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Peter Rieke, Katy Sheehan, Caroline Traube

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 14 **UNITED STATES DISTRICT COURT**
EASTERN DISTRICT OF WASHINGTON
 15 **AT SPOKANE**

16 JAMON RIVERA, et al.,

17 Plaintiffs,

18 v.

19 WASHINGTON STATE BUILDING
 CODE COUNCIL, et al.,

20 Defendants,

21 CLIMATE SOLUTIONS, et al.,

22 Defendant-Intervenors.

NO. 1:23-cv-03070-SAB

MOTION TO STRIKE STATE
 DEFENDANTS’ MOTION TO
 DISMISS

August 16, 2023
 Without Oral Argument

1 State Defendants respectfully request that the Court strike its earlier-filed
2 Motion to Dismiss the Complaint, filed on behalf of the State Building Code
3 Council (SBCC). *See* ECF No. 38.

4 After the motion to dismiss was filed, Plaintiffs filed the First Amended
5 Complaint, adding the individual members of the SBCC as named defendants
6 and seeking injunctive relief against them in their official capacities. ECF No.
7 47. Because the First Amended Complaint is now the operative complaint, the
8 earlier Motion to Dismiss the original Complaint is moot. *Lacey v. Maricopa*
9 *Cnty.*, 693 F.3d 896, 927 (9th Cir. 2012) (en banc) (“[T]he general rule is that an
10 amended complaint super[s]edes the original complaint and renders it without
11 legal effect.”). State Defendants previously filed a notice striking the Motion to
12 Dismiss, *see* ECF No. 50, but were instructed by chambers to instead file a
13 motion to strike.

14 The Court should therefore grant State Defendants’ motion and strike
15 Defendant SBCC’s Motion to Dismiss, ECF No. 38. State Defendants intend to
16 file a Motion to Dismiss the First Amended Complaint no later than Tuesday,
17 July 18, 2023.

18 DATED this 17th day of July 2023.

19 ROBERT W. FERGUSON
20 Attorney General

21 /s/ R. July Simpson
22 R. JULY SIMPSON, WSBA #45869

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DECLARATION OF SERVICE

I hereby declare that on this day I caused the foregoing document to be electronically filed with the Clerk of the Court using the Court’s CM/ECF System which will serve a copy of this document upon all counsel of record.

DATED this 17th day of July 2023, at Tacoma, Washington.

/s R. July Simpson

R. JULY SIMPSON, WSBA #45869
Assistant Attorney General