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9
10 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**
11 **IN AND FOR THE COUNTY OF MARICOPA**

12 **ELI DALTON-WEBB**

13 Plaintiff,

14 vs.

15 **INDUSTRIAL COMMISSION OF**
16 **ARIZONA**

17 Defendants.

Case No.: **CV2025-035545**

**DEFENDANT INDUSTRIAL
COMMISSION OF ARIZONA'S
RESPONSE IN OPPOSITION TO
PLAINTIFF'S PETITION FOR
ORDER TO SHOW CAUSE**

18 COMES NOW Defendant Industrial Commission of Arizona, by and through its
19 attorney Bobby Wren of Ritsema Law, and hereby submits its Response in Opposition
20 to Plaintiff's Petition for Order to Show Cause.

21 **INTRODUCTION**

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23 On October 1, 2025, Plaintiff filed his Complaint for Special Action against
24 Defendant ICA pursuant to A.R.S. § 39-121.02 and Art. 2 § 11 of the Arizona
25 Constitution.
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1 Plaintiff alleges Defendant ICA denied him access to public records or other
2 matters when it failed to produce for inspection certain documents and information
3 relating to Arizona workers' compensation claims and hearings.
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5 Defendant ICA produced all documents and information required to be disclosed
6 under the applicable law. Any information not produced or disclosed either does not
7 constitute a public record and therefore need not be disclosed, or is protected from
8 disclosure pursuant to law.
9

10 **FACTUAL BACKGROUND**

- 11 1. The Industrial Commission of Arizona (ICA) was created to, among other
12 things, oversee Arizona's workers' compensation system. A.R.S. §§ 23-107(A);
13 23-921.
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- 15 2. As concerns the dispute at issue in this matter, the ICA maintains two separate
16 divisions, the Claims Division (Claims), which processes and maintains workers
17 compensation claims, and the ALJ Division, which hears and adjudicates
18 workers' compensation disputes. [Exhibit A, Affidavit of Ruby Tate; Exhibit B,
19 Affidavit of Andrew Campbell]. The Claims Division is tasked with
20 investigating certain aspects of workers' compensation claims. All findings of
21 the Claims Division investigations are subject to final adjudication by an ALJ.
22 [Exhibit A].
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3. The Claims Division is the custodian of all workers' compensation claims files, which include sensitive and confidential medical, financial, and other personal information of workers' compensation applicants. [Exhibit A].
4. Each workers' compensation claim filed with the ICA receives a unique ICA claim number. That claim number is used to identify an applicant's specific claim, and must be used to obtain access to the Claims file. [Exhibit A, Exhibit B].
5. The Claims Division files also includes sensitive and confidential information of the employers and insurers involved in the claims, including bank account and routing numbers. [Exhibit A; Exhibit B].
6. The ALJ Division maintains separate files for each dispute that his heard by an ALJ. The ALJ Division files include materials from the Claims Division files, and vice versa. [Exhibit B].
7. Workers' compensation hearings are generally held virtually via Google Meet. Each party and subpoenaed witnesses received individual invitations with a link to a unique Google Meet session. Publication of a hearing calendar is not necessary for attendance by the parties or witnesses. [Exhibit B].
8. Hearings before an ALJ generally concern and contain evidence of an applicant's medical conditions, financial information, and other expressions of

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the sensitive and private information contained in the Claims and ALJ files.
[Exhibit B].

9. The Claims Division does not maintain an existing list of all personnel, nor does it maintain an existing list of all ICA Claims numbers. [Exhibit A].

10. ICA claims files are confidential and not subject to disclosure pursuant to A.A.C. R20-5-108. This includes ICA and ALJ numbers assigned to specific claims. [Exhibit A; Exhibit B].

11. Plaintiff submitted a request to the ICA pursuant to A.R.S. 39-121 on August 26, 2025. [Exhibit 3 to Plaintiff's Complaint]. Plaintiff requested 25 discrete categories of alleged public records.

12. On October 8, 2025, the ICA responded, providing responsive information and documents. [Exhibit C, ICA Response].

13. On October 1, 2025 Plaintiff filed his Complaint. Plaintiff provided a courtesy copy of the Complaint to the ICA, but did not affect proper service.

14. On October 1, 2025, Plaintiff filed his Petition for Order to Show Cause. Plaintiff failed to serve a copy of the petition on Defendant.

15. On November 24, 2025, Plaintiff filed his Request to Set Show Cause Hearing. This was the first time Defendants learned of Plaintiff's Petition for Order to Show Cause.

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16. On December 10, 2025 the Court held a virtual hearing at which he ordered the parties to submit written briefs on Plaintiff’s Petition for Order to Show Cause.

ARGUMENT

I. DEFENDANT COMPLIED WITH ALL REQUIREMENTS UNDER A.R.S. § 39-121 AND PRODUCED ALL PUBLIC RECORDS IN ITS POSSESSION

a. Legal Standards

A.R.S. § 39-121 states “Public records and other matters in the custody of any officer shall be open to inspection by any person at all times during office hours.” “Arizona law defines 'public records' broadly and creates a presumption requiring the disclosure of public documents. But this presumption applies only when a document first qualifies as a public record. Accordingly, a threshold question in many public records cases is whether the documents at issue are public records in the first place.” *Sierra Club v. Salt River Project Agric. Improvement & Power Dist.* 563 P.3d 151, 160 (Ariz. App. 2025) (internal citations omitted). Where a specific statutory provision makes documents confidential, those documents are not considered “public records.” *Id.*

Further, public records may be withheld where disclosure would violate personal privacy, confidentiality, or other privileges. *Carlson v. Pima County*, 687 P.2d 1242

1 (Ariz. 1984); *Scottsdale Unified Sch. Dist. No. 48 v. KPNX Broad Co.*, 955 P.2d 534,
2 (Ariz. 1998); *Stewart v. Carroll*, 154 P.3d 382 (Ariz. App. 2007).

3
4 “Arizona’s public records law does require an agency to tally and compile
5 previously untallied and uncompiled information or data in response to a public records
6 request.” *ACLU of Ariz. v Ariz Dep’t of Child Safety*, 377 P.3d 339, 345 (Ariz. App.
7 2016) (*rev’d on other grounds* 493 P.3d 885 (Ariz. 2021); *see also Judicial Watch, Inc.*
8 *v. City of Phoenix*, 367 P.3d 1185 (Ariz. App. 2011) (Public entity is not required to
9 create a document in response to a public records request).
10

11 **b. Defendant Produced all Public Records Subject to Disclosure**

12 **i. Defendant Complied with Plaintiff’s Requests 1-11 & 13**

13 All information requested by Plaintiff’s in his requests 1-11 and 13 is available
14 on Defendant’s website, www.azica.gov, including the names and email addresses of all
15 ICA Commissioners (<https://www.azica.gov/leadership>), the ICA’s physical address
16 (<https://www.azica.gov/about>), contact information (<https://www.azica.gov/about>),
17 public records request submission ([https://www.azica.gov/forms/public-records-](https://www.azica.gov/forms/public-records-request-form)
18 [request-form](https://www.azica.gov/forms/public-records-request-form)), ALJ Personnel contact list ([https://www.azica.gov/administrative-law-](https://www.azica.gov/administrative-law-judge-alj-personnel-phone-list)
19 [judge-alj-personnel-phone-list](https://www.azica.gov/administrative-law-judge-alj-personnel-phone-list)), and the ICA Division phone list
20 (<https://www.azica.gov/ica-department-phone-directory>).
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23 **ii. The Information Requested Plaintiff’s Request 12 Does Not**
24 **Exist and is Otherwise Not Subject to Disclosure**
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1 Plaintiff's request 12 seeks a list of "Non-ALJ Adjudicators." The ICA does not
2 employ any "non-ALJ adjudicators." Rather, the ICA Claims Division is tasked with
3 investigating certain matters delegated to it by the Commission. Those investigations
4 are not "adjudications," as they are subject to final determination by an ALJ. [Exhibit
5 A].
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7 Further, the ICA does not maintain an existing list of Claims Division
8 employees that includes legal first, middle, and last names; job descriptions, salaries,
9 employment start dates, and regular workplace physical addresses. Although that
10 information may exist in separate formats and locations within the ICA's human
11 resources system, it has not been assembled into one existing list. [Exhibit A]. In order
12 to produce the requested information, the ICA would have to create such a list out of
13 whole cloth. [Exhibit A]. Because a public entity "is not required to tally and compile
14 previously untallied and uncompiled information in response to a public records
15 request," the information requested in request 12 is not subject to disclosure. *ACLU of*
16 *Ariz, supra.*
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20 **iii. Plaintiff's Requests 14-22 and 24 Are Not Public Records and**
21 **Are Not Subject to Disclosure**

22 Plaintiff's requests 14-22 and 24 seek various information contained in or
23 relating to ICA Claims and ALJ Division files, including claimant names, dates of
24 injury, claim numbers, filing dates, and hearing dates. Because specific statutory and
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1 regulatory provisions make the Claims and ALJ files confidential, the requested
2 information is not considered a public record and is not subject to disclosure pursuant to
3 A.R.S. § 39-121.
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5 The ICA is empowered to “Formulate and adopt rules and regulations” for the
6 purpose of administering the Arizona workers’ compensation system. A.R.S. §§ 23-
7 107(A)(1); 23-921(B). In carrying out that function, the ICA promulgated and enacted
8 A.A.C. R20-5-108(A) and (C) which specifically make Claims files confidential.
9 “Except as provided in this Section, a claims file maintained by the Commission is
10 private and confidential and the Commission shall not make the claims file available for
11 inspection and copying... [The] Commission shall not make a Commission claims file
12 available to a non-party for inspection and copying unless the Commission receives a
13 court order or written authorization signed by the affected claimant or the affected
14 claimant’s authorized representative.” According to the rule, only parties to a claim, or
15 those given specific written authorization by the claimant involved may inspect and
16 copy the information contained in a Claims file.
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20 Further, A.R.S. § 23-941(H) states “Any interested party or the interested party’s
21 authorized agent shall be entitled to inspect any claims file of the commission, provided
22 that such authorization is filed in writing with the commission.” An “interested party”
23 is specifically defined as “the employer, the employee, or if the employee is deceased,
24 the employee’s estate, the surviving spouse or dependents, the commission, the
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1 insurance carrier or their representative.” A.R.S. § 23-901(10). By law, inspection of
2 ICA Claims files is specifically limited to the parties to the claim, their agents upon
3 written authorization, or the commission. No non-party or member of the public is
4 permitted to inspect a Claims file without specific authorization. Because ICA Claims
5 files, which include party names, dates of injury, filing dates, claim documents, hearing
6 dates, ICA claim numbers, ALJ numbers, and awards, are confidential by law, they do
7 not constitute public records and are not subject to disclosure.
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10 The Arizona Supreme Court has specifically found information in ICA claims
11 files are confidential, stating information and documents collected and used for the
12 purpose of settling the claim of a compensation claimant is “protected from the prying
13 of unauthorized individuals to the same extent as the records of a private person.”
14 *Industrial Comm’n v. Holohan*, 397 P.2d 624, 627 (Ariz. 1964). *See also Kirkpatrick v.*
15 *Industrial Comm’n*, 460 P.2d 670, 675 (Ariz. App. 1969) (“the documents in a
16 Commission file are private except for those reflecting official Commission action.”)¹
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19 Even if the Claims files and the information contained therein are considered
20 public records, they are not subject to disclosure because of the sensitive, confidential,
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23 ¹ By law, awards by an ALJ are made part of the commission’s claim file. A.R.S.
24 § 23-942(C) states “The award shall become part of the commission file.” Awards in
25 workers’ compensation claims are therefore protected by A.A.C. R20-5-108 and A.R.S. §
26 23-941(H).

1 and personal information contained therein. Protection of privacy and confidentiality
2 interests are proper bases for denial of inspection or production of documents that
3 would otherwise be considered public records. *Carlson v. Pima County*, 687 P.2d 1242
4 (Ariz. 1984). “An Individual’s interest in controlling the dissemination of information
5 regarding personal matters does not dissolve simply because that information may be
6 available to the public in some form.” *Scottsdale Unified Sch. Dist. No. 48 v. KPNX*
7 *Broad Co.*, 955 P.2d 534, 538 (Ariz. 1998) (quoting *United States Dep't of Defense v.*
8 *Federal Labor Relations Auth.*, 510 U.S. 487, 500 (1994). Information such as an
9 individual’s name and date of birth has been held to be confidential and not subject to
10 disclosure as a public record. *Id.* (Holding employees of a school district have a
11 privacy interest in their dates of birth that prevents disclosure); *Arizona Bd. Of Regents*
12 *v. Phoenix Newspapers*, 806 P.2d 348 (Ariz. 1991) (Names of job applicants are
13 protected from disclosure).
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17 Because workers’ compensation claims concern physical and mental injuries to
18 employees, they necessarily require medical documentation to support a claim.
19 Medical records are generally considered private and privileged and cannot be obtained
20 from a medical provider without a specific HIPAA-compliant release. *See* A.A.C. R20-
21 5-131(G). Further, A.R.S. § 12-2235² creates a specific privilege between a doctor and
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25 ² A.R.S. § 23-908(D) creates a limited exception to this privilege in workers’
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1 patient concerning “any physical or mental disease or disorder or supposed physical or
2 mental disease or disorder or as to any such knowledge obtained by personal
3 examination of the patient.”
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5 Workers’ compensation matters also concern sensitive financial information not
6 only of the claimant, but also of the employer and the insurance carrier. A claimant’s
7 wage loss benefits are based on their average monthly wage received from the
8 employer. ICA Claims files contain wage records, paychecks, and personnel file
9 information from both the employee and the employer, which often includes both the
10 claimant’s and employer’s bank account information and routing numbers. Further,
11 where a dispute arises over payment or non-payment of benefits, an insurer’s financial
12 information may be submitted into the claims file to document payments made to the
13 claimant.
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16 Given the specific statutory and regulatory provisions prohibiting disclosure or
17 inspection of ICA claims files by members of the public without specific authorization,
18 and in light of the personal, confidential, and privileged information involved in
19 workers’ compensation matters, the information contained in the ICA’s claims files is
20 not subject to disclosure or inspection pursuant to A.R.S. § 39-121.
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23 compensation matters, but only as to “interested parties” as defined in § 23-901(10), and
24 only as to conditions related to the industrial claim. It is not a blanket waiver of a
25 claimant’s medical privilege or confidentiality.
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1 **II. WORKERS’ COMPENSATION HEARINGS ARE NOT SUBJECT TO**
2 **ART. 2 § 11 OF THE ARIZONA CONSTITUTION**

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4 Plaintiff’s requests 23 and 25 demand the ICA open all workers’ compensation
5 hearings to the public at large, relying on Art. 2 § 11 and one sentence in Art. 18 § 8 of
6 the Arizona Constitution. Because workers’ compensation matters are not subject to
7 Art. 2 § 11 of the Arizona Constitution, Plaintiff’s request should be denied.

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9 At the outset, the ICA notes that there is no general prohibition on members of
10 the public from attending workers’ compensation hearings. Attendance by non-parties
11 or witnesses is left to the discretion of each individual ALJ. [Exhibit B].

12 Art. 2 § 11 states “Justice in all cases shall be administered openly, and without
13 unnecessary delay.” This section has generally been interpreted to apply for the benefit
14 of an accused in a criminal case. *See Phoenix Newspapers v. Jennings*, 493 P.2d 563
15 (Ariz. 1971). *See also Ridenour v. Schwartz*, 875 P.2d 1306 (Ariz. 1994) (addressing a
16 criminal accused’s right to public trial in light of general order closing courthouse
17 access after 3:00 p.m.)

18
19 Workers’ compensation hearings are not courts of general jurisdiction and are
20 not organized under the Judicial Branch. Exhibit B; *Arrowhead Press v. Industrial*
21 *Comm’n*, 653 P.2d 371, 374 (Ariz. App. 1982) (“[The] Industrial Commission is not a
22 court of general jurisdiction and there are no provisions in our statutes giving it
23 jurisdiction over parties other than the employer, carrier and injured workman[.]”) *See*
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1 *also Gibbons v. Industrial Comm'n.* 3 P.3d 1028 (Ariz. App. 1999). Because the ICA's
2 jurisdiction is limited only to those disputes arising under Arizona's workers'
3 compensation system, it does not address or concern the notions of justice and fault or
4 punishment as contemplated in Art. 2 § 11. This is further evidenced by the fact that
5 the ICA was specifically created "for the relief and protection of such workmen, their
6 widows, children or dependents, as defined by law, from the burdensome, expensive
7 and litigious remedies for injuries to or death of such workmen, now existing in the
8 State of Arizona, and producing uncertain and unequal compensation therefor[.]" Ariz.
9 Const. Art. 18 § 8 (emphasis added). Article 18 § 8 specifically created the workers'
10 compensation system to remove on-the-job injuries from the "burdensome, expensive
11 and litigious remedies" that were until then only available through the traditional
12 notions of justice in the courts. Given this explicit removal of the traditional concept of
13 justice through the courts, it cannot be reasoned that the open administration provisions
14 of Art. 2 § 11 applies to workers' compensation hearings.

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19 Plaintiff's argument that use of the word "just" in Art. 18 § 8 brings workers'
20 compensation hearings within the meaning of "justice" as used in Art. 2 § 11 fails on its
21 face. "Just" and "justice" have separate and distinct plain meanings. "Just" is generally
22 defined as "having a basis in or confirming to fact or reason." Merriam-Webster
23 Dictionary; <https://www.merriam-webster.com/dictionary/just>. "Justice" means "the
24 process or result of using laws to fairly judge cases, redress wrongs, and punish
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1 crimes.” Merriam-Webster Dictionary; <https://www.merriam->
2 [webster.com/dictionary/justice](https://www.merriam-webster.com/dictionary/justice). These separate meanings are borne out by their uses in
3 their respective sections of the Arizona Constitution. Article 18 § 8 uses “just” to
4 describe the aims of the workers’ compensation law, (“...in order to assure and make
5 certain a just and humane compensation law in the State of Arizona...”) i.e. to avoid
6 uncertain and unequal compensation. Whereas “justice” as used and interpreted in Art.
7 2 § 11 concerns judgment of cases, redress of wrongs and punishment of crimes.
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10 Given the fact that the ICA is not a court of general jurisdiction and does not
11 address traditional notions of justice as contemplated by the open administration
12 provisions of Art. 2 § 11 of the Arizona Constitution, it is not bound by those
13 requirements.
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15 **III. WORKERS’ COMPENSATION HEARINGS ARE EXEMPT**
16 **FROM PUBLIC ACCESS**

17 Even if Art. 2 § 11 applies to workers’ compensation hearings, good cause exists
18 to prohibit the public from attending without discretion.
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20 There are circumstances under which public access to judicial proceedings may
21 be limited, including to protect the privacy of individuals involved.³ Specifically,
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23 ³ The ICA does not agree that workers’ compensation hearings constitute “judicial
24 proceedings” as the term may be commonly understood. It simply uses the term as one
25 of convenience.
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1 where an involved party's medical information is at issue and privacy rights are
2 implicated, Art. 2 § 11 is not infringed. In *Stewart v. Carroll*, 154 P.3d 382 (Ariz. App.
3 2007), a criminal defendant alleged his right to open administration of justice under Art.
4 2 § 11 was violated when the court refused to release statements from prospective
5 jurors asking to be excused for mental or physical reasons. The Court found that a
6 statutory provision protecting release of prospective jurors' requests for exemption
7 from jury duty pursuant to A.R.S. § 21-202(C) for mental or physical reasons, which
8 includes a record from the juror's physician, protects a legitimate personal privacy
9 right. "Individuals who are called for jury duty do not forfeit their privacy rights when
10 they are called for jury duty... [The] open courts requirement does not guarantee a
11 defendant access to information that her or she desires. Any constitutional right to this
12 information must be found elsewhere." *Id.* at 387 (quoting *State v. Ramirez*, 871 P.2d
13 237, 248 (Ariz. 1994)).
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17 Similarly, a workers' compensation claimant does not forfeit their privacy rights
18 simply by filing a workers' compensation claim or requesting a hearing. As in *Stewart*,
19 a specific statutory and regulatory provision prohibits disclosure of workers'
20 compensation claim files. See A.A.C. R20-5-108; A.R.S. § 23-941. Section 23-
21 908(D) makes clear that a claimant's privacy rights concerning their medical records
22 are only waived as to the parties to the claim. Moreover, certain information in ICA
23 claim files are required by to be submitted into evidence in a workers' compensation
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1 hearing. A.A.C. R20-5-109. Given these specific statutory and regulatory provisions,
2 the reasoning applied in *Stewart* is equally applicable to this matter.

3
4 Any claimant filing a workers' compensation claim with the ICA, and any other
5 party thereto has good reason and legal basis to presume their private and confidential
6 information will remain just that, given the explicit protections enacted to govern
7 workers' compensation matters. If the public is allowed unfettered access to hearings
8 where that private and confidential information is discussed, it will likely have a
9 chilling effect on the parties involved. If a workers' compensation claimant knows any
10 member of the public can watch a hearing where sensitive medical and financial
11 information is discussed, they may forego their pursuit of benefits in order to maintain
12 their privacy and dignity. The chilling effect of disclosure of requested information
13 may be considered when determining whether access to information should be granted.
14
15 *Arizona Bd. Of Regents v. Phoenix Newspapers*, 806 P.2d 348 (Ariz. 1991) (holding
16 that disclosure of names of all prospects considered for presidency of Arizona State
17 University would chill attraction of candidates, and therefore disclosure not required).
18
19 If the Supreme Court found that disclosure of an individual's name to the public would
20 have a chilling effect, it certainly goes without saying that allowing the public
21 unfettered access to medical records, wage and financial information, and an
22 individual's testimony concerning the impact an injury has on their physical and mental
23 well-being would have a chilling effect orders of magnitude greater.
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CERTIFICATE OF SERVICE

I hereby certify that on this 31st day of December, 2025, true and correct copies of the foregoing **DEFENDANT INDUSTRIAL COMMISSION OF ARIZONA'S RESPONSE IN OPPOSITION TO PLAINTIFF'S PETITION FOR ORDER TO SHOW CAUSE** were served upon the following parties by email/facsimile/U.S. Mail, postage prepaid, addressed to the following:

VIA EMAIL: dw4az@proton.me
Eli Dalton-Webb

VIA EFILE: AZ Turbo Court
Superior Court of the State of Arizona
County of Maricopa

/s/ Darla Banks