

1 **Christine K Wee – 028535**
2 **ACLU FOUNDATION OF ARIZONA**
3 3707 North 7th Street, Suite 235
4 Phoenix, Arizona 85014
5 Telephone: (602) 650-1854
6 Email: cwee@acluaz.org

7 **Joshua A. Block***
8 **Leslie Cooper***
9 **AMERICAN CIVIL LIBERTIES UNION FOUNDATION**
10 125 Broad Street, Floor 18
11 New York, New York 10004
12 Telephone: (212) 549-2650
13 E-Mail: jblock@aclu.org
14 E-Mail: lcooper@aclu.org
15 *Admitted pro hac vice

16 **Wesley R. Powell***
17 **Matthew S. Freimuth***
18 **Jordan C. Wall***
19 **Justin Garbacz***
20 **WILLKIE FARR & GALLAGHER LLP**
21 787 Seventh Avenue
22 New York, New York 10019
23 Telephone: (212) 728-8000
24 E-Mail: wpowell@willkie.com
25 E-Mail: mfreimuth@willkie.com
26 E-Mail: jwall@willkie.com
27 E-Mail: jgarbacz@willkie.com
28 *Admitted pro hac vice

Attorneys for Plaintiff Russell B. Toomey

UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

Russell B. Toomey,

Plaintiff,

v.

State of Arizona; Arizona Board of Regents,
D/B/A University of Arizona, a governmental
body of the State of Arizona; et al.,

Defendants.

Case No.19-cv-00035-TUC-RM (LAB)

**PLAINTIFF’S MOTION TO FILE
EXHIBITS UNDER SEAL**

1 Pursuant to Local Rule of Civil Procedure 5.6 and the Stipulated Protective Order
2 (Doc. 165), Plaintiff, Dr. Russell B. Toomey, hereby moves this Court for an order directing
3 the Clerk to file under seal (i) Exhibits 9, 10, 13, 15, 19 and 21 to the Declaration of Christine
4 K. Wee In Support of Plaintiff’s Motion For Summary Judgment (the “Motion”); (ii) an
5 unredacted copy of Plaintiff’s Motion; and (iii) an unredacted copy of Plaintiff’s LRCiv 56.1
6 Statement of Undisputed Materials Facts (the “PSOF”), all filed concurrently. Exhibits 9,
7 10, 13, 15 and 21 were each produced in the course of discovery, and have been designated
8 as either “CONFIDENTIAL” or “CONFIDENTIAL – FOR COUNSEL ONLY” by State
9 Defendants. Exhibit 19 is an expert report which includes as an attachment a copy of Exhibit
10 13, which has been designated “CONFIDENTIAL” by State Defendants. A redacted copy
11 of Exhibit 19 has been submitted with the Wee Declaration. Plaintiff’s Motion and PSOF
12 have been redacted to the extent they cite purportedly Confidential Information contained
13 in the above-referenced Exhibits.

14 Per Paragraph 9 of the Stipulated Protective Order, “[b]efore any . . . documents
15 which are designated as Confidential Information are filed with the Court for any purpose,
16 the party seeking to file such materials must seek permission of the Court to file the materials
17 under seal.” (Doc. 165)

18 A proposed order is appended hereto.

19 DATED this 26th day of September, 2022.

20 ACLU FOUNDATION OF ARIZONA

21 By /s/ Christine K. Wee
22 Christine K. Wee
23 3707 North 7th Street, Suite 235
24 Phoenix, Arizona 85014

25 AMERICAN CIVIL LIBERTIES UNION
26 FOUNDATION
27 Joshua A. Block*
28 Leslie Cooper*
125 Broad Street, Floor 18
New York, New York 10004

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

WILLKIE FARR & GALLAGHER LLP
Wesley R. Powell*
Matthew S. Freimuth*
Jordan C. Wall*
Justin Garbacz*
787 Seventh Avenue
New York, New York 10019

*Admitted pro hac vice

*Attorneys for Plaintiff Russell B. Toomey and the
certified classes*

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

CERTIFICATE OF SERVICE

I hereby certify that on September 26, 2022, 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

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

**UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA**

Russell B. Toomey,
Plaintiff,

Case No.19-cv-00035-TUC-RM (LAB)

v.

[PROPOSED] 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.

Having reviewed Plaintiff’s Motion to File Exhibits Under Seal and finding good cause (Doc. ____),

IT IS ORDERED that the motion is granted.

IT IS FUTHER ORDERED that the Clerk is directed to file under seal (i) Exhibits 9, 10, 13, 15, 19 and 21; (ii) an unredacted copy of Plaintiff’s Motion for Summary Judgment; and (iii) an unredacted copy of Plaintiff’s Statement of Undisputed Material Facts. (Doc. ____)

Dated this _____ day of _____ 2022.