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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**

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9 Flint Wood, et al.,

10 **Plaintiffs,**

11 v.

12 Thomas Betlach, Director of the Arizona
13 Health Care Cost Containment System, and
14 Kathleen Sebelius, Secretary of the United
States Department of Health and Human
Services, in their official capacities,

15 **Defendants.**

No. CV12-8098-PCT-DGC

ORDER

16 Defendant Kathleen Sebelius, as Secretary of the United States Department of
17 Health and Human Services (“the Secretary”), has filed a motion for summary judgment
18 (Doc. 29) and lodged a memorandum in support of the motion for summary judgment
19 and in opposition to Plaintiffs’ motion for preliminary injunction (Doc. 30). Plaintiffs
20 have filed a motion to strike the motion for summary judgment and portions of the
21 supporting memorandum pursuant to Local Rules of Civil Procedure 7.2(m) and 7.2(i),
22 on the ground that the Secretary violated Local Rule of Civil Procedure 56.1 by failing to
23 file an accompanying statement of facts. Doc. 36. The Secretary has responded to the
24 motion to strike (Doc. 42), and has filed an unopposed motion for leave to file a separate
25 statement of facts (Doc. 41). The Court will deny Plaintiffs’ motion to strike and grant
26 the Secretary leave to file a separate statement of facts.

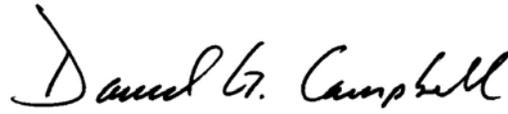
27 The Secretary explains that she inadvertently failed to submit a separate statement
28 of facts with her summary judgment motion. Doc. 42, at 3. She argues, however, that

1 Plaintiffs cannot identify any prejudice from her failure to file a statement of facts earlier,
2 as the administrative record was filed just one day after her motion (Docs. 32, 33, 34),
3 and her legal memorandum (Doc. 30) identifies the portions of the record cited in support
4 of her position. *Id.* The Court agrees that the Secretary's memorandum contains
5 sufficient citations to the record. Granting Plaintiffs' motion to strike would only result
6 in duplicative filings and unnecessarily prolong this litigation.

7 **IT IS ORDERED:**

- 8 1. Plaintiffs' motion to strike (Doc. 36) is **denied**.
- 9 2. Defendant Sebelius's unopposed motion for leave to file a separate
10 statement of facts (Doc. 41) is **granted**.

11 Dated this 12th day of July, 2012.

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15 David G. Campbell
16 United States District Judge
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