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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
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9 Russell B Toomey,
10 Plaintiff,
11 v.
12 State of Arizona, et al.,
13 Defendants.
14

No. CV-19-00035-TUC-RM (LAB)

ORDER

15 Pending before the Court is Defendants’ Motion to Stay Order (Doc. 242) and
16 Plaintiff’s Motion to Enforce Court Order (Doc. 244). Plaintiff filed a Response to
17 Defendant’s Motion to Stay Order (Doc. 243) and Defendants replied (Doc. 246).
18 Plaintiff’s Motion to Enforce Court Order is not yet fully briefed.

19 Defendants’ Motion to Stay Order (Doc. 242) seeks to stay the Court’s September
20 21, 2021 Order granting Plaintiff’s Motion to Compel and ordering Defendants to
21 produce “all documents related to Defendants’ decision-making regarding the exclusion
22 of coverage for gender reassignment surgery as requested in Plaintiff’s Requests for
23 Production One, Three, and Nine, including legal advice that may have informed that
24 decision-making” within fourteen days, or by October 5, 2021 (“the Order”) (Doc. 241).
25 In their Motion to Stay, Defendants state that they intend to petition the Ninth Circuit
26 Court of Appeals for a Writ of Mandamus regarding the Order, and the docket reflects
27 that they have done so. (Doc. 245.)

28 “[T]he power to stay proceedings is incidental to the power inherent in every court

1 to control the disposition of the causes on its docket with economy of time and effort for
2 itself, for counsel, and for litigants.” *Landis v. N. Am. Co.*, 299 U.S. 248, 254 (1936). It is
3 “beyond question that a district court has the power to grant a stay of its own order
4 pending the determination of an appeal therefrom.” *Nw. Nat. Ins. Co. v. Insko, Ltd.*, 866
5 F. Supp. 2d 214, 217 (S.D.N.Y. 2011).

6 Having considered the circumstances present in this case, including Defendants’
7 petition for Writ of Mandamus to the Ninth Circuit Court of Appeals regarding the Order,
8 the Court will temporarily stay the Order pending resolution of Defendants’ Motion to
9 Stay Order and Plaintiff’s Motion to Enforce Court Order, in order to allow the Court to
10 thoroughly consider the merits of those pending Motions.

11 Accordingly,

12 **IT IS ORDERED** that the Court’s September 21, 2021 Order (Doc. 241) is
13 **temporarily stayed** pending resolution of Defendants’ Motion to Stay Order (Doc. 242)
14 and Plaintiff’s Motion to Enforce Court Order (Doc. 244).

15 Dated this 8th day of October, 2021.

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Honorable Rosemary Márquez
United States District Judge