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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
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9 Alberto Arellano Valencia,

10 Plaintiff,

11 v.

12 Brandon Maxwell, et al.,

13 Defendants.
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No. CV-15-00499-TUC-DCB

ORDER

15 There being no showing of cause for the Court to not dismiss the policy claim
16 against the City of Tucson, as noticed in the Court's Order issued January 10, 2019, the
17 Court will grant summary judgment for the City of Tucson on the policy claim alleged in
18 Count Two.

19 The Court denied in part the Defendants' dispositive motion on January 10, 2019,
20 and appointed counsel for Plaintiff. This case is ready for trial. If desired, the parties
21 should immediately consider settlement and are reminded that a settlement conference may
22 be held before a Magistrate Judge. If the parties are interested in attending a settlement
23 conference, they should contact this Court's law clerk, Greer Barkley, at 520 205-4560 for
24 scheduling information. In the event the parties do not wish to attempt to settle this case,
25 the Joint Pretrial Order shall be filed and, thereafter, the Court will set a Pretrial Conference
26 which is when the trial date will be set.

27 This case is trial ready for Plaintiff's Fourth Amendment claim alleged in Count I
28 of the Second Amended Complaint alleging excessive use of force while Plaintiff was

1 seated in the cab. The remainder of the claim regarding the use of force by Defendants
2 after he exited the cab is *Heck* barred. (Order (Doc. 68) at 9-12 (discussing *Heck v.*
3 *Humphrey*, 512 U.S. 477 (1994)).

4 **Accordingly,**

5 **IT IS ORDERED** that the Defendants are granted summary judgment on the policy
6 claim against the City of Tucson; the City of Tucson is dismissed from this action.

7 **IT IS FURTHER ORDERED** that 30 days from the filing date of this Order, the
8 parties shall file the Joint Pretrial Order. *See* (Scheduling Order (Doc. 21) at Attachment:
9 Form of Pretrial Order).

10 Dated this 19th day of March, 2019.

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Honorable David C. Bury
United States District Judge