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

Robert Towery, et al.,
Plaintiffs,

vs.

Janice K. Brewer, Governor of Arizona, et
al.
Defendants.

) No. CV-12-245-PHX-ROS
) **DEATH PENALTY CASE**

) **ORDER**

Plaintiffs, Arizona prisoners under sentence of death, have filed a civil rights Complaint pursuant to 42 U.S.C. § 1983. The Court will order Defendants to respond to the Complaint.

I. Statutory Screening of Prisoner Complaints

The Court is required to screen complaints brought by prisoners seeking relief against a governmental entity or an officer or an employee of a governmental entity. 28 U.S.C. § 1915A(a). The Court must dismiss a complaint or portion thereof if a plaintiff has raised claims that are legally frivolous or malicious, that fail to state a claim upon which relief may be granted, or that seek monetary relief from a defendant who is immune from such relief. 28 U.S.C. § 1915A(b)(1), (2).

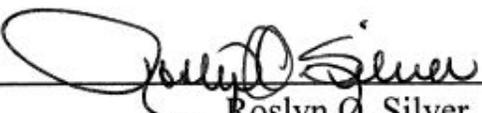
1 **II. Complaint**

2 In their five-count Complaint, Plaintiffs sue the following Defendants: Arizona
3 Governor Janice K. Brewer, Arizona Department of Corrections Director Charles L. Ryan,
4 Eyman Unit Warden Ron Credio, Florence Unit Warden Lance Hetmer, various unidentified
5 members of the IV and Special Operations Teams, and Does 1-25. In Claim One, Plaintiffs
6 allege that disparate treatment across executions violates the Equal Protection Clause. In
7 Claim Two, Plaintiffs allege that Arizona's lethal injection protocol lacks adequate
8 safeguards to protect against the risk of pain, in violation of the Eighth Amendment. In
9 Claim Three, Plaintiffs allege that administration of a three-drug protocol using imported
10 pancuronium bromide violates their rights under the Eighth and Fourteenth Amendments.
11 In Claim Four, Plaintiffs allege that Defendants have failed to provide adequate notice of the
12 specific drugs and the type of venous access that will be used in executions, in violation of
13 the Fourteenth Amendment. In Claim Five, Plaintiffs allege that Arizona's lethal injection
14 protocol violates their rights to due process and to access to the courts, in violation of the
15 First, Fifth, Eighth, and Fourteenth Amendments. In their Prayer for Relief, Plaintiffs seek
16 declaratory and injunctive relief. The Court has reviewed the Complaint and finds that
17 Plaintiffs have stated claims for relief. Therefore, the Court will require Defendants to
18 answer or otherwise respond to all five counts in the Complaint.

19 Accordingly,

20 **IT IS ORDERED** that Defendants must answer or otherwise respond to the
21 Complaint within the time provided by the applicable provisions of Rule 12(a) of the Federal
22 Rules of Civil Procedure.

23 DATED this 7th day of February, 2012.

24
25 
26 Roslyn O. Silver
27 Chief United States District Judge