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IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF ARIZONA

Michelle Pettitt,

Plaintiff,

v.

Glen Marvin Lineberry, an individual; Sherry Dorathy, an individual; Bradley D. Beauchamp, an individual; and Miami Unified School District #40,

Defendants.

No. 2:26-cv-00634

PLAINTIFF'S RESPONSE OPPOSING DEFENDANTS LINEBERRY, DORATHY, AND MIAMI UNIFIED SCHOOL DISTRICT #40'S MOTION TO EXCEED THE PAGE LIMIT FOR THEIR MOTION TO DISMISS REPLY

The Court should deny Defendants Glen Marvin Lineberry, Sherry Dorathy, and the Miami Unified School District #40's (collectively, the "Defendants") motion to file a 15-page reply brief in support of their motion to dismiss. Defendants have failed to identify good cause justifying additional pages for their reply brief for at least three reasons.

First, neither Defendants' motion to dismiss nor Plaintiff Michelle Pettitt's response opposing that motion required additional pages. Both stayed within the 17-page limit set by this Court. *See* Dkt. 24, 29. As noted in Pettitt's response, Defendants' motion to dismiss engaged in a shotgun approach in which they made a series of superficial and underdeveloped attacks on the Complaint to see what sticks.[1] Defendants cannot use an extended reply brief to try and clean up what they failed to do in their motion.

Second, Defendants are using their additional pages to raise new arguments for the first time in their reply brief. For instance, Defendants' motion argued in a cursory fashion that "the *Rooker-Feldman* doctrine precludes Plaintiff from asking this Court to declare the injunction void." Dkt. 24 at 9. Pettitt's response effectively demonstrated that *Rooker-Feldman* does not apply for at least two reasons. Dkt. 29 at 13-14. Now, in their lodged reply brief, Defendants change their argument. Their reply now argues that "Plaintiff cites no Arizona law authorizing a separate lawsuit to declare void a previously upheld injunction against workplace harassment." Dkt. 33 at 11. Not only is that *not* the argument Defendants made in their motion to dismiss, but it is misleading and incorrect. Defendants fail to cite long-standing Arizona authority holding the exact opposite. *See, e.g.*, *Shinn v. Ariz. Board of Executive Clemency*, 254 Ariz. 255, 262 ¶ 26 (2022) ("A void order or judgment has no legal effect and 'may be set aside or vacated *at any time*,' rendering it subject to 'collateral attack.'" (emphasis in original)); *Legacy Found. Action Fund v. Citizens Clean Elections Comm'n*, 254 Ariz. 485, 491 ¶ 19 (2023) ("For more than a century Arizona courts have recognized that," when "a judgment is 'void upon its face' and has no legal effect," the

[1] For example, Defendants' motion repeatedly argued that *Heck* barred attacking the injunction against harassment as void, but they literally made no showing as to how *Heck* applied to a civil injunction. *See* Dkt. 24 at 6, 9. Now, in their lodged reply brief, Defendants abandon their *Heck* argument, making no mention of that undeveloped argument because *Heck* clearly does not bar attacks on civil injunctions.

judgment is "'subject to attack at any time,' including in a collateral proceeding."); *Nat'l Union Indem. Co v. Bruce Bros*, 44 Ariz. 454, 467-68 (1934) ("[The Legislature] has declared the contract void ab initio. This can be considered nothing but an expression of public policy upon the part of the state, and neither the court nor any litigant has the right to waive the provisions of the act. It is the duty of the court . . . to declare the law, and no party may recover in an action where the right of recovery must rest in some manner upon the void contract."); *Santa Cruz Cnty. v. State of Ariz., et al.*, Maricopa County Superior Court, Case No. CV2024-032742, at *12 (Mar. 17, 2026) ("As the Supreme Court declared in *National Union*, neither the Court nor any party can waive the provision of A.R.S. § 38-431.05(A) declaring acts in violation of [Arizona's] OML [open-meeting laws] 'null and void.'").

Third, Defendants are using their extended reply to make new factual arguments that expressly contradict the Complaint's allegations. For instance, Defendants argue that "[s]ince the complaint alleges that the grand jury indictment was based on Plaintiff's unauthorized presence on District property [on November 8, 2022], the three emails Plaintiff sent in 2022 were not 'so clearly exculpatory that the grand jury, had they seen the emails, would have found no probable cause' to indict Plaintiff." Dkt. 33 at 5. Defendants repeat this same statement throughout their reply. *Id.* at 4, 5, 12. But that is exact opposite of what Pettitt alleges. Paragraph 115 of the Complaint alleges: "The indictment, however, was ***not*** based on any new allegations, including the November 8, 2022 allegations. Instead, the indictment was based ***only*** on the same three emails sent on July 3, 4, and 5, 2022 as detailed in Paragraphs 97(a)-(d) of the Complaint." Dkt. 1 at ¶ 115 (emphasis added). Further, Pettitt alleges that Lineberry and Dorathy knowingly provided false reports to Deputy Winget and that Deputy Winget repeated those false reports when he testified before the grand jury. *Id.* at ¶¶ 91-93, 115-118.

The Court should thus deny Defendants leave to file a 15-page reply brief. Defendants are using their expanded page limit for their reply brief to raise new legal arguments and to make factual arguments that contradict Plaintiff's well-pled Complaint.

Dated June 9, 2026.

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