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**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

OCWEN LOAN SERVICING, LLC, )  
 )  
 Plaintiff, )  
 )  
 v. )  
 )  
 ANTHONY BORGERT, )  
 )  
 Defendant. )  
 \_\_\_\_\_ )

Case No. 2:16-cv-02079-JCM-CWH

**ORDER**

Presently before the Court is Plaintiff’s motion to strike or alternately for leave to file surreply (ECF No. 16), filed on March 15, 2017. Defendant has not filed a response.

Plaintiff argues that Defendant’s reply to the pending motion to dismiss (ECF No. 15) was improper because it raised certain arguments for the first time, without giving Plaintiff an opportunity to respond. Specifically, Plaintiff objects to Defendant’s arguments regarding Nevada’s test for claim preclusion and issue preclusion.

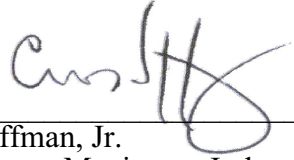
As Plaintiff notes, arguments raised for the first time in a reply brief may be ignored by the Court. *Graves v. Arpaio*, 623 F.3d 1043, 1048 (9th Cir. 2010). This is to avoid the need for a surreply, which are disfavored, but permissible with leave of the court. Local Rule 7-2(b). Upon review, the Court finds that Defendant’s reply did not raise claim and issue preclusion arguments for the first time; they were responsive to arguments made in Plaintiff’s response. The Court does not find cause to strike these arguments. However, as the reply did contain further development of these arguments, the Court will grant Plaintiff’s motion for leave to file a surreply.

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IT IS THEREFORE ORDERED that Defendant's motion (ECF No. 16) is GRANTED in part and DENIED in part. Plaintiff may file a surreply on the above issues no later than April 13, 2017.

DATED: April 6, 2017.



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C.W. Hoffman, Jr.  
United States Magistrate Judge