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IN THE UNITED STATES DISTRICT COURT

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FOR THE DISTRICT OF ARIZONA

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Carmen Fernandez,

) No. CV-07-2064-PHX-LOA

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Plaintiff,

) **NOTICE OF ASSIGNMENT**

) **AND ORDER**

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vs.

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Executive Management Services (“EMS”),  
Inc.,

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Defendant.

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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.

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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 Judge<sup>1</sup>, must be completed, signed

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<sup>1</sup>The 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](http://www.azd.uscourts.gov). To find the consent/election form on the District’s web site, click on “Local Rules” at the top of the page, then click on “Forms” on the left side of the page and then click on and print the appropriate

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1 and filed. The party filing the case or removing it to this Court is responsible for serving  
2 all parties with the consent forms. Each party must file a completed consent form and  
3 certificate of service with the Clerk of the Court not later than 20 days after entry of  
4 appearance, and must serve a copy by mail or hand delivery upon all parties of record in  
5 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 (9<sup>th</sup> Cir. 2003) (pointing out that  
9 consent is the "touchstone of magistrate judge jurisdiction" under 28 U.S.C. §636(c). "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 (9<sup>th</sup> Cir. 1993)  
12 (citing *Pacemaker Diagnostic Clinic of Am. Inc. v. Instromedix, Inc.*, 725 F.2d 537, 541  
13 (9<sup>th</sup> Cir. 1984) (*en banc*)).

14 A review of the Court's file indicates that Plaintiff's Complaint was filed  
15 on October 23, 2007. Plaintiff shall have until November 23, 2007 within which to make  
16 her selection to either consent to magistrate judge jurisdiction or elect to proceed before a  
17 United States district judge. It is unknown if a copy of the appropriate consent form  
18 electronically transmitted to Plaintiff's counsel on October 24, 2007 by the Clerk's office  
19 was served with the Complaint per the written instructions from the Clerk.

20 Accordingly,

21 **IT IS ORDERED** that Plaintiff shall file on or before **November 23,**  
22 **2007** her written election to either consent to magistrate judge jurisdiction or elect to  
23 proceed before a United States district judge.

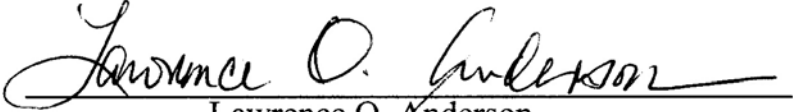
24 **IT IS FURTHER ORDERED** that Plaintiff shall serve upon the  
25 Defendant the appropriate consent form provided at the time of the filing of her  
26 Complaint at the time of service of her Complaint upon the Defendant.

27 \_\_\_\_\_  
28 form.

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

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

12                   DATED this 25<sup>th</sup> day of October, 2007.

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15                   Lawrence O. Anderson  
16                   United States Magistrate Judge  
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