

No. 18-15845

**IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

THE DEMOCRATIC NATIONAL COMMITTEE; et al.,

Plaintiffs-Appellants,

v.

MICHELE REAGAN; et al.,

Defendants-Appellees,
and

ARIZONA REPUBLICAN PARTY; et al.,

Intervenor-Defendants-Appellees

On Appeal from the United States District Court
for the District of Arizona
No. CV-16-01065-PHX-DLR

**INTERVENOR-DEFENDANTS-APPELLEES' RESPONSE IN
OPPOSITION TO MOTION FOR LEAVE TO FILE REPLY BRIEF**

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Appellees the Arizona Republican Party, Bill Gates, Suzanne Klapp, Debbie Lesko, and Tony Rivero oppose *Plaintiffs-Appellants' Motion for Leave to File Reply Brief in Support of Their Petition for Rehearing En Banc*. There has already been exhaustive briefing in this case—including two petitions for rehearing en banc. Appellants are unable to articulate any legitimate need for a reply, such as any intervening decision from the United States Supreme Court case or other any development.

Moreover, Appellants fail to provide any authority supporting their request for a reply. They reference *United States v. Robertson*, 977 F.2d 593 (1992) (unpublished), but *Robertson* is an unpublished disposition that may not be cited to this Court. See Ninth Circuit Rule 36-3(c) (“Unpublished dispositions and orders of the Court issued before January 1, 2007 may not be cited to the courts of this circuit,” except for in limited circumstances not applicable here).

Appellants also cite *Frontline Processing Corp. v. First State Bank of Eldorado*, 399 Fed. App'x 185 (9th Cir. 2010) (unpublished), but that decision is easily distinguished. In *Frontline*, the proposed reply was brief and limited to correcting three misleading *factual* statements in

the opposing party's response. *See* Appellant's Motion for Leave to File a Reply in Support of Petition for Rehearing [Proposed Reply Attached] at 2–3, *Frontline Processing Corp. v. First State Bank of Eldorado*, 399 Fed. App'x 185 (9th Cir. 2010) (No. 52-1); Appellant's Proposed Reply in Support of Petition for Rehearing at 3–5, *Frontline Processing Corp. v. First State Bank of Eldorado*, 399 Fed. App'x 185 (9th Cir. 2010) (No. 52-2).

Because Appellants have had ample opportunity to articulate their position, the Motion should be denied.

DATED this 29th day of October, 2018.

SNELL & WILMER L.L.P.

/s/ Brett W. Johnson

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CERTIFICATE OF COMPLIANCE

Pursuant to Fed. R. App. P. 32(g)(1), I certify that:

This document complies with the type-volume limitation of Fed. R. App. P. 27(d)(2)(A) because it contains 278 words, excluding the parts of the document exempted by Fed. R. App. P. 32(f).

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DATED this 29th day of October, 2018.

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CERTIFICATE OF SERVICE

I hereby certify that on October 29, 2018, I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system.

Participants in the case who are registered CM/ECF users will be served by the appellate CM/ECF system.

DATED this 29th day of October, 2018.

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