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1  
2 **UNITED STATES DISTRICT COURT**

3 **DISTRICT OF ARIZONA**

4 **Russell B. Toomey,**

5 Plaintiff,

6 v.

7 **State of Arizona; Arizona Board of**  
8 **Regents, d/b/a University of Arizona,** a  
9 governmental body of the State of Arizona; et  
10 al.,

11 Defendants.

4:19-cv-00035-TUC-RM (LCK)

**JOINT STATUS REPORT AND  
PROPOSED SCHEDULE**

12  
13 The parties respectfully respond to the Court’s order “to file a joint report on the  
14 status of this action including, if appropriate, proposed deadlines for amending the  
15 pleadings, lay witness disclosure, expert witness disclosure, discovery completion, the  
16 filing of dispositive motions, and the lodging of a proposed pretrial order.” (Doc. 109).

17 ***Joint statement:***

18 Plaintiff Dr. Russell Toomey filed his Complaint on January 23, 2019 against  
19 defendants, State of Arizona, Gilbert Davidson,<sup>1</sup> Paul Shannon (“State Defendants”) and  
20 the Arizona Board of Regents, d/b/a University of Arizona, Ron Shoopman, Larry Penley,  
21 Ram Krishna, Bill Ridenour, Lyndel Manson, Karrin Taylor Robson, Jay Heiler and Fred  
22 Heiler (the “ABOR Defendants”) for violations of Title VII of the Civil Rights Act of 1964  
23 and the Equal Protection Clause of the Fourteenth Amendment. (Doc. 1). Plaintiff seeks  
24 relief in the form of a declaratory judgment and a permanent injunction requiring the  
25 defendants to remove the categorical exclusion of coverage for “gender reassignment  
26 surgery” from the self-funded health plan provided to the plaintiff and the members of the

27  
28 <sup>1</sup> Defendant Andy Tobin, Director of the Arizona Department of Administration  
 (“ADOA”), was later substituted in the place of Gilbert Davidson, the former Interim  
 Director of the ADOA. (Doc. 48)

1 certified class (the “Plan”) and evaluate whether requests for surgical care for gender  
2 dysphoria are “medically necessary” in accordance with the Plan’s generally applicable  
3 standards and procedures.

4 Plaintiff filed an Amended Complaint on March 2, 2020 to include in the proposed  
5 class current and future employees who have or will have medical claims for transition-  
6 related care. (Doc. 80). Plaintiff’s motion for class certification (Doc. 88) was granted on  
7 June 15, 2020. (Doc. 108).

8 Plaintiff and the ABOR Defendants have exchanged initial disclosures and  
9 document productions consistent with the Mandatory Initial Discovery Pilot Program. The  
10 State Defendants have exchanged initial disclosures and produced some documents, and  
11 the State Defendants expect to complete their production if the parties are unable to reach a  
12 settlement.

13 Plaintiff propounded his first set of interrogatories to the defendants on June 5, 2020  
14 (Doc. 106) and agreed to defendants’ request for an extension of the deadline to July 15,  
15 2020. To date, defendants have not issued any written discovery.

16 The parties conducted their meet and confer conference pursuant to Fed.R.Civ.P.  
17 16(b) on July 10, 2020 and have been engaging in settlement discussions in an attempt to  
18 reach an agreement before engaging any further discovery. In accordance with the Court’s  
19 Order, however, the parties propose the joint schedule below to the court.

EVENT	DEADLINE
Amendment of pleadings	<b>AUGUST 15, 2020</b>
Disclosures of lay witnesses	<b>SEPTEMBER 15, 2020</b>
Initial expert disclosures	<b>NOVEMBER 1, 2020</b>
Rebuttal expert disclosures	<b>DECEMBER 15, 2020</b>
Completion of expert depositions	<b>FEBRUARY 1, 2021</b>
Completion of discovery	<b>FEBRUARY 1, 2021</b>
Filing dispositive motions	<b>MARCH 1, 2021</b>
Lodging of a proposed pretrial order	<b>Within 30 days after resolution of the dispositive motion; if no dispositive motion is filed then April 1, 2021</b>

1 Dated: July 15, 2020

2 ACLU FOUNDATION OF ARIZONA  
3 By /s/ Christine K. Wee  
4 Christine K. Wee

5 AMERICAN CIVIL LIBERTIES UNION FOUNDATION  
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7 Leslie Cooper\*

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22 Andy Tobin, and Paul Shannon*

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Ram Krishna; Bill Ridenour; Lyndel Manson; Karrin  
Taylor Robson; Jay Heiler; and Fred Duval*

**CERTIFICATE OF SERVICE**

I hereby certify that on July 15, 2020, I electronically transmitted the attached document to the Clerk’s office using the CM/ECF System for filing. Notice of this filing will be sent by email to all parties by operation of the Court’s electronic filing system.

/s/Christine K. Wee  
Christine K. Wee

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

**Russell B. Toomey,**  
  
**Plaintiff,**

Case No. CV 19-0035-TUC-RM (LAB)

v.

**[PROPOSED] PRETRIAL ORDER**

**State of Arizona; Arizona Board of Regents, d/b/a University of Arizona,**  
a governmental body of the State of Arizona; et al.,  
  
**Defendants.**

The Court having received the parties' Joint Status Report and Proposed Schedule (Dkt. No. \_\_\_\_\_).

IT IS HEREBY ORDERED approving the following pretrial schedule.

EVENT	DEADLINE
Amendment of pleadings	<b>AUGUST 15, 2020</b>
Disclosures of lay witnesses	<b>SEPTEMBER 15, 2020</b>
Initial expert disclosures	<b>NOVEMBER 1, 2020</b>
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Lodging of a proposed pretrial order	<b>Within 30 days after resolution of the dispositive motion; if no dispositive motion is filed then April 1, 2021</b>

Dated this \_\_\_\_ day of \_\_\_\_\_, 2020

\_\_\_\_\_  
Leslie A. Bowman  
United States Magistrate Judge