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**IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF CALIFORNIA**

AGUEDA GALVAN, individually and as guardian ad litem for SOPHIA ARCE,)	1:12-cv-01698-AWI-MJS
)	
Plaintiffs,)	ORDER PERMITTING SURREPLY
)	
v.)	
)	
UNITED STATES OF AMERICA; GOLDEN VALLEY HEALTH CENTER; REBECCA BROCK, M.D.; and DOES 1 through 10, inclusive,)	
)	
Defendants.)	
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The Court refers the parties to previous orders for a complete chronology of the proceedings. On December 19, 2012, defendant United States of America (“the government”) filed a motion to dismiss the complaint or for summary judgment in the alternative. On January 24, 2013, plaintiff Agueda Galvan, individually and presumably as guardian ad litem for Sophia Arce, a minor (“Plaintiffs”), filed an opposition to the government’s motion. The government filed its reply to Plaintiffs’ opposition on February 4, 2013. The Court, having reviewed the pleadings of record and all competent and admissible evidence submitted, finds the government’s motion relies principally on arguments and evidence raised only on reply. Ordinarily, the Court would have discretion to disregard the foregoing, as “ [a]rguments raised for the first time in a reply brief are waived.’ ”

1 *Autotel v. Nevada Bell Telephone Co.*, 697 F.3d 846, 852 n. 3 (9th Cir.2012) (quoting *Turtle Island*
2 *Restoration Network v. U.S. Dept. of Commerce*, 672 F.3d 1160, 1166 n. 8 (9th Cir.2012)). In this
3 case, however, the arguments pertain to alleged defects in the Court's subject matter jurisdiction and
4 are therefore not waivable. *Northwest Environmental Defense Center v. Brown*, 640 F.3d 1063,
5 1068 (9th Cir. 2011). Accordingly, the Court finds good cause to allow Plaintiffs the opportunity
6 to file a surreply. Plaintiffs shall have leave to file a surreply by 4:00 p.m. Monday, April 8, 2013.

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8 IT IS SO ORDERED.

9 Dated: March 11, 2013



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11 SENIOR DISTRICT JUDGE
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