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5 Attorneys for Plaintiffs  
STOP THE CASINO 101 COALITION, ROBERT AHERNE,  
6 AMY BOYD, LISA CATELANI, FRANK EGGER,  
MICHAEL ERICKSON, MICHAEL HEALY, LINDA  
7 LONG, LISA McELROY, PAM MILLER, MARILEE  
MONTGOMERY, FRED SOARES, JAMIE WALLACE,  
8 CHIP WORTHINGTON and LINDA WORTHINGTON

9  
10 IN THE UNITED STATES DISTRICT COURT  
11 FOR THE NORTHERN DISTRICT OF CALIFORNIA

12 STOP THE CASINO 101 COALITION, ROBERT ) Civ. No. C 08-02846 JCSI  
13 AHERNE, AMY BOYD, LISA CATELANI, FRANK )  
EGGER, MICHAEL ERICKSON, MICHAEL )  
14 HEALY, LINDA LONG, LISA McELROY, PAM MILLER, ) PLAINTIFFS' APPLICATION TO  
MARILEE MONTGOMERY, FRED SOARES, JAMIE ) FILE SURREPLY TO FEDERAL  
15 WALLACE, CHIP WORTHINGTON and LINDA ) DEFENDANTS' AND  
WORTHINGTON, ) INTERVENOR'S REPLIES IN  
16 ) SUPPORT OF MOTIONS TO  
DISMISS

17 Plaintiffs,

18 v.

) Complaint Filed: June 6, 2008  
)

19 DIRK KEMPTHORNE, Secretary of the United States ) Date: March 27, 2009  
Department of the Interior; CARL J. ARTMAN, Assistant ) Time: 9:00 a.m.  
20 Secretary of the United States Department of the Interior for ) Judge: Hon. Susan Illston  
Indian Affairs; UNITED STATES DEPARTMENT OF ) Dept: 10  
21 THE INTERIOR; JERRY GIDNER, Director, Bureau of )  
Indian Affairs, Department of the Interior, DALE )  
22 MORRIS, Pacific Regional Director, Bureau of Indian )  
Affairs, Department of the Interior; and UNITED STATES )  
23 BUREAU OF INDIAN AFFAIRS, )  
24 )

25 Defendants,

26  
27 FEDERATED INDIANS OF GRATON RANCHERIA,

28 Intervenor.

1 Plaintiffs respectfully request permission to file a short surreply to object to and rebut new  
2 arguments raised in the federal defendants' reply brief filed March 20, 2009. Plaintiffs also object to  
3 intervenor's citation to unpublished authorities.

4 The grounds for this motion are that the federal defendants used their reply as a "vehicle for  
5 presenting new arguments or legal theories to the court," which is not allowed. 2A Federal Procedure,  
6 Lawyers Edition, § 3:736, updated September 2008; *Central Delta Water Agency v. United States*, 306  
7 F.3d 938, 952 n. 10 (9th Cir. 2002). Plaintiffs ask this Court to strike or ignore federal defendants' new  
8 arguments, or alternatively to consider plaintiffs' surreply demonstrating that defendants' new arguments  
9 – even if considered – have no merit. Additionally, plaintiffs' surreply objects to intervenor's mistaken  
10 citation to unpublished decisions despite this Court's contrary rule. Civil Local Rules, Rule 3-4(e).

11  
12  
13 DATED: March 25, 2009

14 Respectfully submitted,  
15 LAW OFFICES OF STEPHAN C. VOLKER  
16 /s/ Stephan C. Volker  
17 STEPHAN C. VOLKER  
18 Attorneys for Plaintiffs

19  
20 **[PROPOSED] ORDER**

21 Plaintiffs' application to file a surreply is hereby **GRANTED**. Said surreply, which was lodged  
22 with plaintiffs' application, shall be deemed filed.

23 IT IS SO ORDERED.

24 

25  
26 HON. SUSAN ILLSTON  
27 DISTRICT COURT JUDGE  
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