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13 *Attorneys for Defendants*
14 *State of Arizona, Andy Tobin, and Paul Shannon*

15 UNITED STATES DISTRICT COURT
16 DISTRICT OF ARIZONA

17 Russell B. Toomey,
18 Plaintiff,

19 v.

20 State of Arizona, *et al.*
21 Defendants.

No. 4:19-cv-00035

**DECLARATION OF RYAN CURTIS
IN SUPPORT OF DEFENDANTS
STATE OF ARIZONA’S, ANDY
TOBIN’S, AND PAUL SHANNON’S
RESPONSE TO PLAINTIFF’S
MOTION TO COMPEL**

22 I, Ryan Curtis, submit this declaration under penalty of perjury pursuant to 28 U.S.C.
23 § 1746 and declare as follows:

24 1. I am a Director at Fennemore Craig, P.C., am licensed to practice law in the
25 State of Arizona, and am lead counsel for Defendants State of Arizona, Andy Tobin, and
26 Paul Shannon (collectively, the “State Defendants”).

1. I submit this declaration in support of the State Defendants’ Response to
Plaintiff’s Motion to Compel, filed concurrently.

3. I base this declaration on my personal knowledge.

4. I met and conferred with Plaintiff’s counsel telephonically regarding the State

1 Defendants' assertion of the deliberative process privilege. Regarding a discussion about
2 the deliberative process privilege during a meet and confer on March 3, 2021, Plaintiff's
3 counsel stated that unless the State Defendants produced all documents withheld pursuant
4 to the deliberative process privilege, Plaintiff would file a motion to compel.

5 5. Plaintiff issued a subpoena to the Arizona Governor's Office. The
6 Governor's Office asserted the executive communications privilege, attorney-client
7 privilege, and common interest privilege over several communications between the
8 Governor's Office and the Arizona Department of Administration ("ADOA"). These
9 include some of the same communications that Plaintiff seeks to compel production of via
10 its Motion.

11 6. Attached as **Exhibit 13** is a true and correct copy of the Governor's Office's
12 privilege log.

13 7. Attached as **Exhibit 14** is a true and correct copy of ADOA's 2016 EPO Plan.

14 8. Attached as **Exhibit 15** is a true and correct copy of State Defendants'
15 produced document, Bates stamped AZSTATE.151751-AZSTATE.151761, which is also
16 Entry No. 153 on the State Defendants' privilege log.

17 9. The State Defendants have produced over 8,000 documents in this matter,
18 consisting of nearly 250,000 pages.

19 10. ADOA produced all of its internal communications and analyses regarding
20 transgender benefits and the Exclusion, and its communications with each of its four
21 insurance vendors regarding transgender benefits and with several healthcare consulting
22 firms. ADOA also produced meeting minutes from its meetings with insurance vendors
23 and from internal meetings.

24 11. Plaintiff has already deposed four ADOA witnesses: Yvette Medina, Michael
25 Meisner, Marie Isaacson, and Scott Bender. Plaintiff's counsel questioned each witness
26 regarding the reason for the Exclusion.

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12. Plaintiff's counsel has indicated Plaintiff's intention to take the depositions of three additional ADOA witnesses in April 2021: Paul Shannon, Kelly Sharritts and Elizabeth Schafer.

13. Plaintiff's counsel has also indicated Plaintiff's intention to take the deposition of Christina Corieri in April 2021.

14. Attached as **Exhibit 16** is a true and correct copy of Plaintiff's First Set of Interrogatories to the State Defendants.

I declare under penalty of perjury that the foregoing is true and correct.

EXECUTED this 1st day of April, 2021.

By: 

Ryan Curtis

18285734

EXHIBIT 13

Privilege Log of the Office of Governor Douglas A. Ducey

re: Subpoena to Produce Documents, Information, or Objects or to Permit Inspection of Premises in a Civil Action

Document Date	Document Type	Author/Sender	Recipients	Subject	Privilege Assertion
5/11/2015	Email Correspondence and Attachments	Gina Relkin	Mike Liburdi, Matt Devlin, Monica Coury	Public Records Requests	Attorney-Client Privilege; Executive Communications Privilege; Common Interest Privilege
6/17/2015	Email Correspondence and Attachments	Gerrie Marks	Christina Corieri	Healthcare Plans	Executive Communications Privilege
10/14/2015	Email Correspondence and Attachment	Gina Relkin	Christina Corieri, Tom Betlach, Beth Kohler, Monica Coury, Mike Liburdi, Matt Devlin	Affordable Care Act	Attorney-Client Privilege; Executive Communications Privilege; Common Interest Privilege
10/15/2015	Email Correspondence	Christina Corieri	Gina Relkin, Tom Betlach, Beth Kohler, Monica Coury, Mike Liburdi, Matt Devlin	Affordable Care Act	Attorney-Client Privilege; Executive Communications Privilege
10/15/2015	Email Correspondence	Gina Relkin	Christina Corieri, Tom Betlach, Beth Kohler, Monica Coury, Mike Liburdi, Matt Devlin	Affordable Care Act	Attorney-Client Privilege; Executive Communications Privilege
6/8/2016	Email Correspondence	Dawn Northup	John Fry, Nicole Ong Colyer, Mike Liburdi	Recent Litigation	Attorney-Client Privilege; Executive Communications Privilege; Common Interest Privilege
6/8/2016	Email Correspondence	Nicole Ong Colyer	Dawn Northup, John Fry, Mike Liburdi	Recent Litigation	Attorney-Client Privilege; Executive Communications Privilege; Common Interest Privilege
8/26/2016	Email Correspondence and Attachment	Dominic Draye	Mike Liburdi	Potential Litigation	Attorney-Client Privilege; Executive Communications Privilege
9/1/2016	Email Correspondence and Attachment	Kathryn Hackett King	Christina Corieri	Potential Litigation	Attorney-Client Privilege; Executive Communications Privilege
9/12/2016	Email Correspondence and Attachment	Kathryn Hackett King	Mike Liburdi	Potential Litigation	Attorney-Client Privilege; Executive Communications Privilege
10/12/2016	Email Correspondence	Monica Coury	Daniel Ruiz, Christina Corieri	Media Response	Executive Communications Privilege
10/12/2016	Email Correspondence	Christina Corieri	Monica Coury, Daniel Ruiz	Media Response	Executive Communications Privilege
10/12/2016	Email Correspondence	Christina Corieri	Daniel Scarpinato, Mike Liburdi	Media Response	Attorney-Client Privilege; Executive Communications Privilege

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10/12/2016	Email Correspondence	Monica Coury	Christina Corieri	Media Response	Executive Communications Privilege
10/12/2016	Email Correspondence	Mike Liburdi	Daniel Scarpinato, Christina Corieri	Media Response	Attorney-Client Privilege; Executive Communications Privilege
10/12/2016	Email Correspondence	Monica Coury	Christina Corieri, Daniel Ruiz, Kathryn Hackett King, Matt Devlin, Beth Kohler	Media Response	Attorney-Client Privilege; Executive Communications Privilege; Common Interest Privilege
10/12/2016	Email Correspondence	Beth Kohler	Monica Coury, Christina Corieri, Daniel Ruiz, Matt Devlin, Kathryn Hackett King	Media Response	Attorney-Client Privilege; Executive Communications Privilege; Common Interest Privilege
10/12/2016	Email Correspondence	Kathryn Hackett King	Mike Liburdi, Christina Corieri, Daniel Ruiz	Media Response	Attorney-Client Privilege; Executive Communications Privilege
10/12/2016	Email Correspondence	Daniel Ruiz	Kathryn Hackett King, Mike Liburdi, Christina Corieri, Daniel Scarpinato	Media Response	Attorney-Client Privilege; Executive Communications Privilege
10/12/2016	Email Correspondence	Mike Liburdi	Daniel Ruiz, Christina Corieri, Daniel Scarpinato, Kathryn Hackett King	Media Response	Attorney-Client Privilege; Executive Communications Privilege
10/13/2016	Email Correspondence	Kathryn Hackett King	Mike Liburdi, Christina Corieri, Daniel Ruiz, Daniel Scarpinato	Media Response	Attorney-Client Privilege; Executive Communications Privilege
10/13/2016	Email Correspondence	Daniel Scarpinato	Mike Liburdi, Kathryn Hackett King, Christina Corieri, Daniel Ruiz	Media Response	Attorney-Client Privilege; Executive Communications Privilege
10/13/2016	Email Correspondence	Daniel Ruiz	Mike Liburdi, Kathryn Hackett King, Daniel Scarpinato, Christina Corieri	Media Response	Attorney-Client Privilege; Executive Communications Privilege
10/13/2016	Email Correspondence	Christina Corieri	Mike Liburdi, Kathryn Hackett King, Daniel Scarpinato, Daniel Ruiz	Media Response	Attorney-Client Privilege; Executive Communications Privilege
10/13/2016	Email Correspondence	Christina Corieri	Danny Seiden	Media Response	Attorney-Client Privilege; Executive Communications Privilege
10/13/2016	Email Correspondence	Daniel Scarpinato	Mike Liburdi, Kathryn Hackett King, Daniel Ruiz, Christina Corieri	Media Response	Attorney-Client Privilege; Executive Communications Privilege

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10/13/2016	Email Correspondence	Daniel Ruiz	Beth Kohler, Monica Coury, Christina Corieri, Kathryn Hackett King, Matt Devlin	Media Response	Attorney-Client Privilege; Executive Communications Privilege; Common Interest Privilege
10/13/2016	Email Correspondence	Monica Coury	Daniel Ruiz, Beth Kohler, Christina Corieri, Kathryn Hackett King, Matt Devlin	Media Response	Attorney-Client Privilege; Executive Communications Privilege; Common Interest Privilege
10/14/2016	Email Correspondence	Monica Coury	Christina Corieri, Daniel Ruiz	Media Response	Executive Communications Privilege
10/14/2016	Email Correspondence	Christina Corieri	Monica Coury, Daniel Ruiz	Media Response	Executive Communications Privilege
10/14/2016	Email Correspondence	Daniel Ruiz	Monica Coury, Christina Corieri	Media Response	Executive Communications Privilege
10/14/2016	Email Correspondence	Monica Coury	Christina Corieri, Daniel Ruiz	Media Response	Executive Communications Privilege
10/14/2016	Email Correspondence and Attachment	Dominic Draye	Mike Liburdi	Potential Litigation	Attorney-Client Privilege; Executive Communications Privilege
10/18/2016	Email Correspondence and Attachment	Michael Bailey	Mike Liburdi	Recent Litigation	Attorney-Client Privilege; Executive Communications Privilege
11/25/2016	Email Correspondence	Marie Isaacson	Christina Corieri, Nicole Ong Colyer	Affordable Care Act	Attorney-Client Privilege; Executive Communications Privilege; Common Interest Privilege
11/28/2016	Email Correspondence	Christina Corieri	Mike Liburdi	Affordable Care Act	Attorney-Client Privilege; Executive Communications Privilege
11/28/2016	Email Correspondence	Christina Corieri	Marie Isaacson, Nicole Ong Colyer	Affordable Care Act	Attorney-Client Privilege; Executive Communications Privilege; Common Interest Privilege
11/28/2016	Email Correspondence	Marie Isaacson	Christina Corieri	Affordable Care Act	Executive Communications Privilege
12/14/2016	Email Correspondence	Marie Isaacson	Christina Corieri	Affordable Care Act	Executive Communications Privilege
12/15/2016	Email Correspondence	Christina Corieri	Marie Isaacson	Affordable Care Act	Executive Communications Privilege

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12/15/2016	Email Correspondence	Marie Isaacson	Christina Corieri, Scott Bender, Nicole Ong Colyer	Affordable Care Act	Attorney-Client Privilege; Executive Communications Privilege; Common Interest Privilege
1/1/2017	Email Correspondence and Attachment	Rusty Crandell	Mike Liburdi, Dominic Draye	Recent Litigation	Attorney-Client Privilege; Executive Communications Privilege
1/17/2017	Email Correspondence and Attachment	Art Harding	Christina Corieri, Tim Roemer	Department of Corrections	Executive Communications Privilege
1/18/2017	Email Correspondence	Christopher Vinyard	Christina Corieri	Administrative Code	Executive Communications Privilege
1/19/2017	Email Correspondence	Beth Kohler	Christina Corieri	Media Response	Executive Communications Privilege
1/19/2017	Email Correspondence	Christina Corieri	Katie Fischer, Daniel Ruiz	Media Response	Executive Communications Privilege
1/19/2017	Email Correspondence	Christina Corieri	Beth Kohler	Media Response	Executive Communications Privilege
1/19/2017	Email Correspondence	Beth Kohler	Christina Corieri, Laura Raymond	Media Response	Executive Communications Privilege
1/19/2017	Email Correspondence	Beth Kohler	Christina Corieri, Daniel Ruiz	Media Response	Executive Communications Privilege
1/23/2017	Email Correspondence	Daniel Ruiz	Christina Corieri, Andrew Wilder, Beth Kohler	Proposed Legislation	Executive Communications Privilege
1/23/2017	Email Correspondence	Danny Seiden	Gretchen Conger, Christina Corieri, Katie Fischer	Proposed Legislation	Executive Communications Privilege
1/23/2017	Email Correspondence	Christina Corieri	Daniel Seiden, Gretchen Conger, Katie Fischer	Proposed Legislation	Executive Communications Privilege
1/24/2017	Email Correspondence	Aaron Favreau	Christina Corieri	Proposed Legislation	Executive Communications Privilege
1/24/2017	Email Correspondence	Christina Corieri	Aaron Favreau	Proposed Legislation	Executive Communications Privilege
1/25/2017	Email Correspondence	Tim Roemer	Christina Corieri	Proposed Legislation	Executive Communications Privilege
2/6/2019	Email Correspondence and Attachment	Nicole Colyer	Christina Corieri	Toomey v. State of AZ, et al.	Attorney-Client Privilege; Executive Communications Privilege
6/26/2019	Email Correspondence and Attachment	Anni Foster	Daniel Scarpinato, Gretchen Conger, Patrick Ptak, Daniel Ruiz, Gilbert Davidson, Katie Fischer, Christina Corieri	Toomey v. State of AZ, et al.	Attorney-Client Privilege; Executive Communications Privilege

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10/1/2019	Email Correspondence and Attachment	Nicole Colyer	Christina Corieri, Anni Foster	Toomey v. State of AZ, et al.	Attorney-Client Privilege; Executive Communications Privilege
8/6/2020	Email Correspondence	Jami Snyder	Christina Corieri	Healthcare Coverage	Executive Communications Privilege
8/6/2020	Email Correspondence	Anni Foster	Christina Corieri	DH v Snyder	Attorney-Client Privilege; Executive Communications Privilege
8/6/2020	Email Correspondence	Jami Snyder	Christina Corieri	Administrative Code	Executive Communications Privilege
9/28/2020	Email Correspondence and Attachments	Matthew Devlin	Anni Foster, Christina Corieri, Nicole Sornsin	DH v Snyder	Attorney-Client Privilege; Attorney Work Product; Common Interest Privilege
9/28/2020	Email Correspondence	Anni Foster	Matthew Devlin, Christina Corieri, Nicole Sornsin	DH v Snyder	Attorney-Client Privilege; Attorney Work Product; Common Interest Privilege
9/28/2020	Email Correspondence	Matthew Devlin	Anni Foster, Christina Corieri, Nicole Sornsin	DH v Snyder	Attorney-Client Privilege; Attorney Work Product; Common Interest Privilege
9/28/2020	Email Correspondence	Nicole Sornsin	Matthew Devlin, Kimberly Suciu, Anni Foster, Christina Corieri	DH v Snyder	Attorney-Client Privilege; Attorney Work Product; Common Interest Privilege
9/28/2020	Email Correspondence	Anni Foster	Matthew Devlin, Christina Corieri, Nicole Sornsin	DH v Snyder	Attorney-Client Privilege; Attorney Work Product; Common Interest Privilege