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IN THE UNITED STATES DISTRICT COURT

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FOR THE DISTRICT OF ARIZONA

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Elvira Fernandez, individually and as co-
personal representative of the Estate of
Daniel Frank Rodriguez,

CV 11-02001-PHX-FJM

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ORDER

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Plaintiff,

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vs.

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City of Phoenix; Richard Allen Chrisman;
Jane Doe Chrisman; John Does 1-5; Jane
Does 1-5,

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Defendants.

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The court has before it the City of Phoenix’s motion to dismiss for lack of standing (doc. 10) and plaintiff’s response (doc. 21). We also have before us the City of Phoenix’s motion to consolidate cases and designate a single statutory plaintiff (doc. 15) and plaintiff’s response (doc. 22). These motions are not fully briefed. Finally, we have the parties’ stipulated motion for leave for plaintiff to file a first amended complaint joining claims by Frank Rodriguez (doc. 20).

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Plaintiff’s son, Daniel Frank Rodriguez, was shot and killed by Phoenix Police Officer Richard Chrisman on October 5, 2010. Plaintiff filed this action in the Superior Court of Arizona in Maricopa County in August, 2011 alleging two counts for 1) wrongful death and 2) constitutional violations pursuant to 42 U.S.C. § 1983. Defendants removed to this court in October, 2011 (doc. 1). There is a second action pending in this District concerning the

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1 death of Daniel Rodriguez filed by Frank Rodriguez, Daniel's father and co-personal
2 representative of the estate.

3 The parties in this action jointly move for leave for plaintiff to file an amended
4 complaint. The proposed amendment names Elvira Fernandez as the sole statutory plaintiff
5 on behalf of all surviving statutory beneficiaries and joins the claims of Frank Rodriguez.
6 The parties have stipulated that once the amended complaint is filed in this action Mr.
7 Rodriguez will dismiss his claims in his action. The parties also agree that our granting of
8 the motion to amend will render the City of Phoenix's pending motions to dismiss and
9 consolidate moot. Allowing plaintiff to amend the complaint will promote judicial efficiency
10 by permitting the claims concerning Daniel's death to proceed in a single action. The motion
11 is timely pursuant to our Rule 16 order (doc. 13).

12 **IT IS ORDERED GRANTING** the parties' stipulated motion for leave for plaintiff
13 to file a first amended complaint joining claims by Frank Rodriguez (doc. 20). Plaintiff shall
14 comply with the filing and service requirements of LRCiv 15.1.

15 **IT IS ORDERED DENYING** the City of Phoenix's motion to dismiss for lack of
16 standing on grounds of mootness (doc. 10).

17 **IT IS ORDERED DENYING** the City of Phoenix's motion to consolidate cases and
18 designate a single statutory plaintiff on grounds of mootness (doc. 15).

19 DATED this 7th day of March, 2012.

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23 Frederick J. Martone
24 United States District Judge
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