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7 **UNITED STATES DISTRICT COURT**
 8 **FOR THE DISTRICT OF ARIZONA**
 9 **TUCSON DIVISION**

10 Jane Doe, by her next friend and parents
 Helen Doe and James Doe; and Megan Roe,
 11 by her next friend and parents, Kate Roe and
 Robert Roe,

12 Plaintiffs,

13 v.

14 Thomas C. Horne in his official capacity as
 State Superintendent of Public Instruction;
 15 Laura Toenjjes, in her official capacity as
 Superintendent of the Kyrene School
 16 District; Kyrene School District; The
 Gregory School; and Arizona Interscholastic
 Association Inc.,

18 Defendants.

Case No. 4:23-cv-00185-JGZ

**PLAINTIFFS’ MOTION TO STRIKE THE
 PROPOSED INTERVENORS’ PROPOSED
 MOTION TO DISMISS**

20 Plaintiffs Jane Doe and Megan Doe respectfully request that the Court strike the
 21 Proposed Motion to Dismiss (Dkt. 38-1) filed by Proposed Intervenors, the President of
 22 the Arizona Senate and the Speaker of the Arizona House of Representatives, for failure
 23 to comply with LRCiv 12.1(c) of the Rules of Practice and Procedure of the U.S. District
 24 Court for the District of Arizona and this Court’s Order dated April 19, 2023. (Dkt. 13).

25 LRCiv 12.1(c) requires the party filing a motion to dismiss the complaint for
 26 failure to state a claim pursuant to Federal Rule of Civil Procedure 12(b)(6) to include “a
 27 certification that, before filing the motion, the movant notified the opposing party of the
 28 issues asserted in the motion and the parties were unable to agree that the pleading was

1 curable in any part by a permissible amendment offered by the pleading party.” This
2 Court’s April 19, 2023 Notice to the Parties relied on the language of LRCiv 12.1(c) and
3 put the Parties on notice that “[a] motion that does not contain the required certification
4 may be stricken summarily.” (Dkt. 13 at 1.)

5 Proposed Intervenors violated both the local rule and this Court’s Order by not
6 providing Plaintiffs with “personal, telephonic, or written notice of the issues that it
7 intend[ed] to assert in [their] motion,” *id.*; LRCiv 12.1(c), and they failed to include a
8 certification that they had complied with the rule when they filed their proposed motion
9 to dismiss. (*See generally*, Dkt. 38.) For these reasons alone, the Court should strike the
10 Proposed Intervenors’ Proposed Motion to Dismiss the Complaint. *See, e.g., Ctr. for*
11 *Biological Diversity v. Jewell*, 2015 WL 13037049, at *1 (D. Ariz. May 12, 2015) (Zipps,
12 J.) (explaining that the Court had struck *sua sponte* the Intervenors’ motion to dismiss for
13 not complying with LRCiv 12.1(c)).

14 CONCLUSION

15 For the reasons stated above, the Court should strike the Proposed Intervenor’s
16 Proposed Motion to Dismiss the Complaint.

17 Respectfully submitted this 1st day of June,
18 2023.

19 /s/ Colin M. Proksel
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