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5 **IN THE UNITED STATES DISTRICT COURT**
6 **FOR THE DISTRICT OF ARIZONA**
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8 Hector Lopez,

9 Plaintiff,

10 v.

11 Unknown Bollweg, et al.,

12 Defendants.
13

No. CV-13-00691-TUC-DCB

ORDER

14 On June 26, 2017, this Court found that material issues of fact existed as to whether
15 Defendants Swaney and Bennett were deliberately indifferent to Plaintiff's serious medical
16 needs when Plaintiff and several other inmates fell ill from botulism poisoning. The Court
17 found that qualified immunity did not preclude this case and denied summary judgment for
18 Defendants Swaney and Bennett. The Court granted summary judgment for a third
19 Defendant, Suarez. (Order (Doc. 125)).¹

20 Defendants Swaney and Bennett appealed. On October 30, 2018, the Ninth Circuit
21 Court of Appeals affirmed this Court's decision. The Mandate issued on December 12,
22 2018.

23 **Accordingly,**

24 **IT IS ORDERED** that, within 30 days of the filing date of this Order, the
25 parties shall file the Joint Proposed Pretrial Order. The parties shall include in the Proposed
26 Pretrial Order whether this case should be consolidated for trial with CV 13-1439 TUC


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28 ¹ Previously the Court granted summary judgment and dismissed Defendants Bollweg, Credio, Ryan, Alonso, Hopper, Pinson, Van Gundy, Grant, French, Gold, Haynes Salas and Zeravica. (Order (Doc. 64)).

1 DCB.²

2 **IT IS FURTHER ORDERED** that the parties should inform the Court as to whether
3 a settlement conference should be held before a magistrate judge prior to the Court holding
4 the Pretrial Conference and setting the trial date.

5 Dated this 18th day of December, 2018.

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Honorable David C. Bury
United States District Judge

28 ² The other companion case, CV 13-1141 TUC DCB, was voluntarily dismissed by stipulation of the parties on February 5, 2018.