

1 THOMAS C. HORNE
2 Firm Bar No. 014000
3 Attorney General

4 Kevin D. Ray, No. 007485
5 Leslie Kyman Cooper, No. 012782
6 Jinju Park, No. 026023
7 Assistant Attorneys General
8 1275 West Washington Street
9 Phoenix, Arizona 85007
10 Telephone: (602) 542-8349
11 Facsimile: (602) 364-0700
12 E-mail: EducationHealth@azag.gov

13 *Attorneys for Plaintiff, the State of Arizona*
14 *ex rel. Attorney General Thomas C. Horne*

15 SUPERIOR COURT OF ARIZONA

16 MARICOPA COUNTY

17 STATE OF ARIZONA
18 ex rel. Attorney General
19 Thomas C. Horne,

20 Plaintiffs,

21 v.

22 MARICOPA COUNTY COMMUNITY
23 COLLEGE DISTRICT BOARD,

24 Defendants

Case No. CV2013-009093

ARIZONA'S RESPONSE TO
MCCCD'S MOTION FOR
JUDGMENT ON THE
PLEADINGS

Assigned to the Honorable Arthur
Anderson

25 Plaintiff, the State of Arizona *ex rel.* Attorney General Thomas C. Horne
26 (Arizona) hereby responds to defendant Maricopa County Community College District's
27 (MCCCD) Motion for Judgment on the Pleadings. MCCCD's motion must fail because
28 the Governor has authorized and directed the Attorney General to file this action. This
Court should therefore deny MCCCD's motion.

Argument

The Governor has, consistent with her authority to "take care that the laws be
faithfully executed," (Ariz. Const. art V, § 4) directed the Attorney General to "take all

1 legal action necessary to enforce A.R.S. §§ 15-1803 and 15-1825” against MCCCCD.¹
2 See Letter dated February 19, 2014, from Governor Janice Brewer to Attorney General
3 Tom Horne, attached as Exhibit A to Request to Take Judicial Notice filed
4 contemporaneously herewith. In that letter, she specifically authorizes the filing of this
5 action, ratifies the actions taken to date, and directs that it be continued to its conclusion.
6 Because the Governor has directed this action be brought, it is not necessary to
7 determine whether the Attorney General has the authority to institute this action on his
8 own.

9 The Governor’s action also addresses MCCCCD’s contention that it, as a political
10 subdivision, is the final arbiter of how the law applies to it. As MCCCCD noted, the
11 Arizona Supreme Court has held that the Governor “is obligated and empowered to
12 protect the interests of the people and the State by taking care that the laws are faithfully
13 executed.” *Ariz. Land Dept. v. McFate*, 87 Ariz. 139, 148, 348 P.2d 912, 918 (1960).
14 Thus, regardless of the extent of MCCCCD’s authority “to determine what the laws
15 require of it” and regardless of the extent of the Attorney General’s authority to require
16 that MCCCCD comply with the law, it is clear that the Governor has the power to direct
17 that appropriate steps are taken to bring a political subdivision of the state, such as
18 MCCCCD, into compliance with Arizona law. It is equally clear, given her written
19 direction to Attorney General Horne, that this action to compel MCCCCD’s compliance
20 with the law is properly before this court.

21 Conclusion

22 This Court should deny MCCCCD’s motion for judgment on the pleadings, grant
23 Arizona’s motion for judgment on the pleadings, and enter judgment in favor of
24 Arizona.

25 _____
26 ¹ Consideration of a matter of public record, such as this letter from Governor Brewer,
27 does not convert a motion for judgment on the pleadings into a motion for summary
28 judgment. *Strategic Dev. and Const., Inc. v. 7th and Roosevelt Partners, LLC*, 224 Ariz.
60, 64, ¶13, 226 P.3d 1046, 1050 (Ct. App. 2010).

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

DATED this 26th day of February, 2014.

THOMAS C. HORNE
Attorney General

By: /s/ Leslie Kyman Cooper
Kevin D. Ray
Leslie Kyman Cooper
Jinju Park
Assistant Attorneys General
1275 West Washington Street
Phoenix, Arizona 85007

Attorneys for the State of Arizona

Original filed electronically with the
Clerk of the Superior Court, Maricopa County,
this 26th day of February, 2014.

Copies emailed this 26th day of February, 2014 to:

Mary O'Grady
Lynne Adams
Grace E. Rebling
Osborn Maledon, P.A.
2929 North Central Avenue, 21st Floor
Phoenix, Arizona 85012-2793
mogrady@omlaw.com
ladams@omlaw.com
grebling@omlaw.com
dburton@omlaw.com

Attorneys for Defendants

Copies mailed this 26th day of February, 2014 to:

Victor Viramontes
Martha L. Gómez
Mexican American Legal Defense
and Educational Fund
634 South Spring Street, 11th Floor
Los Angeles, California 90014

1 Daniel R. Ortega Jr.
2 Ortega Law Firm, P.C.
3 361 East Coronado Road
4 Phoenix, Arizona 85004-1525

5 José de Jesús Rivera
6 Nathan J. Fidel
7 Haralson, Miller, Pitt,
8 Feldman & Mcanally, P.L.C.
9 2800 North Central Avenue, Suite 840
10 Phoenix, Arizona 85004

11 *Attorneys for Proposed Intervenor-Defendants*

12 By: /s/Marie Gonzalez

13 #3722808

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28