

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

Russell B. Toomey,

Plaintiff,

v.

State of Arizona, et al.,

Defendants.

No. CV 19-0035-TUC-RM (LCK)

ORDER

This case is part of the Mandatory Initial Discovery Pilot project (“MIDP”) being conducted in the District of Arizona under General Order 17-08. Under the MIDP, parties must respond to mandatory initial discovery subjects early in the litigation and before traditional discovery begins under the Federal Rules of Civil Procedure. General Order 17-08, ¶ (A)(2). The General Order provides that “[a] party seeking affirmative relief must serve its responses to the mandatory initial discovery no later than 30 days after the first pleading filed under Rule 12(a) in response to its complaint, counterclaim, crossclaim, or third-party complaint.” *Id.*, ¶ (A)(6). It further provides that “[a] party filing a responsive pleading, whether or not it also seeks affirmative relief, must serve its initial discovery responses no later than 30 days after it files its responsive pleading under Rule 12(a).” *Id.*

Defendants Arizona Board of Regents, Ron Shoopman, Larry Penley, Ram Krishna, Bill Ridenour, Lyndel Manson, Karrin Taylor Robson, Jay Heiler, and Fred DuVal filed an Answer on March 18, 2019. (Doc. 23.) On that same date, Defendants State of Arizona, Gilbert Davidson, and Paul Shannon filed a Motion to Dismiss. (Doc. 24.) The MIDP

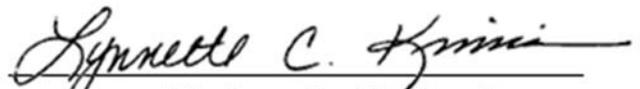
1 disclosures by Plaintiff and the answering Defendants must be completed by April 17,
2 2019. These parties now jointly move to delay their MIDP disclosures until the State
3 Defendants are required to complete such disclosures because, they contend, simultaneous
4 disclosures would preserve attorney and judicial resources.

5 As an initial matter, if the State Defendants were to win their motion to dismiss,
6 they would not participate in MIDP disclosures; therefore, the parties are requesting an
7 extension tied to an event that may never occur. Regardless, there are only two limited
8 exceptions to the MIDP deadline neither of which apply here: if the parties agree no
9 discovery will be conducted or the parties are negotiating and believe in good faith that the
10 case can be settled within thirty days. General Order 17-08, ¶ (A)(6). Therefore, the Court
11 is without authority to grant an extension of the MIDP deadline.

12 Accordingly,

13 **IT IS ORDERED** that the Joint Motion for Extension of Initial Disclosure Deadline
14 (Doc. 29) is **DENIED**.

15 Dated this 5th day of April, 2019.

16
17
18 
19 Honorable Lynnette C. Kimmins
20 United States Magistrate Judge
21
22
23
24
25
26
27
28