

1 Emily Chiang, WSBA No. 50517  
2 La Rond Baker, WSBA No. 43610  
3 AMERICAN CIVIL LIBERTIES UNION OF WASHINGTON  
4 FOUNDATION  
5 901 Fifth Avenue, Suite 630  
6 Seattle, Washington 98164  
7 Telephone: (206) 624-2184  
8 Email: echiang@aclu-wa.org, lbaker@aclu-wa.org

9 Brendan V. Monahan, WSBA No. 22315  
10 Jaime Cuevas, Jr., WSBA No. 51108  
11 STOKES LAWRENCE VELIKANJE MOORE & SHORE  
12 120 N. Naches Avenue  
13 Yakima, Washington 98901  
14 Telephone: (509) 853-3000  
15 Email: brendan.monahan@stokeslaw.com, jaime.cuevas@stokeslaw.com

16 Gregory Landis, WSBA No. 29545  
17 Cristin Kent Aragon, WSBA No. 39224  
18 YARMUTH WILSDON PLLC  
19 1420 Fifth Avenue, Suite 1400  
20 Seattle, Washington 98101  
21 Telephone: (206) 516-3800  
22 Email: glandis@yarmuth.com, caragon@yarmuth.com

*Attorneys for Plaintiff Bertha Aranda Glatt*

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

BERTHA ARANDA GLATT,

Plaintiff,

v.

CITY OF PASCO, PASCO CITY  
COUNCIL, MATT WATKINS, in his  
official capacity as Mayor of Pasco,  
and REBECCA FRANCIK, BOB  
HOFFMANN, TOM LARSEN, SAUL  
MARTINEZ, and AL YENNEY, in  
their official capacity as members of

No. 4:16-cv-05108-LRS

PLAINTIFF'S OBJECTION TO  
REPLY IN SUPPORT OF  
DEFENDANTS' MOTION FOR  
ENTRY OF PROPOSED  
REMEDIAL PLAN AND FINAL  
INJUNCTION

PLAINTIFF'S OBJECTION TO DEFENDANTS'  
REPLY

NO. 4:16-cv-05108-LRS – Page 1

 YARMUTH WILSDON PLLC

1420 FIFTH AVENUE, SUITE 1400  
SEATTLE WASHINGTON 98101  
T 206.516.3800 F 206.516.3888

1 the Pasco City Council,  
2 Defendants.

3 In the Partial Consent Decree entered on September 2, 2016, the parties  
4 agreed to and this Court approved a briefing schedule for the purposes of  
5 submitting competing remedial plans to the Court. Dkt. 16, at 11. The parties  
6 did not otherwise seek to alter the Local Rules or Ninth Circuit procedural law  
7 with respect to submission of briefs and evidence to this Court.

8 The Local Rules impose a 10-page limit on reply briefs for dispositive  
9 motions and provide that prior Court approval is necessary to exceed this page  
10 limit. LR 7.1(e)(1), (4). Defendants ignored this Local Rule and instead filed a  
11 Reply in Support of Defendants' Motion for Entry of Proposed Remedial Plan  
12 and Final Injunction ("Defendants' Reply") that is more than double the  
13 allowed page limit—24 pages in total—without seeking Court approval for an  
14 over-length brief.<sup>1</sup>

15 Additionally, Defendants included new registered voter data from their  
16 demographer, Peter Morrison, as well as related argument, that was not  
17 included in any of their prior briefs or declarations, and is therefore  
18 inadmissible. Ninth Circuit precedent is clear: new evidence may not be  
19 submitted for the first time on reply. *See, e.g., Tovar v. U.S. Postal Serv.*, 3  
20

---

21  
22 <sup>1</sup> Defendants also violated LR 7.1(e)(1) and (4) in filing their opening brief,  
which was 8 pages over the 20-page limit. Dkt. 25.

1 F.3d 1271, 1273 n.3 (9th Cir. 1993) (striking evidence presented for the first  
2 time in reply); *Clearly Food & Beverage Co, Inc. v. Top Shelf Beverages, Inc.*,  
3 102 F. Supp. 3d 1154, 1165 (W.D. Wash. 2015) (“[I]n the Ninth Circuit, new  
4 issues and evidence may not be raised in reply briefs,” citing *Bazuaye v. I.N.S.*,  
5 79 F.3d 118, 120 (9th Cir. 1996)).

6 Based on these violations of the Local Rules and Ninth Circuit  
7 precedent, Plaintiff objects to Defendants’ Reply and supporting declaration.

8 DATED this 18th day of November, 2016.

9  
10 Respectfully submitted,

11  
12 By: s/Cristin Kent Aragon  
13 Gregory Landis, WSBA No. 29545  
14 Cristin Kent Aragon, WSBA No. 39224  
YARMUTH WILSDON PLLC  
15 1420 Fifth Avenue, Suite 1400  
Seattle, Washington 98101  
Telephone: (206) 516-3800  
16 Email: glandis@yarmuth.com  
caragon@yarmuth.com

17  
18 Emily Chiang, WSBA No. 50517  
La Rond Baker, WSBA No. 43610  
19 AMERICAN CIVIL LIBERTIES UNION  
OF WASHINGTON FOUNDATION  
20 901 Fifth Avenue, Suite 630  
Seattle, Washington 98164  
Telephone: (206) 624-2184  
21 Email: echiang@aclu-wa.org  
lbaker@aclu-wa.org  
22

1  
2  
3 Brendan V. Monahan, WSBA No. 22315  
4 Jaime Cuevas, Jr., WSBA No. 51108  
5 STOKES LAWRENCE VELIKANJE  
6 MOORE & SHORE  
7 120 N. Naches Avenue  
8 Yakima, Washington 98901  
9 Telephone: (509) 853-3000  
10 Email: brenndan.monahan@stokeslaw.com  
11 jaime.cuevas@stokeslaw.com  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22

*Attorneys for Plaintiff Bertha Aranda Glatt*

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on this date, I electronically filed the foregoing with  
 3 the Clerk of the Court using the CM/ECF System, which in turn automatically  
 4 generated a Notice of Electronic Filing (NEF) to all parties in the case who are  
 5 registered users of the CM/ECF system. The NEF for the foregoing  
 6 specifically identifies recipients of electronic notice. I hereby certify that I  
 7 have mailed by United States Postal Service the document to the following  
 8 non-CM/ECF participants:

9 Dated: November 18, 2016 at Seattle, Washington.

10  
 11 *s/Gregory Landis*

12 Gregory Landis, WSBA No. 29545  
 13 YARMUTH WILSDON PLLC  
 14 Attorneys for Plaintiff Bertha Aranda Glatt  
 15 1420 Fifth Avenue, Suite 1400  
 16 Seattle, Washington 98101  
 17 Telephone: (206) 516-3800  
 18 Email: glandis@yarmuth.com  
 19  
 20  
 21  
 22