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6
7 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**
8 **IN AND FOR THE COUNTY OF MARICOPA**

9 STATE OF ARIZONA ex rel. Attorney) No. CV2013-009093
10 General Thomas C. Horne,)
11 Plaintiff,) **DEFENDANT’S MOTION TO**
12 vs.) **STRIKE STATE’S**
MARICOPA COUNTY COMMUNITY) **SUPPLEMENTAL BRIEF**
13 COLLEGE DISTRICT BOARD,)
14 Defendant,) (Assigned to the Hon. Arthur
15 ABEL BADILLO and BIBIANA)
16 VAZQUEZ,)
17 Intervenor-Defendants.)

18
19 Defendant, Maricopa County Community College District moves to strike the
20 State’s Supplemental Brief Regarding Attorney General’s Authority (“Supplemental
21 Brief”), which was filed on April 14, 2014. The Attorney General did not request or
22 obtain leave to file the Supplemental Brief, which is not merely a recitation of new
23 citations in support of the positions it previously argued, but is consists of additional
24 argument regarding points that Attorney General could have addressed in his response
25 brief, but did not. Neither the Arizona Rules of Civil Procedure, the Maricopa County
26 Superior Court Local Rules, nor any statute permits the filing of the Supplemental Brief.

1 **Argument**

2 Pursuant to Arizona Rule of Civil Procedure 7.1(f)(1), a motion to strike is
3 appropriate “if it seeks to strike any part of a filing or submission on the ground that it is
4 prohibited, or not authorized, by a specific statute, rule or court order.” A supplemental
5 brief is not authorized by any specific statute or rule, and this Court has not authorized
6 the Attorney General to file a supplemental brief.

7 The Attorney General filed his allowed response to MCCCCD’s motion. That is
8 all that the Rules of Civil Procedure allow him to do. *See* Ariz. R. Civ. P. 7.1(a)
9 (providing for a motion, a response and a reply brief); *see also* *Atreus Cmty. Group of*
10 *Ariz. v. Stardust Dev.*, 229 Ariz. 503, 511 ¶ 34, 277 P.3d 208, 216 (App. 2012) (“The
11 applicable civil procedure rule provides for a motion, a response and a reply. . . .”).
12 Likewise, Local Rule 3.2(f) only permits a motion, a response and a reply. There is
13 nothing in any rule or any statute that authorizes the Attorney General to have the last
14 word, as he has attempted to do here.

15 **Conclusion**

16 MCCCCD requests that the Court strike and not consider the Supplemental Brief.

17 DATED this 15th day of April, 2014.

18 OSBORN MALEDON, P.A.

19
20 By /s/ Grace Rebling

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1 COPY of the foregoing e-filed and a COPY
2 e-delivered this 15th day of April, 2014, to:

3 The Honorable Arthur Anderson
4 Maricopa County Superior Court
5 East Court Building
6 101 W. Jefferson
7 Phoenix, AZ. 85003-2243

8 Copy of the foregoing served via Turbo Court
9 this 15th day of April, 2014, to:

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