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2 the incorporation of the initial motion to dismiss fails to address the new allegations in the  
3 amended complaint. In particular, the initial motion contains arguments concerning the issue of  
4 sovereign immunity relating to the original complaint's official capacity claims as well as the issue  
5 of improper venue due to a binding arbitration clause involving the defendants' employer, the  
6 Nevada System of Higher Education ("NSHE"), which are not alleged in the amended complaint.  
7 The defendants' contention that the allegations in the amended complaint are so identical to those  
8 in the initial complaint as to warrant incorporation of their initial motion to dismiss is incorrect.  
9 Therefore, the court shall deny defendants' motion to dismiss without prejudice and grant the  
10 defendants an opportunity to respond to the new allegations and claims in the amended complaint.

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12           IT IS THEREFORE ORDERED that defendants' motion to dismiss (Doc. #28) is DENIED  
13 without prejudice. Defendants Sandhya Wahl-Gururaj and Aron Rogers shall have ten days from  
14 entry of this order to file a renewed motion to dismiss.

15           IT IS SO ORDERED.

16           DATED this 15th day of January, 2011.



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18           LARRY R. HICKS  
19           UNITED STATES DISTRICT JUDGE  
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