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10 *Attorneys for Defendant Janice K. Brewer,*
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12 **IN THE UNITED STATES DISTRICT COURT**
13 **FOR THE DISTRICT OF ARIZONA**

14 Martin H. Escobar,
15 Plaintiff,

16 v.

17 Jan Brewer, Governor of the State of
18 Arizona, in her Official and Individual
Capacity; the City of Tucson, a
19 municipal corporation,
20 Defendants.

21 The City of Tucson,
22 Cross-plaintiff,

23 v.

24 The State of Arizona, a body politic; and
25 Jan Brewer, in her capacity as Governor
of the State of Arizona,
26 Cross-defendants.

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Case No. CV10-00249-TUC-SRB

**GOVERNOR BREWER'S
RESPONSE TO PLAINTIFF
ESCOBAR'S STATUS REPORT ON
PENDING MOTIONS**

1 In response to the Court’s order (doc. 58) directing plaintiff to file a notice “listing
2 all motions pending in each case and the briefing status of those motions,” plaintiff
3 instead filed Plaintiff Escobar’s Status Report on Pending Motions (doc. 59) (“Status
4 Report”) that contained a lengthy recitation of his arguments in support of his preliminary
5 injunction motion. Defendant Governor Janice K. Brewer (“Governor Brewer”) responds
6 to the Status Report for the sole purpose of correcting the record regarding her positions
7 and the status of the pending motions.

8 First, plaintiff incorrectly states that Governor Brewer objected to plaintiff’s
9 motion to exceed the page limitations for his motion for preliminary injunction. (Status
10 Report at 2:11-12.) In truth, Governor Brewer’s counsel informed plaintiff’s counsel that
11 they did not object to the motion (doc. 25).

12 Second, plaintiff correctly points out that two motions in this case are lodged, not
13 filed, because the parties chose to submit oversize briefs without first obtaining leave of
14 Court.¹ See LRCiv 7.2(e). Plaintiff states that such motions have been “pending” for as
15 long as 28 days. Because these motions have not yet been filed, they are not currently
16 pending. No response to these motions is yet due.

17 Third, plaintiff asserts that there has been no ruling on requests for an evidentiary
18 hearing. (Status Report at 5:26-28.) In fact, no party has filed a request for an evidentiary
19 hearing and there is no such request before the Court. The “joinder” filed by the City of
20 Tucson (doc. 45) apparently referred to the terse request for an “Expedited Evidentiary
21 Hearing” in the caption of plaintiff’s motion for preliminary injunction that he lodged
22 with the Court (doc. 17). The motion did not otherwise mention any evidentiary hearing,
23 explain why such a hearing would be necessary, or describe the evidence that plaintiff
24 would present at a hearing.

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26 ¹ The motions in this case that are lodged, rather than filed, are plaintiff’s motion for
27 preliminary injunction (doc. 17) and the City of Tucson’s motion for preliminary
28 injunction (doc. 22). The Cities of Flagstaff, Tolleson, San Luis, and Somerton also
lodged a complaint in connection with their motion to intervene (doc. 33). Governor
Brewer filed her opposition to the motion to intervene on June 28, 2010 (doc. 60).

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Finally, plaintiff misstates the response date for the pending motion to dismiss Governor Brewer in her individual capacity (doc. 56). The motion was filed pursuant to Fed. R. Civ. P. 12(b)(6) on June 23, 2010. Under LRCiv 7.2(c), plaintiff's responsive memorandum is due fourteen days after service. Accordingly, plaintiff's response is due on July 12, 2010, not July 26, 2010.

Respectfully submitted this 29th day of June, 2010.

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CERTIFICATE OF SERVICE

I hereby certify that on June 29, 2010, I electronically transmitted the attached document to the Clerk's Office using the CM/ECF System for filing and transmittal of a Notice of Electronic Filing to the CM/ECF registrants on record:

s/John J. Bouma

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