the Court elects to consider any reply-only matters, Plaintiff requests leave to file one consolidated sur-reply, not to exceed ten (10) pages, within three (3) judicial days of the Court's order, limited to addressing: (1) for Grimes: "pertinence," OSC-equals-notice, shifted public-concern, and intent-based criminalization theories; and (2) for Childs: invited-error, page-count/causation, "undisputed emails," and IFP/Exhibit F.

C. Defendant's Contradictory Positions Regarding the Stipulation

Plaintiff notes for the record that Defendant Childs has expressly acknowledged that the stipulation emails are undisputed. This admission supports Plaintiff's position and confirms the existence of the stipulation. In contrast, Defendant Grimes has taken the directly opposite position, denying that any stipulation existed. This, despite his own client Enrique testified that there was a stipulation. The Court cannot reconcile these inconsistent positions. Co-defendants cannot both be correct; either the stipulation existed or it did not. This contradiction goes directly to credibility and demonstrates that Defendants' arguments are not made in good faith. Plaintiff does not move to strike Defendant Childs's admission, as it is favorable to Plaintiff's claims. Instead, Plaintiff emphasizes the inconsistency between Defendants' positions, which further undercuts their Anti-SLAPP motions and supports denial.

VI. RESERVATION OF RIGHTS

Plaintiff reserves all substantive arguments on the merits—including that criminal abduction statutes were outside the noticed issues, beyond family court jurisdiction, and invoked with knowledge of falsity—for oral presentation at the September 23, 2025 hearing.

VII. RELIEF REQUESTED

Plaintiff respectfully requests that the Court enter an order as follows:

1. STRIKING, or in the alternative DISREGARDING, the new arguments and evidence

raised for the first time in Defendant's reply—with the exception of Defendant Childs's admission that the stipulation emails are undisputed, which supports Plaintiff's position; and

2. Alternatively, GRANTING Plaintiff leave to file a single consolidated sur-reply, up to ten (10) pages, limited to the discrete reply-only issues identified herein; and

3. Granting such other and further relief as the Court deems just and proper.

DATED: September 20, 2025.

I, Luba Dace, declare under penalty of perjury under the laws of the State of Nevada that the factual statements in this Objection are true and correct to the best of my knowledge, that the testimony cited is accurate, and that I am competent to testify to them if required.

Respectfully submitted,

/s/*Luba Dace*
LUBA DACE
Plaintiff, Pro Se
[redacted]

CERTIFICATE OF SERVICE

I certify that on the date indicated below I served a true and correct copy of the foregoing PLAINTIFF'S CONSOLIDATED OBJECTION AND MOTION TO STRIKE NEW ARGUMENTS AND EVIDENCE RAISED FOR THE FIRST TIME IN DEFENDANT CHILDS' REPLY, OR IN THE ALTERNATIVE FOR LEAVE TO FILE A CONSOLIDATED SUR-REPLY via the Court's eFile & Serve system on all counsel of record.

DATED: September 20, 2025.

/s/ *Luba Dace*
LUBA DACE
Plaintiff, Pro Per