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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

KB Home Phoenix, Inc., an Arizona corporation,
Plaintiff,
vs.
Owners Insurance Company, a foreign corporation; and Does 1 through 100, inclusive,
Defendants.

No. CV-07-1257-PHX-LOA
NOTICE OF ASSIGNMENT AND ORDER

Pursuant to Local Rule (LRCiv”) 3.8(a), 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.

As a result of the aforesaid Local Rule, 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

1 Jurisdiction By United States Magistrate Judge¹, must be completed, signed and filed.
2 The party filing the case or removing it to this Court is responsible for serving all parties
3 with the consent forms. Each party must file a completed consent form and certificate of
4 service with the Clerk of the Court not later than 20 days after entry of appearance, and
5 must serve a copy by mail or hand delivery upon all parties of record in the case.

6 Any party is free to withhold consent to magistrate judge jurisdiction
7 without adverse consequences. 28 U.S.C. 636(c)(2); Rule 73(b), Fed.R.Civ.P.; *Anderson*
8 *v. Woodcreek Venture Ltd.*, 351 F.3d 911, 913-14 (9th Cir. 2003) (pointing out that
9 consent is the "touchstone of magistrate judge jurisdiction" under 28 U.S.C. §636©. "A
10 party to a federal civil case has, subject to some exceptions, a constitutional right to
11 proceed before an Article III judge." *Dixon v. Ylst*, 990 F.2d 478, 479 (9th Cir. 1993)
12 (citing *Pacemaker Diagnostic Clinic of Am. Inc. v. Instromedix, Inc.*, 725 F.2d 537, 541
13 (9th Cir. 1984) (*en banc*)).

14 A review of the Court's file indicates that Defendant Owners Insurance
15 Company has filed a Notice of Removal on June 28, 2007.

16 Defendant Owners Insurance Company shall have until July 19, 2007,
17 within which to make its selection to either consent to magistrate judge jurisdiction or
18 elect to proceed before a U. S. district judge. It is unknown if a copy of the appropriate
19 consent form, electronically transmitted to Defendant's counsel on June 28, 2007 by the
20 Clerk's office was served with the Notice of Removal per the written instructions from
21 the Clerk.

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

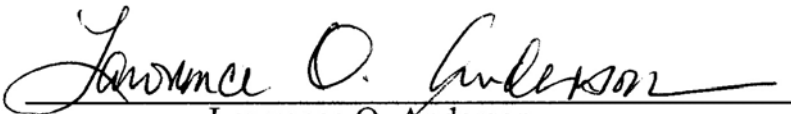
1 **IT IS ORDERED** that the Defendant Owners Insurance Company shall file
2 on or before **July 19, 2007** its written election to either consent to magistrate judge
3 jurisdiction or elect to proceed before a United States district judge.

4 **IT IS FURTHER ORDERED** that if Defendant Owners Insurance
5 Company shall serve upon the Plaintiff the appropriate consent form electronically
6 transmitted to Defendant's counsel on June 28, 2007 by the Clerk's office at the time of
7 service of its Notice of Removal upon Plaintiff.

8 **IT IS FURTHER ORDERED** that Plaintiff shall either consent to proceed
9 before a magistrate judge or elect to proceed before a district judge by **July 19, 2007**.

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

18 DATED this 6th day of July, 2007.

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21 Lawrence O. Anderson
22 United States Magistrate Judge