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6 IN THE UNITED STATES DISTRICT COURT
7 FOR THE DISTRICT OF ARIZONA

8 Roy Warden,

9 Plaintiff,

CV-13-0283-TUC-DCB (BPV) Lead Case
CV-13-1067-TUC-DCB (BPV)

10 vs.
11

ORDER

12 Bob Walkup, individually and in his
13 official capacity as Tucson City Mayor; *et*
al.

14 Defendants.
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16 Pursuant to Rule 42(a) of the Federal Rules of Civil Procedure and LRCiv 42.1, and
17 Plaintiff having no objection (*see* Doc. 56),

18 IT IS ORDERED that:

19 (1) Defendants' Motion to Consolidate (Doc. 50) is GRANTED and CV-13-
20 283-TUC-DCB (BPV) shall be CONSOLIDATED with CV-13-1067-TUC-DCB (BPV);

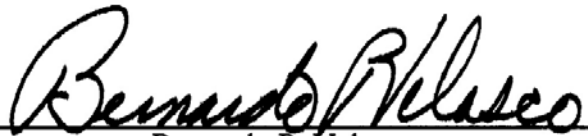
21 (2) Plaintiff shall have until **May 1, 2017** to file and serve a Second Amended
22 Complaint encompassing case numbers CV-13-283 and CV-13-1067 and the allegations
23 thereto into a single unified complaint. Plaintiff is advised that the Second Amended
24 Complaint will supersede the preceding pleadings filed in CV-13-283 and CV 13-1067.
25 *See Hal Roach Studios, Inc. v. Richard Feiner & Co.*, 896 F.2d 1542, 1546 (9th Cir. 1989)
26 (party named in original complaint who was not named in amended complaint is no longer
27 subject to that action); *see also In re Ford Motor Co./Citibank (S. Dakota), N.A.*, 264 F.3d
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1 952, 965 (9th Cir. 2001) (“in a consolidated action, a consolidated complaint is the operative
2 pleading and supersedes all previously filed complaints.”). *Cf. Lacy v. Maricopa County*, 693
3 F.3d 896, 925-928 (9th Cir. 2012) (claims previously dismissed with prejudice and without
4 leave to amend, including those dismissed on summary judgment, are not required to be
5 repled in a subsequent amended complaint to preserve them for appeal.). Any parties or
6 claims included in the preceding pleadings that are not included in the Second Amended
7 Complaint shall be deemed voluntarily dismissed and/or waived. Additionally, the Second
8 Amended Complaint must not incorporate by reference any part of the preceding pleadings,
9 including exhibits;

10 (3) Defendants shall file an Answer no later than twenty-one (21) days after service
11 of the Second Amended Complaint; and

12 (4) All future pleadings and other documents shall be filed under cause number CV-
13 13-283-TUC-DCB (BPV).

14 Dated this 29th day of March, 2017.

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18 Bernardo P. Velasco
19 United States Magistrate Judge
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