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16 UNITED STATES DISTRICT COURT
17 DISTRICT OF ARIZONA

18 RUSSELL B. TOOMEY,
19 Plaintiff,
20 v.
21 STATE OF ARIZONA; *et al.*,
22 Defendants.

No. 4:19-cv-00035

**DEFENDANTS STATE OF
ARIZONA’S, ANDY TOBIN’S, AND
PAUL SHANNON’S RESPONSE TO
PLAINTIFF’S MOTION TO
EXPEDITE CONSIDERATION OF
PLAINTIFF AND THE CLASSES’
OBJECTIONS TO REPORT &
RECOMMENDATION**

23 Defendants State of Arizona, Andy Tobin as Director of the Arizona Department of
24 Administration, and Paul Shannon as Acting Assistant Director of the Benefits Services
25 Division of the Arizona Department of Administration (collectively, the “State
26 Defendants”) hereby respond to Plaintiff’s Motion to Expedite Consideration Of Plaintiff’s
And The Classes’ Objections To Report And Recommendation (Doc. 136). State
Defendants do not object to the Court’s timely consideration of the parties’ briefing and
setting of oral argument; however, State Defendants request a reasonable timeframe to
respond to Plaintiff’s And The Classes’ Objections To Report And Recommendation (the

1 “Objections”) (Doc. 135).

2 Pursuant to Rule 72, State Defendants are granted fourteen days to respond to
3 Plaintiff’s Objections. This is already a quick turnaround time, which affords the Court the
4 opportunity to resolve the objections to the Report and Recommendation in a timely
5 fashion. This standard response time is further warranted here for two reasons. First,
6 Plaintiff’s Objections consist of nearly ten full pages of complex, nuanced legal arguments.
7 While some of these arguments merely repeat what was in Plaintiff’s Motion for
8 Preliminary Injunction, many of them are new. It is unfair and unduly burdensome to
9 require State Defendants to respond to complex and novel arguments in a shortened
10 timeframe. This is particularly so because the relief requested in Plaintiff’s Motion for
11 Preliminary Injunction is significant. Second, several members of State Defendants’
12 counsel team are preparing for arbitration and are in multiple depositions during the next
13 two weeks while others are involved in year-end transactions. As a result, their time to
14 prepare an appropriate response to the Objections is limited (especially considering it is also
15 holiday season).

16 Moreover, Plaintiff’s Motion to Expedite provides no reason to reduce State
17 Defendants’ time to respond. As an initial matter, Plaintiff does not actually appear to
18 request that the Court order State Defendants to respond in less than fourteen days. (See
19 generally Doc. 136). Instead, it appears that Plaintiff’s request relates solely to the *Court’s*
20 *consideration* of the Objections, and not State Defendants’ responses.

21 Plaintiff’s Motion to Expedite does suggest, however, that expedited consideration
22 is necessary because it will affect discovery and because Plaintiff is allegedly suffering
23 harm in the interim. Neither of these reasons support reducing State Defendants’ response
24 time. First, discovery in this matter is not set to close until six months from now—May 3,
25 2021. (Doc. 130 at 2:3–4). This provides more than enough time for the Court to provide
26 State Defendants a reasonable time to respond and rule on the Motion for Preliminary

1 Injunction, and then for the parties to engage in meaningful and fulsome discovery.
2 Permitting State Defendants their full time to respond will not cause the scheduling order
3 to be amended or otherwise delay the case. Second, this case has already been pending for
4 nearly two years. Permitting State Defendants a reasonable time to respond to Plaintiff's
5 Objections is immaterial in this context.

6 For these reasons, the State Defendants respectfully request that the Court grant them
7 fourteen days to respond to Plaintiff's Objections.

8 DATED this 7th day of December, 2020.

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CERTIFICATE OF SERVICE

I hereby certify that on this 7th day of December, 2020, I electronically transmitted the attached document to the Clerk’s Office using the CM/ECF system for filing and transmittal of a Notice of Electronic Filing to the following CM/ECF registrants:

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