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7 *Ron Shoopman, Larry Penley, Cecilia Mata,*
8 *Bill Ridenour, Lyndel Manson, Robert Herbold,*
Jessica Pacheco, and Fred DuVal

9 UNITED STATES DISTRICT COURT

10 DISTRICT OF ARIZONA

11 **Russell B. Toomey,**

12 Plaintiff,

13 v.

14 **State of Arizona; Arizona Board of**
15 **Regents**, a governmental body of the State
of Arizona; **Ron Shoopman**, in his
16 official capacity as Member of the
Arizona Board of Regents; **Larry Penley**,
17 in his official capacity as Treasurer of the
Arizona Board of Regents; **Cecilia Mata**,
18 in her official capacity as Secretary of the
Arizona Board of Regents; **Bill Ridenour**,
19 in his official capacity as Member of the
Arizona Board of Regents; **Lyndel**
Manson, in her official capacity as Chair
20 of the Arizona Board of Regents; **Robert**
Herbold, in his official capacity as
21 Member of the Arizona Board of Regents;
Jessica Pacheco, in her official capacity
22 as Member of the Arizona Board of
Regents; **Fred DuVal**, in his official
23 capacity as Member of the Arizona Board
of Regents; **Andy Tobin**, in his official
24 capacity as Director of the Arizona
Department of Administration; **Paul**
25 **Shannon**, in his official capacity as
Acting Assistant Director of the Benefits
26 Services Division of the Arizona
Department of Administration,

27 Defendants.
28

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

**DEFENDANTS ARIZONA BOARD
OF REGENTS, RON SHOOPMAN,
LARRY PENLEY, CECILIA MATA,
BILL RIDENOUR, LYNDEL
MANSON, ROBERT HERBOLD,
JESSICA PACHECO, AND FRED
DUVAL'S CONTROVERTING
STATEMENT OF FACTS IN
RESPONSE TO PLAINTIFF'S
MOTION FOR SUMMARY
JUDGMENT**

1 Under Federal Rule of Civil Procedure 56 and Local Rule 56.1(b), Defendants
2 Arizona Board of Regents, Ron Shoopman, Larry Penley, Cecilia Mata, Bill Ridenour,
3 Lyndel Manson, Robert Herbold, Jessica Pacheco, and Fred DuVal (collectively, “the
4 University Defendants”) submit the following controverting statement of facts in response
5 to Plaintiff Russell Toomey’s summary judgment motion.

6 The paragraph numbers under the “Controverting Statement of Facts” heading below
7 correspond to the numbered paragraphs in Plaintiff’s separate statement of facts. Paragraphs
8 designated as “undisputed” are deemed undisputed by the University Defendants only for
9 the purpose of their response to Plaintiff’s summary judgment motion.

10 **Controverting Statement of Facts**

- 11 1. **Undisputed.**
- 12 2. **Undisputed.**
- 13 3. **Undisputed.**
- 14 4. **Undisputed.**
- 15 5. **Undisputed.**
- 16 6. **Undisputed.**
- 17 7. **Undisputed.**
- 18 8. **Undisputed.**
- 19 9. **Undisputed.**
- 20 10. **Disputed in part.** The statement of fact says that *the State of Arizona*
21 “controls the plan design and contribution strategy” of the self-funded healthcare plan
22 offered to State of Arizona employees and administered by the Arizona Department of
23 Administration (“ADOA”). But that’s not what the cited evidence shows. The cited
24 evidence establishes (Doc. 89 at 23:3-6) that *the Director of ADOA* “determine[s] the type,
25 structure, and components” of the healthcare plan. That fact is undisputed. Any suggestion
26 that any other State of Arizona employee or entity—including any of the University
27 Defendants—“controls the plan design and contribution strategy” of the healthcare plan is
28

1 disputed and is unsupported by any fact or any legal authority. *See, e.g.*, A.R.S. § 38-656(E)
2 (requiring “any public entity organized pursuant to the laws of this state” that participates
3 in ADOA’s healthcare plan to “accept the benefit level, plan design, insurance providers,
4 premium level and other terms and conditions *determined by [ADOA]*”) (emphasis added).

5 11. **Undisputed.**

6 12. **Undisputed.**

7 13. **Undisputed.**

8 14. **Undisputed.**

9 15. **Undisputed.**

10 16. **Undisputed.**

11 17. **Undisputed.**

12 18. **Undisputed.**

13 19. **Undisputed.**

14 20. **Undisputed.**

15 21. **Undisputed.**

16 22. **Undisputed.**

17 23. **Undisputed.**

18 24. **Undisputed.**

19 25. **Undisputed.**

20 26. **Undisputed.**

21 27. **Undisputed.**

22 28. **Undisputed.**

23 29. **Undisputed.**

24 30. **Undisputed.**

25 31. **Undisputed.**

26 32. **Undisputed.**

27 33. **Undisputed.**

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- 1 34. **Undisputed.**
- 2 35. **Undisputed.**
- 3 36. **Undisputed.**
- 4 37. **Undisputed.**
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- 27 60. **Undisputed.**
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- 71. **Undisputed.**
- 72. **Undisputed.**
- 73. **Undisputed.**
- 74. **Undisputed.**

1 Dated: October 26, 2022

PERKINS COIE LLP

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3 By: *s/ Paul F. Eckstein*

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s/ Susan M. Carnall