

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

JOHN W. HOWARD, Cal. State Bar No. 80200  
JW Howard/Attorneys, LTD.  
625 Broadway, Suite 1206  
San Diego, California 92101  
Telephone: (619) 234-2842  
Telefax: (619) 234-1716  
Pro Hac Vice Counsel for Joseph & Beverly Landolt

WILLIAM E. SCHAEFFER, Nev. State Bar No. 2789  
P.O. Box 936  
Battle Mountain, Nevada 89820  
Telephone: (775) 635-3227  
Telefax: (775) 635-3229  
Local Counsel for Joseph & Beverly Landolt

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA  
RENO, NEVADA

UNITED STATES OF AMERICA  
Plaintiff,

WALKER RIVER PAIUTE TRIBE,  
Plaintiff, Intervenor

v.

WALKER RIVER IRRIGATION  
DISTRICT, a corporation, et al.,  
Defendants.

UNITED STATES OF AMERICA  
WALKER RIVER PAIUTE TRIBE  
Counterclaimants,

vs.

WALKER RIVER IRRIGATION  
DISTRICT, et al.,  
Counterdefendants.

) Case No: 03:73:cv-127-ECR-RAM  
) In Equity No. C-125-ECR  
) Subfile No. C-125-B

) **MOTION FOR PERMISSION TO  
FILE OVERLONG REPLY**

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

---

Defendants Joseph & Beverly Landolt hereby move this Court for permission to file an overlong Reply, filed in response to the Opposition to Defendants' Motion to Disqualify Counsel, Gordon DePaoli.

The Reply recently filed by the Landolts is 20 pages plus four lines, including the caption page. The caption for this case takes up the entire first page, making the memorandum of points and authorities, less than 20 pages, in conformity with the rules. However, for the Court's convenience, the Landolts offer the attached index and table of authorities to accompany their Reply pursuant to Nevada Local Rule 7-4. The Landolt's apologize to the Court for any inconvenience this presents.

Date: February 27, 2006

*/s/ John W. Howard*

---

John W. Howard

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

INDEX

(Heading and Corresponding Page Number)

INTRODUCTION.....page 2

MEDIATION CONFIDENTIALITY.....page 2

STANDING.....page 9

MR. DEPAOLI MUST BE DISQUALIFIED.....page 15

WATER LAW ARGUMENT.....page 18

MR. DEPAOLI'S REPRESENTATION WRID IMPACTS HIS RESPONSIBILITIES  
TO HIS INDIVIDUAL CLIENTS.....page 19

CONCLUSION.....page 19

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

TABLE OF AUTHORITIES

**Federal Case Law**

Colyer v. Smith 50 F.Supp. 966 (1999).....p. 9  
Duval Ranching Company v. Glickman, 930 F.Supp. 469,473 (1996)..... pg. 6, 11  
Tessier v. Plastic Surgery Specialists, Inc. 731 F.Supp. 724 (1990)..... pg. 15  
Zador Corporation v. Kwan (1995) 31 Cal.App.4<sup>th</sup> 1285, 1293..... pg. 7

**Nevada Law**

Nevada Supreme Court Rule 154(1) ..... pg. 3, 6, 9  
Nevada Supreme Court Rule 154 (2) ..... pg. 3, 6, 9  
Nevada Supreme Court Rule 157..... pg. 19  
Nevada Supreme Court Rules 157 (1) ..... pg. 9, 10  
Nevada Supreme Court Rule 157 (2) ..... pg. 6, 9, 10

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

CERTIFICATE OF SERVICE

I hereby certify that on the 28th day of February, 2006, I electronically filed the foregoing *Motion for Permission to File Overlong Reply* with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following via their e-mail addresses:

Marta Adams  
[maadams@ag.state.nv.us](mailto:maadams@ag.state.nv.us), [payoung@ag.state.nv.us](mailto:payoung@ag.state.nv.us)

Gregory W. Addington  
[greg.addington@usdoj.gov](mailto:greg.addington@usdoj.gov), [judy.farmer@usdoj.gov](mailto:judy.farmer@usdoj.gov), [joanie.silvershield@usdoj.gov](mailto:joanie.silvershield@usdoj.gov)

Linda Bowman  
[office@bowman.reno.nv.us](mailto:office@bowman.reno.nv.us)

Gordon H. DePaoli  
[gdepaoli@woodburnandwedge.com](mailto:gdepaoli@woodburnandwedge.com)

Ross E. de Lipkau  
[Rde-lipkau@parsonsbehle.com](mailto:Rde-lipkau@parsonsbehle.com)

Kirk C. Johnson  
[kirk@nvlawyers.com](mailto:kirk@nvlawyers.com)

Stephen M. MacFarlane  
[Stephen.Macfarlane@usdoj.gov](mailto:Stephen.Macfarlane@usdoj.gov), [deedee.sparks@usdoj.gov](mailto:deedee.sparks@usdoj.gov), [efile-sacramento.enrd@usdoj.gov](mailto:efile-sacramento.enrd@usdoj.gov)

Scott McElroy  
[smcelroy@greenelawyer.com](mailto:smcelroy@greenelawyer.com)

G. David Robertson  
[gdavid@nvlawyers.com](mailto:g david@nvlawyers.com), [chris@nvlawyers.com](mailto:chris@nvlawyers.com), [kirk@nvlawyers.com](mailto:kirk@nvlawyers.com)

Susan L. Schneider  
[susan.schneider@usdoj.gov](mailto:susan.schneider@usdoj.gov)

Debbie Shosteck  
[dshosteck@mcdonaldcarano.com](mailto:dshosteck@mcdonaldcarano.com), [ssmithson@mcdonaldcarano.com](mailto:ssmithson@mcdonaldcarano.com)

Stephen R. Wassner  
[swassner@aol.com](mailto:swassner@aol.com), [wassner@sbcglobal.net](mailto:wassner@sbcglobal.net)

David L. Negri  
[david.negri@usdoj.gov](mailto:david.negri@usdoj.gov)

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

and I further certify that I served a copy of the foregoing to the following non CM/ECF participants by U.S. Mail, postage prepaid, this 28th day of February, 2006:

George Benesch, Esq.  
190 West Huffaker Lane, Ste 408  
Reno, NV 89511

Kelly Chase, Esq.  
PO Box 2800  
Minden, NV 89423

Wesley G. Beverlin  
Malissa Hathaway McKeith  
Lewis, Brisbois, Bisgaard & Smith LCP  
221 N. Figueroa St., Ste. 1200  
Los Angeles, CA 90012

Cheri Emm-Smith  
Mineral County District Attorney  
PO Box 1210  
Hawthorne, NV 89415

Nathan Goedde  
Staff Counsel  
Calif. Dept. of Fish and Game  
1416 Ninth Street, Ste. 1335  
Sacramento, CA 95814

Hugh Ricci, P.E.  
Division of Water Resources  
State of Nevada  
901 S. Stewart St.  
Carson City, NV 89701

Simeon Herskovits  
Courtney Brown  
Western Environment Law Center  
PO Box 1507  
Taos, NM 87571

Stephen B. Rye  
Chief Deputy District Attorney  
31 S. Main St.  
Yerington, NV 89447

John Kramer  
Department of Water Resources  
1416 Ninth Street  
Sacramento, CA 95814

Scott H. Schackelton  
Silverado, Inc.  
4160 Long Knife Rd.  
Reno, NV 89509

Timothy A. Lukas  
P.O. Box 3237  
Reno, NV 89505

William E. Schaeffer  
PO Box 936  
Battle Mountain, NV 89820

Erin K.L. Mahaney  
Office of Chief Counsel  
State Water Resources Control Board  
1001 I Street, 22<sup>nd</sup> Floor  
Sacramento, CA 95814

Laura A. Schroeder  
P.O. Box 12527  
Portland, OR 97212-0527

Michael W. Neville  
DOJ, Office of the Atty General  
455 Golden Gate Avenue  
Suite 11000  
San Francisco, CA 94102-3664

James Shaw  
Water Master  
US Board of Water Commissioners  
P.O. Box 853  
Yerington, NV 89447

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Jeff Parker  
Deputy Atty General  
Office of the Attorney General  
100 N. Carson St.  
Carson City, NV 89701-4717

Marshall S. Rudolph, Mono County Counsel  
Stacy Simon, Deputy County Counsel  
Mono County  
P.O. Box 2415  
Mammoth Lakes, CA 93546-2415

Todd Plimpton  
Belanger & Plimpton  
1135 Central Avenue  
P.O. Box 59  
Lovelock, NV 89419

Walker River Irrigation District  
P.O. Box 820  
Yerington, NV 89447

Alice E. Walker  
Greene, Meyer & McElroy  
1007 Pearl Street, Suite 220  
Boulder, CO 80302

Kenneth Spooner  
General Manager  
Walker River Irrigation District  
P.O. Box 820  
Yerington, NV 89447

William W. Quinn  
Office of the Field Solicitor  
Department of the Interior  
401 W. Washington St., SPC 44  
Phoenix, AZ 85003

Mary Hackenbracht  
Deputy Attorney General  
State of California  
1515 Clay St., 20<sup>th</sup> Floor  
Oakland, CA 94612-1413

Alan Biaggi  
Dir. Of Conservation & Natural Resources  
State of Nevada  
901 S. Stewart St.  
Carson City, NV 89701

Garry Stone  
United States District Court Water Master  
290 S. Arlington Ave, 3<sup>rd</sup> Floor  
Reno, NV 89501

Tim Glidden  
U.S. Dept. of the Interior, Office of the  
Secretary, Div. Of Indian Affairs  
1849 C St. N.W.  
Mail Stop 6456  
Washington, DC 20240

*/s/ Elisa Marino*

Elisa Marino