

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-19-00035-TUC-RM (LAB)
ORDER

Pending before the Court is Defendants’ Motion for Reconsideration and Motion to Stay. (Doc. 261.) Defendants ask the Court to reconsider its September 21, 2021 Order (the “Order”) (Doc. 241) compelling Defendants to produce documents withheld pursuant to the attorney-client privilege. Defendants seek reconsideration in light of developments during oral argument before the Ninth Circuit Court of Appeals on their Petition for Writ of Mandamus challenging this Court’s Order. (*Id.*) Defendants also request that the Order be stayed pending resolution of the Motion for Reconsideration. (*Id.*) Plaintiff opposes the requested stay and the Motion for Reconsideration. (Doc. 264.)

“[T]he District Court has broad discretion to stay proceedings as an incident to its power to control its own docket.” *Clinton v. Jones*, 520 U.S. 681, 683 (1997). “Where it is proposed that a pending proceeding be stayed, the competing interests which will be affected by the granting or refusal to grant a stay must be weighed.” *Lockyer v. Mirant Corp.*, 398 F.3d 1098, 1110 (9th Cir. 2005) (citing *CMAX, Inc. v. Hall*, 300 F.2d 265 (9th Cir. 1962)). Those competing interests can include “the possible damage which may

1 result from the granting of a stay, the hardship or inequity which a party may suffer in
2 being required to go forward, and the orderly course of justice[.]” *Id.*

3 Upon weighing the interests affected by the requested stay, the Court finds that the
4 stay will serve the orderly administration of justice and that the hardship that Defendants
5 might suffer from being required to produce the documents at issue prior to resolution of
6 the Motion to Reconsideration outweighs any possible damage to Plaintiff from granting
7 the stay.

8 Accordingly,

9 **IT IS ORDERED** that Defendants’ Motion for Reconsideration and Motion to
10 Stay (Doc. 261) is **partially taken under advisement and partially granted**, as follows:

- 11 1. The Motion to Stay (Doc. 261) is **granted**. The Court’s September 21, 2021
12 Order (Doc. 241) is **stayed** pending resolution of the Motion for Reconsideration.
- 13 2. The Motion for Reconsideration (Doc. 261) is **taken under advisement**.

14 Dated this 25th day of May, 2022.

15
16
17
18 
19 Honorable Rosemary Márquez
20 United States District Judge
21
22
23
24
25
26
27
28