

1 **WO**

2

3

4

5

IN THE UNITED STATES DISTRICT COURT

6

FOR THE DISTRICT OF ARIZONA

7

8 The United States of America, for the Use) and Benefit of First Call Mechanical, Inc.,)
9 a California corporation,)

No. CV-07-0673-PHX-LOA

10

Plaintiff,)

**NOTICE OF ASSIGNMENT
AND ORDER**

11

vs.)

12

Sundt Construction, Inc., a California) corporation; and Fidelity and Deposit) Company of Maryland, a Maryland) corporation; Federal Insurance Company,) a New Jersey corporation;)

15

Defendants.)

16

Pursuant to Local Rule 3.8(a), LRCiv, Rules of Practice, effective December 1, 2006, all civil cases are, and will be, randomly assigned to a U.S. district judge or to a U.S. magistrate judge. This matter has been assigned to the undersigned U.S. Magistrate Judge.

19

As a result of the aforesaid Local Rule and assignment, if all parties consent in writing, the case will remain with the assigned Magistrate Judge pursuant to 28 U.S.C. 636(c)(1) for all purposes, including trial and final entry of judgment. If any party chooses the district judge option, the case will be randomly reassigned to a U.S. district judge. To either consent to the assigned magistrate judge or to elect to have the case heard before a district judge, the appropriate section of the form, entitled Consent To Exercise Of Jurisdiction By United States Magistrate Judge¹, must be completed, signed and filed. The

26

27

¹The consent/election form may be obtained directly from the Clerk of the Court or by accessing the District of Arizona's web site at www.azd.uscourts.gov. To find the

28

1 party filing the case or removing it to this Court is responsible for serving all parties with the
2 consent forms. Each party must file a completed consent form and certificate of service with
3 the Clerk of the Court not later than 20 days after entry of appearance, and must serve a copy
4 by mail or hand delivery upon all parties of record in the case.

5 Any party is free to withhold consent to magistrate judge jurisdiction without
6 adverse consequences. 28 U.S.C. 636(c)(2); Rule 73(b), Fed.R.Civ.P.; *Anderson v.*
7 *Woodcreek Venture Ltd.*, 351 F.3d 911, 913-14 (9th Cir. 2003) (pointing out that consent is
8 the "touchstone of magistrate [judge] jurisdiction" under 28 U.S.C. §636(c).

9 A review of the Court's file indicates that Plaintiff's Complaint was filed on
10 March 26, 2007. Plaintiff shall have until April 23, 2007 within which to make its selection
11 to either consent to magistrate judge jurisdiction or elect to proceed before a United States
12 district judge. It is unknown if a copy of the appropriate consent form electronically
13 transmitted to Plaintiff's counsel on March 26, 2007 by the Clerk's office was served with
14 the Complaint per the written instructions from the Clerk.

15 Accordingly,

16 **IT IS ORDERED** that Plaintiff shall file on or before **April 23, 2007** its
17 written election to either consent to magistrate judge jurisdiction or elect to proceed before
18 a United States district judge.

19 **IT IS FURTHER ORDERED** that Plaintiff shall serve upon the Defendants
20 the appropriate consent form provided at the time of the filing of its Complaint at the time
21 of service of its Complaint upon the Defendants.

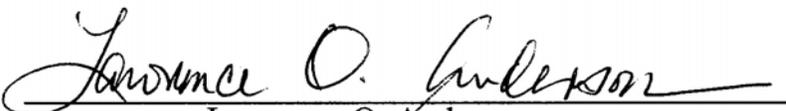
22 **IT IS FURTHER ORDERED** that each Defendant shall either consent to
23 magistrate judge jurisdiction or elect to proceed before a district judge within twenty (20)
24 days of each Defendant's formal appearance herein.

25
26 _____
27 consent/election form on the District's web site, click on "Local Rules" at the top of the page,
28 then click on "Forms" on the left side of the page and then click on and print the appropriate
form.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

IT IS FURTHER ORDERED that counsel and any party, if unrepresented, shall hereinafter comply with the Rules of Practice for the United States District Court for the District of Arizona, as amended on December 1, 2006. The District's Rules of Practice may be found on the District Court's internet web page at www.azd.uscourts.gov/. All other rules may be found as www.uscourts.gov/rules/. The fact that a party is acting pro se does not discharge this party's duties to "abide by the rules of the court in which he litigates." *Carter v. Commissioner of Internal Revenue*, 784 F.2d 1006, 1008 (9th Cir. 1986).

DATED this 13th day of April, 2007.


Lawrence O. Anderson
United States Magistrate Judge