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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Phillip Wayne Clark,

Plaintiff,

vs.

Sun Health Boswell; Arizona State Board
of Nursing and Board Members; Rachel
Torrez.

Defendants.

No. CV-08-1585-PHX-LOA
**NOTICE OF ASSIGNMENT
AND ORDER**

Pursuant to Local Rule (“LRCiv”) 3.8(a), Rules of Practice, effective December 1, 2007, civil cases are, and will be, randomly assigned to a United States district judge or to a United States magistrate judge. This matter has been assigned to the undersigned United States Magistrate Judge.

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 Title 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 Judge,¹ must be completed, signed and filed. The
2 party filing the case or removing it to this District 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 no later than 20 days after entry of appearance or as
5 otherwise directed by the Court, and shall serve a copy upon all other parties of record in the
6 case.

7 Any party is free to withhold consent to magistrate-judge jurisdiction without
8 adverse substantive consequences. Title 28 U.S.C. 636(c)(2); Rule 73(b), Fed.R.Civ.P.;
9 *Anderson v. Woodcreek Venture Ltd.*, 351 F.3d 911, 914 (9th Cir. 2003) (pointing out that
10 consent is the “touchstone of magistrate judge jurisdiction” under Title 28 U.S.C. §636(c)).
11 “A party to a federal civil case has, subject to some exceptions, a constitutional right to
12 proceed before an Article III judge.” *Dixon v. Ylst*, 990 F.2d 478, 479 (9th Cir. 1993) (citing
13 *Pacemaker Diagnostic Clinic of Am., Inc. v. Instromedix, Inc.*, 725 F.2d 537, 541 (9th Cir.
14 1984) (*en banc*)).

15 A review of the District Court’s docket reflects that the *pro se* Complaint was
16 filed on August 27, 2008. Plaintiff shall have until and including **Monday, September 15,**
17 **2008** within which to make his selection to either voluntarily consent to magistrate-judge
18 jurisdiction or elect to have the case assigned to a United States district judge.

19 Regardless of whether Plaintiff consents to a magistrate judge or elects to have
20 his case decided by a district judge, he must understand the role of a federal trial judge. The
21 United States Supreme Court has made clear that federal “judges have no obligation to act
22 as counsel or paralegal to pro se litigants” because requiring trial judges to explain the details
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25 ¹The consent/election form was or will be provided to Plaintiff by the Clerk. One may
26 also find the consent/election form on the District’s web site, click on “Local Rules” at the
27 top of the page, then click on “Forms” on the left side of the page and then click on and print
28 the appropriate form. Consent/election forms are not to be e-filed. Consent/election forms
are to be filed in paper form with the Clerk's Office. ECF Policies and Procedure Manual,
II, ¶ M at p.19.

1 of federal procedure or act as the *pro se*'s counsel "would undermine district [or magistrate]
2 judges' role as impartial decisionmakers." *Pliler v. Ford*, 542 U.S. 225, 226-227 (2004).

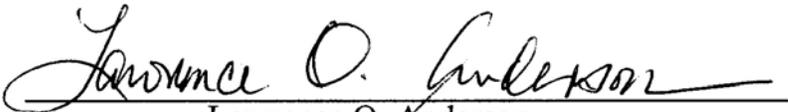
3 Accordingly,

4 **IT IS ORDERED** that Plaintiff shall file his written election to either
5 consent to magistrate-judge jurisdiction or elect to proceed before a United States district
6 judge on or before **Monday, September 15, 2008**.

7 **IT IS FURTHER ORDERED** that the Plaintiff's failure to comply with these
8 orders, or any of them, may result in the dismissal of Complaint without prejudice pursuant
9 to Rule 41, Fed.R.Civ.P., or the Local Rules.

10 **IT IS FURTHER ORDERED** that counsel and any party, if unrepresented,
11 shall hereinafter comply with the Rules of Practice for the United States District Court for
12 the District of Arizona. The District's Rules of Practice may be found on the District Court's
13 internet web page at www.azd.uscourts.gov/.

14 DATED this 2nd day of September, 2008.

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18 Lawrence O. Anderson
19 United States Magistrate Judge
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