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7 *Federal Bureau of Prisons*

8 UNITED STATES DISTRICT COURT  
9 NORTHERN DISTRICT OF CALIFORNIA  
10 OAKLAND DIVISION

12 VICTORIA LAW,

13 Plaintiff,

14 v.

15 FEDERAL BUREAU OF PRISONS,

16 Defendant.

) Case No. 3:24-CV-06628-YGR

) **DEFENDANT’S OBJECTION TO REPLY**  
) **EVIDENCE**

) Date: September 30, 2025

) Time: 2:00 p.m.

) Courtroom: 1

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28 DEFENDANT’S OBJECTION TO REPLY EVIDENCE  
3:24-CV-06628-YGR

1 Pursuant to Civil Local Rule 7-3(d)(1), Defendant Federal Bureau of Prisons submits the  
2 following Objection to Reply Evidence in response to Plaintiff's reply memorandum filed in support of  
3 her Reply in Support of Plaintiff's Motion for Judgment on the Pleadings (Dkt. No. 48). This District's  
4 Civil Local Rules permit objections to be filed when, like here, "new evidence has been submitted in the  
5 reply." L.R. 7-3(d)(1).

6 "[T]he moving party in a motion cannot submit new information as part of its Reply," *Sweet v.*  
7 *Pfizer*, 232 F.R.D. 360, 364 n.7 (C.D. Cal. 2005), and courts look "with strong disfavor on legal  
8 arguments and facts raised for the first time in reply," *Bowoto v. Chevron Corp.*, No. 99-cv-02506-SI,  
9 2007 WL 2349338, at \*4 n.3 (N.D. Cal. Aug. 14, 2007). In the context of an expert declaration filed  
10 with a reply brief, "the Court does not consider new arguments or evidence presented for first time in a  
11 reply." *In re Flash Memory Antitrust Litig.*, No. C 07-0086 SBA, 2010 WL 2332081, at \*15 (N.D. Cal.  
12 June 9, 2010) (citing *In re Rains*, 428 F.3d 893, 902 (9th Cir.2005)).

13 Plaintiff submits new evidence in the form of a declaration from Jerry Bui (Dkt. No. 48-2) on  
14 reply that she did not offer in her moving papers. Plaintiff provides no explanation in her reply brief for  
15 why she did not include this evidence with her moving papers, despite her clear ability to have done so.  
16 Plaintiff's choice not to include this evidence in her opening brief, and only raise it on reply,  
17 prejudicially denied Defendant the opportunity to respond. The declaration does not respond to any  
18 argument made by the Defendant in opposition to the motion, and is instead in support of an argument  
19 that the rate of releases by Defendant should be higher than what Judge Tse ordered because Defendant  
20 should be able to release documents at a higher rate.

21 The Court should thus sustain Defendant's objection. If the Court is inclined to consider the  
22 late-filed evidence and the arguments based on that evidence in Plaintiff's reply brief, Defendant  
23 respectfully requests an opportunity to address it through a sur-reply. *See GT Nexus, Inc. v. Intra, Inc.*,  
24 No. 11-cv-02145-SBA, 2014 WL 3373088, at \*1 (N.D. Cal. July 9, 2014) ("If a party raises a new  
25 argument or presents new evidence in a reply brief, a court may consider these matters only if the  
26 adverse party is given an opportunity to respond.").

1 September 16, 2025

Respectfully submitted,

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3 CRAIG H. MISSAKIAN  
United States Attorney

4 */s/ Michael T. Pyle*

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Assistant United States Attorney  
6 *Attorneys for Defendant*

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8 *Federal Bureau of Prison*

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