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Arizona Board of Regents Files Motions To Dismiss Attorney General's Lawsuit

(Phoenix, Ariz.) – Legal counsel for the Arizona Board of Regents filed motions today to dismiss a recent lawsuit from State of Arizona Attorney General Mark Brnovich that is factually and legally flawed.

“Every day, our board and our universities’ presidents act in good faith on behalf of the students and families in Arizona, to provide high quality and affordable education to our Arizona residents,” said ABOR Chair Bill Ridenour. “The board shares the Attorney General’s concerns about the challenges of funding public higher education and remains open to discussion about our mutual concerns. However, the board believes this lawsuit is unfounded.” ([Click here for Chair Ridenour’s full statement.](#))

The [motions filed](#) are based on legal flaws in the Attorney General’s complaint because court rules limit motions to dismiss to challenging the legal basis of the complaint.

Two of the motions to dismiss are based on arguments the Office of the Attorney General made on behalf of the Arizona Board of Regents before the Office of Attorney General switched sides and decided to sue its own client:

- The Arizona Supreme Court ruled in the *Kromko v. Ariz. Bd. Of Regents* case 10 years ago that the courts are not allowed to second guess the board’s tuition-setting decisions. The Office of the Attorney General made that argument on the board’s behalf, and won.
- The Arizona Board of Regents, in making its tuition and fee setting decisions, enjoys the same immunity accorded to the Legislature that gave it that authority. This is an argument that the Office of the Attorney General made on the board’s behalf in the *Kromko* case. (The Arizona Supreme Court did not need to address this argument in *Kromko*, but the argument is as compelling now as it was when the Attorney General first made it.)

The final motion is based on decades-old precedent reaffirmed most recently in June of this year when the Arizona Court of Appeals reminded this Attorney General that he cannot file a

lawsuit anytime against anyone on any basis he so chooses. He needs either a directive from the governor or a statute that applies to the claims the Attorney General makes. He has neither in this case.

“Since the lawsuit was filed, the board has engaged in good-faith discussions about this important issue with little progress and therefore, has little recourse but to file motions to dismiss,” Ridenour said.

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