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**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

First Amendment Coalition of Arizona,
Inc.; Charles Michael Hedlund; Graham S.
Henry; David Gulbrandson; Todd Smith;
and Eldon Schurz,

Plaintiffs,

v.

Janice K. Brewer, Governor; Charles L.
Ryan, Director of ADC; Ron Credio,
Warden, ASPC–Eyman; Greg Fizer,
Warden, ASPC–Florence; and Does 1-10,
Unknown ADC Personnel, in their official
capacities as Agents of ADC,

Defendants.

Case No. 2:14-cv-01447-NVW-JFM

**JOINT STIPULATION FOR
TEMPORARY STAY**

1 Plaintiff First Amendment Coalition of Arizona, Inc. (“Coalition”) and Plaintiffs
2 Charles Michael Hedlund, Graham Henry, David Gulbrandson, Todd Smith, and Eldon
3 Schurz (collectively, “Condemned Plaintiffs,” and, with the Coalition, “Plaintiffs”), and
4 Defendants Janice K. Brewer, Governor; Charles L. Ryan, Director of ADC; Ron
5 Credio, Warden, ASPC–Eyman; Greg Fizer, Warden, ASPC–Florence; and Does 1-10,
6 Unknown ADC Personnel, in their official capacities as Agents of ADC, (collectively,
7 “Defendants”) hereby stipulate as follows:

8 **WHEREAS**, at the status conference held on October 29, 2014, the Court
9 instructed the parties to submit briefs regarding whether and on what terms proceedings
10 in this matter should be stayed;

11 **WHEREAS**, the Court also instructed the parties to meet and confer regarding
12 issues relating to a potential stay, and further instructed the parties to discuss how to
13 proceed with this litigation in a timely, non-urgent manner;

14 **WHEREAS**, on November 7, 2014, counsel for the parties met and conferred in
15 person in Phoenix, Arizona, to discuss a schedule for litigation in this matter and other
16 issues relating to the potential stay;

17 **WHEREAS**, the State of Arizona plans to release publicly in mid-November a
18 report (“Report”) regarding the execution of Joseph Wood, one of the original Plaintiffs
19 in this lawsuit;

20 **WHEREAS**, the Arizona Department of Corrections plans to review its
21 procedures for implementing the death penalty in light of the Report, and to release any
22 new set of procedures for implementing the death penalty in the coming months (the
23 “Amended Protocol”);

24 **WHEREAS**, Defendants, if they decide to adopt an Amended Protocol, shall
25 provide Plaintiffs with a draft copy of any Amended Protocol before it is made available
26 to the public, and within 14 days (during which time Plaintiffs’ counsel will discuss the
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1 proposed changes with their clients), the parties shall meet and confer (telephonically, if
2 necessary) to address any agreed upon revisions;

3 **WHEREAS**, Defendants, if they decide to adopt an Amended Protocol, shall post
4 any Amended Protocol to the Arizona Department of Corrections' website and provide
5 notice to Plaintiffs and the Court on the same day the Amended Protocol is posted to the
6 Arizona Department of Corrections' website;

7 **WHEREAS**, the parties agree that staying this litigation under the terms set forth
8 herein until any Amended Protocol has been made available as described above would
9 be in the interests of judicial efficiency;

10 **WHEREAS**, the parties agree that this litigation should proceed in a timely, non-
11 expedited manner once the stay has been lifted;

12 **WHEREAS**, to facilitate a timely resolution of this litigation after the stay has
13 been lifted, Plaintiffs may amend the First Amended Complaint (ECF No. 51) to address
14 changes, if any, necessitated by the release of the Report and/or any Amended Protocol,
15 provided that Plaintiffs file any such amendment (or advise Defendants of Plaintiffs'
16 decision not to amend) within 21 days of service of any Amended Protocol;

17 **WHEREAS**, to facilitate a timely resolution of this litigation after the stay has
18 been lifted, Defendants have agreed to take appropriate steps, to the extent Defendants
19 have the capability, to preserve all documents and materials stored in any medium from
20 which information can be obtained (including but not limited to writings, drawings,
21 graphs, charts, photographs, sound recordings, images, and data compilations, e-mails,
22 text messages, chats, phone and text message logs, and other electronically stored
23 communications, handwritten and other paper documents, lists of staff and agents of
24 Defendants who participated in the execution, medical documents, drug labels, unused
25 execution drugs, and items listed in the Arizona Supreme Court's order issued July 23,
26 2014, in *State v. Wood*, No. CR-91-03233-AP), related to the execution protocol
27 applicable to Wood's execution and/or to the Amended Protocol, to the media's access
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1 to information regarding executions, and to the planning for, carrying out of, and
2 investigation into the Wood execution, and further agree, notwithstanding the stay, to
3 timely provide Plaintiffs with all documents or other material referenced in or relied
4 upon by the Report that have not already been provided to Plaintiffs, subject to redaction
5 where permitted by Fed R. Civ. P. 26(b)(5)(A), provided that any such redacted material
6 shall be specifically identified on a concurrently served privilege log that comports with
7 Rule 26(b)(5)(A)(ii);

8 **WHEREAS**, the parties further agree that it would be in the interests of judicial
9 economy and comity for Defendants not to seek an execution warrant from the Arizona
10 Supreme Court for any of the Condemned Plaintiffs or any other condemned prisoners
11 until after (a) this action has been resolved through settlement among the parties; or (b)
12 this Court has entered a final judgment on the merits; and

13 **WHEREAS**, the parties' views currently differ regarding whether Defendants
14 should be able to seek an execution warrant after this Court has entered a final judgment
15 on the merits and during the pendency of any appeal of that judgment, and the parties
16 therefore reserve their respective rights to seek a judicial resolution of their differing
17 views after this Court enters a final judgment on the merits in this litigation.

18 **IT IS THEREFORE STIPULATED AND AGREED** that:

19 (1) This action, including briefing on Defendants' pending motion to dismiss
20 (ECF No. 55), and briefing regarding a stay, should be stayed immediately;

21 (2) Defendants shall provide Plaintiffs with a draft copy of any Amended
22 Protocol before it is made available to the public, and the parties shall meet and confer
23 (telephonically, if necessary) within 14 days (during which time Plaintiffs' counsel will
24 discuss the proposed changes with their clients) to address any agreed upon revisions;

25 (3) Defendants shall post to the Arizona Department of Corrections' website
26 and provide notice of such posting to Plaintiffs and the Court on the same day the
27 Amended Protocol is posted to the Arizona Department of Corrections' website;
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1 (4) Plaintiffs may amend the First Amended Complaint (ECF No. 51) to
2 address changes, if any, necessitated by the release of the Report and/or Amended
3 Protocol, provided that Plaintiffs file any such amendment (or advise Defendants of
4 Plaintiffs' decision not to amend) within 21 days after notice of the Amended Protocol is
5 provided pursuant to paragraph 3 above;

6 (5) The stay shall be lifted by further order of this Court in response to a
7 timely request by either party to this Court following the Department of Corrections'
8 public release of any Amended Protocol and provision of notice of the Amended
9 Protocol to counsel for Plaintiffs and the Court;

10 (6) Defendants will not move for an execution warrant for any of the
11 Condemned Plaintiffs or any other condemned prisoners until after (a) this action has
12 been resolved through settlement among the parties; or (b) this Court has entered a final
13 judgment on the merits;

14 (7) Defendants will take appropriate steps to preserve all documents and
15 materials as set forth above, and, notwithstanding the stay, will timely provide Plaintiffs
16 with all documents or materials referenced in or relied upon by the Report that have not
17 already been provided to Plaintiffs, subject to redaction where permitted by Fed R. Civ.
18 P. 26(b)(5)(A), provided that any such redacted material shall be specifically identified
19 on a concurrently served privilege log that comports with Rule 26(b)(5)(A)(ii); and

20 (8) The parties request the Court to enter the attached proposed stay order.
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1 Dated: November 21, 2014

Jon M. Sands
Federal Public Defender
District of Arizona

3 s/ Dale A. Baich

4 Dale A. Baich
5 Robin C. Konrad

6 *Counsel for Plaintiffs* Charles Michael
7 Hedlund; Graham S. Henry; David
8 Gulbrandson; Todd Smith; and
Eldon Schurz

9 Dated: November 21, 2014

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11 s/ Mark E. Haddad

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17 *Counsel for Plaintiffs* First Amendment
18 Coalition of Arizona, Inc.; Charles Michael
19 Hedlund; Graham S. Henry; David
20 Gulbrandson; Todd Smith; and
Eldon Schurz

21 Dated: November 21, 2014

22 Thomas C. Horne
Attorney General

23 Jeffrey A. Zick
24 Chief Counsel

25 s/ Jeffrey A. Zick

26 Jeffrey A. Zick
27 Jeffrey L. Sparks
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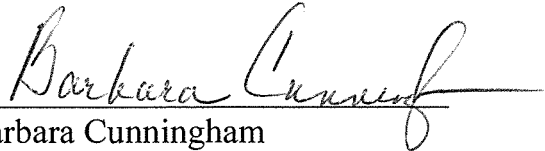
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Certificate of Service

I hereby certify that on November 21, 2014 I electronically filed the foregoing JOINT STIPULATION FOR TEMPORARY STAY with the Clerk's Office by using the CM/ECF system. I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

s/ 
Barbara Cunningham
Legal Secretary