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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

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New York Life Insurance Company, a)
Delaware corporation,

No. CV-07-1606-PHX-DGC

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ORDER

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Plaintiff,

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vs.

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Matthew L. Koscove and Terry L.)
Koscove; the Estate of Marvin Koscover,
by and through its Personal
Representative, Charisse E. Koscove,

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Defendants.

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On August 21, 2007, Plaintiff filed its Complaint, Motion for Leave to Deposit Funds With the Court and Application for Order to Invest Funds, Motion for Order for Issuance of Process to Claimants/Defendants and Motion for Order Restraining Parties from Instituting or Prosecuting Actions Regarding Impleaded Property. (docket #1 and # 2)

Plaintiff moves the Court for an order directing the Clerk of the Court to accept the check of New York Life in the amount of \$39,243.65, allegedly representing the insurance policy proceeds with respect to Plaintiff's Complaint in Interpleader, and for authorization to deposit such money in the Registry Account of this District Court pursuant to 28 U.S.C. § 2041. Further, Plaintiff applies for an order directing the Clerk of the Court and/or the Financial Deputy of the Phoenix Division to invest the funds so deposited in the

1 Registry Account of the Court. Plaintiff also moves the Court, pursuant to 28 U.S.C. § 2361,
2 for an order restraining said claimants/defendants from instituting or prosecuting any
3 proceeding in any state or United States Court affecting the impleaded property.

4 Pursuant to Local Rule ("LRCiv") 3.8(a), Rules of Practice, effective December
5 1, 2006, all civil cases are, and will be, randomly assigned to a U.S. district judge or to a U.S.
6 magistrate judge. This matter has been assigned to the undersigned United States Magistrate
7 Judge. LRCiv 3.8(a) creates one exception from randomly assigning civil cases to a
8 magistrate judge "when preliminary injunctive relief is requested by motion."

9 The undersigned's staff spoke with Plaintiff's counsel for clarification of
10 whether Plaintiff is seeking preliminary injunctive relief pursuant to Rule 65, FED.R.CIV.P.
11 Plaintiff's counsel informs staff that its Motion is being brought pursuant to 28 U.S.C. § 2361
12 which states in part: "[A] district court may issue its process for all claimants and enter its
13 order restraining them from instituting or prosecuting any proceeding in any State or United
14 States court affecting the property, instrument or obligation involved in the interpleader
15 action until further order of the court." Title 28 U.S.C. § 2361 further states: "[S]uch district
16 court shall hear and determine the case, and may discharge the plaintiff from further liability,
17 make the injunction permanent, and make all appropriate orders to enforce its judgment."

18 It does not appear that Plaintiff is immediately seeking a temporary restraining
19 order or other immediate injunctive relief as the subject motions do not request relief
20 pursuant to Rule 65, FED.R.CIV.P. It is the undersigned's belief that the intent of LRCiv
21 3.8(a)'s exception to magistrate judge jurisdiction was the need for urgent action by a judge
22 without the delays associated with compliance with 28 U.S.C. § 636(c). Nevertheless, in an
23 abundance of caution that a magistrate judge does not have civil jurisdiction under Arizona's
24 Local Rules to hear and decide this case even before the issue of voluntary consent is
25 addressed, the undersigned will direct the Clerk to randomly reassign this case by lot to a
26 United States district judge. In the event the parties voluntarily elect to have this case
27 reassigned at a later date to a United States magistrate judge pursuant to 28 U.S.C. § 636(c),
28 they are free to do so.

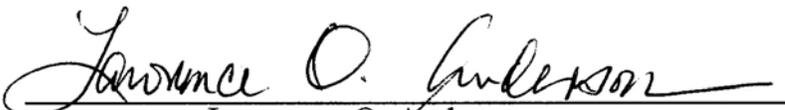
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Based upon information provided by the Clerk,

IT IS ORDERED reassigning this case to the Hon. David G. Campbell, U. S. District Judge.

IT IS FURTHER ORDERED that the parties shall use the case number of CV-07-1606-PHX-DGC for all future filings in this case.

DATED this 23rd day of August, 2007.


Lawrence O. Anderson
United States Magistrate Judge