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8 **SUPERIOR COURT OF ARIZONA**  
9 **IN MARICOPA COUNTY**

10 WHITE MOUNTAIN HEALTH CENTER,  
INC., an Arizona non-profit corporation,

11 Plaintiff,

12 v.

13 COUNTY OF MARICOPA; WILLIAM  
14 MONTGOMERY, ESQ., Maricopa County  
Attorney, in his official capacity;  
15 ARIZONA DEPARTMENT OF HEALTH  
SERVICES, as agency of the State of  
16 Arizona; WILL HUMBLE, Director of the  
Arizona Department of Health Services, in  
17 his Official Capacity; and DOES I-X,

18 Defendants.

No. CV2012- 053585

**STATE'S MOTION FOR  
EXPEDITED CONSIDERATION  
OF MOTION TO INTERVENE  
AND MOTION FOR SUMMARY  
JUDGMENT**

(Assigned to the Hon. Michael D. Gordon)

19  
20 The State of Arizona ex rel. Thomas C. Horne in his official capacity as the Attorney  
21 General, by undersigned counsel, pursuant to Rule 7.1(a) of the Rules of Civil Procedure,  
22 hereby moves this Court for expedited consideration of the State's motion for leave to

1 intervene in this action, for the purpose of seeking a declaration that the relief Plaintiff has  
2 sought is preempted by the laws of the United States. The grounds for this motion are fully  
3 stated in the accompanying Memorandum of Points and Authorities.

4 **MEMORANDUM OF POINTS AND AUTHORITIES**

5 **SUMMARY OF RELEVANT FACTS**

6 Plaintiff brought this action on or about June 20, 2012 seeking various declaratory and  
7 injunctive relief under the “Arizona Medical Marijuana Act” (“AMMA.”) Plaintiff’s goal is  
8 to operate a medical marijuana dispensary including marijuana cultivation. Compl., ¶ 2.  
9 Defendants Maricopa County and William Montgomery have asserted in their Answer that the  
10 AMMA is unconstitutional. (Cnty Defs’ Answer at 9, ¶ 8)

11 The Attorney General has issued a formal Opinion (No. I12-001, R12-008), concluding  
12 that the AMMA is preempted in part by federal law. If this Court should disagree, a quick  
13 decision would be beneficial because in that case, the Attorney General would not want to see  
14 any part of the ongoing process delayed. Alternatively, if this Court should agree, it would be  
15 better for all parties to know that sooner rather than later.

16 The preemption issue is a matter of statewide importance. Plaintiff’s Complaint shows  
17 that Plaintiff is proceeding to open the proposed medical marijuana dispensary on the belief  
18 that the same is authorized by the AMMA. The Court can surely take notice that many others  
19 are in the same position. The Court’s decision on preemption will affect all those persons as a  
20 practical matter, so it is important to expedite this as much as possible.

21 **LEGAL AUTHORITY AND ARGUMENT**

22 There is no doubt that this Court has plenary authority to control the timing of  
proceedings in this case. Ariz. R. Civ. P. 7.1(a) provides that the usual motion time frames do  
not apply if a specific time is set by court order. Given the statewide importance of the issue  
of preemption, the State requests the Court to enter an order setting an expedited briefing  
schedule and to enter an order allowing intervention as soon as possible. The State proposes

1 that any responses to this motion be filed on or before five days after the filing and service  
2 date of this Motion, and any reply be filed within three days after the response.

3 As shown in the Motion to Intervene, it is the intention of the Attorney General to  
4 promptly file a motion for summary judgment raising the preemption issue. A proposed  
5 answer and counterclaim are filed with that Motion, along with the proposed summary  
6 judgment motion and separate statement of facts. Should the Court grant this Motion and the  
7 Motion to Intervene, the Attorney General respectfully requests that the proposed answer,  
8 summary judgment motion and separate statement of facts be ordered filed at that time, and  
9 further requests that the Court enter an order setting an expedited briefing schedule for  
summary judgment.

### 10 CONCLUSION

11 For all the foregoing reasons, the Court should enter an order expediting consideration  
of the Motion for Intervention.

12 RESPECTFULLY SUBMITTED this 23rd day of August, 2012.

13 THOMAS C. HORNE  
14 Attorney General

15 /s/ Charles A. Grube  
16 Charles A. Grube  
17 Senior Agency Counsel  
Attorneys for the State ex rel.  
Thomas C. Horne

18 This Motion was  
19 electronically filed with the Court  
20 and copies transmitted  
by regular U.S. Mail  
and email on this 23rd day of  
August, 2012, as follows:

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8 | I also transmitted courtesy copies to  
9 | the above attorneys via electronic  
10 | transmission this date.

10 | /s/ Charles A. Grube

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