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7	ATTORNEYS FOR DEFENDANTS		
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9	IN THE SECOND JUDICIAL DISTRICT COURT		
10	OF THE STATE OF NEVADA IN AND FOR THE COUNTY OF WASHOE		
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12	* * *		
13	ROBERT BEADLES, an individual,		
14	Plaintiff,	Case No. CV23-01341	
15	VS.	Dept No. D1	
16	JAMIE RODRIGUEZ, in her official capacity as Registrar of Voters and in her		
17	personal capacity; the WASHOE COUNTY REGISTRAR OF VOTERS, a government / agency; ERIC BROWN in his official		
18 19	capacity as WASHOE COUNTY MANAGER and in his personal capacity,		
20	ALEXIS HILL in her official capacity as CHAIRWOMAN OF WASHOE		
21	COUNTY BOARD OF COMMISSIONERS and in her personal		
22	capacity; WASHOE COUNTY, a political subdivision of the State of Nevada, and		
23	DOES I-X; and ROE CORPORATIONS I-X.		
24	Defendants.		
25	OPPOSITION OF MOTION IN REQUEST OF SUR-REPLY		
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Defendants, by and through counsel, Deputy District Attorney Lindsay Liddell, hereby file<sup>1</sup> their Opposition to the Motion in Request of Sur-Reply filed by Plaintiff Robert Beadles ("Beadles") on September 7, 2023. This Opposition is based on the following Memorandum of Points and Authorities and all papers and pleadings on file.

## MEMORANDUM OF POINTS AND AUTHORITIES

## I. INTRODUCTION

Beadles filed a Motion in Request of Sur-Reply seeking leave to file a sur-reply to Defendants' Motion to Dismiss. A sur-reply is not contemplated by the procedural rules of the Court, and is not appropriate in this case. See WDCR 12; FJDCR 3.7-3.9. Much of the Motion argues matters that have no bearing on whether the Complaint states a claim upon which relief can be granted. The Motion otherwise seeks to provide redundant argument on issues briefed in the Motion to Dismiss, Opposition, and Reply.

Beadles argues a sur-reply is appropriate to "correct several inaccuracies asserted by the defense that appear to be new or expounded upon arguments from their initial Motion to Dismiss." Mot. at p. 1. Though he claims new arguments were raised in Defendants' Reply, he does not explain or cite to any arguments that were raised for the first time in the Reply. See Mot. He includes over two pages in support of Edward Soloman's election fraud claims. Mot. at pp. 2–4. He argues Defendants are "morally" and "legally obligated to obey the law." Mot. at p. 6. He states that through a sur-reply, he "will rip apart their reply and demonstrate example by example how the defense is misleading this court and how every Washoe voter is being damaged by the defenses unethical and disgraceful treatment of this most serious atrocity of our right to suffrage." Mot. at p. 14.

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<sup>&</sup>lt;sup>1</sup> The Court issued an Order granting Beadles's Motion to Change Venue, transferring venue to the First Judicial District Court. However, as of the date of this filing, the First Judicial District Court has not yet 26 opened its case. As such, Defendants file the instant Opposition in the Second Judicial District Court.

The Motion should be denied. This is nothing more than a nonmoving party's attempt to have the last word on a motion. The Court may order additional briefing on the Motion to Dismiss if necessary. However, endless sur-replies attempting to readdress fully briefed issues or irrelevant issues is inappropriate and wastes judicial and party resources.

## **II. THE MOTION SHOULD BE DENIED.**

The rules of this Court allow a party to file a motion, the nonmoving party to file an opposition to that motion, and the moving party to file a reply in support of the motion. WCDR 12(1)–(4). "[A] party seeking to file a sur-reply should generally seek permission to do so though a properly filed motion." *In re Estate of Klein*, 127 Nev. 1146, 2011 WL 1599633 (Apr. 26, 2011)(unpublished disposition)(granting motion to strike sur-reply). "Surreplies, and any other filing that serves the purpose or has the effect of a surreply, are highly disfavored, as they are usually a strategic effort by the nonmovant to have the last word on a matter." *Lacher v. West*, 147 F.Supp.2d 538, 539 (N.D. Tex. 2001).

Here, a sur-reply is inappropriate and unnecessary. Additional briefing beyond what is statutorily permitted is not warranted here and not permitted by Court rules. Though Beadles states he "never intended to fully argue the case solely through the original complaint," the rules contemplate a motion to dismiss that tests the sufficiency of a complaint. *See Edgar v. Wagner*, 101 Nev. 226, 227, 699 P.2d 110, 111 (1985). The Motion at hand raises no issues that would warrant additional briefing on the Motion to Dismiss.

There is no basis or utility in briefing issues that have no bearing on the Motion to Dismiss. Beadles's claims of widespread election fraud and Edward Soloman's "math" to support his claim do not relate to whether the Complaint states a claim to redress elections grievances or to remove certain Defendants from their positions. *See Reply in Support of Mot. to Dismiss*, at pp. 3–4. Erroneous allegations of counsel's unethical conduct, criminal statutes, and allegations outside the Complaint likewise have no bearing on the Motion to Dismiss. Additionally, there is no utility in allowing Beadles another opportunity to rebut the same arguments set forth in the Motion to Dismiss. The Motion requests a sur-reply to provide redundant and superfluous analysis regarding whether Defendants have a legal duty on which a writ can be issued or upon which certain Defendants may be removed; whether Plaintiff stated claims generally and whether his exhibits "state" claims; whether NRS 283.440 can be used only to remove local elected public officials; whether remedies are available; and whether the Nevada Administrative Code provides a procedure to redress individuals' elections complaints. As the nonmoving party, Beadles is not permitted to have the last word on Defendants' Motion to Dismiss.

Though the Motion claims Defendants' Reply in Support of Motion to Dismiss
raised new arguments, it does not describe or cite to any new arguments. The Opposition
raised arguments outside the Motion to Dismiss, which the Reply addressed. *See Reply in Support of Mot. to Dismiss* at fn. 7. If the Court finds that new arguments were raised in
Defendants' Reply, the Court may disregard those arguments or order additional briefing.

III. CONCLUSION

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16 A sur-reply is inappropriate and unnecessary for the Motion to Dismiss. The17 Motion should be denied.

## AFFIRMATION PURSUANT TO NRS 239B.030

The undersigned does hereby affirm that the preceding document does not contain the social security number of any person.

Dated this 13th day of September 2023.

By <u>/s/ Lindsay L. Liddell</u> LINDSAY L. LIDDELL Deputy District Attorney One South Sierra Street Reno, NV 89501 lliddell@da.washoecounty.gov (775) 337-5700 ATTORNEY FOR DEFENDANTS

1	CERTIFICATE OF SERVICE	
2	Pursuant to NRCP 5(b), I certify that I am an employee of the Office of the District	
3	Attorney of Washoe County, over the age of 21 years and not a party to nor interested in	
4	the within action. I certify that on this date, the foregoing was electronically filed with the	
5	United States District Court. Electronic service of the foregoing document shall be made in	
6	accordance with the Master Service List as follows:	
7	ROBERT BEADLES	
8	Dated this 13th day September, 2023.	
9	<u>/s/ S. Haldeman</u> S. Haldeman	
10	5. Haldeman	
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