

1 **WO**

2

3

4

5

6

IN THE UNITED STATES DISTRICT COURT

7

FOR THE DISTRICT OF ARIZONA

8

9

Matrixx Initiatives Inc., a Delaware  
corporation,

No. CV-08-01615-PHX-LOA

10

Plaintiff,

**NOTICE OF ASSIGNMENT  
AND ORDER**

11

vs.

12

13

Capricorn Pharma Inc., a Maryland  
corporation,

14

Defendant.

15

16

17

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.

20

21

22

23

24

25

26

27

28

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,<sup>1</sup> 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 (9<sup>th</sup> 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 Complaint was filed  
16 on September 2, 2008. Plaintiff shall have until and including **Tuesday, September 23,**  
17 **2008** within which to make its selection to either voluntarily consent to magistrate-judge  
18 jurisdiction or elect to have the case assigned to a United States district judge.

19 Accordingly,

20 **IT IS ORDERED** that Plaintiff shall file its written election to either  
21 consent to magistrate-judge jurisdiction or elect to proceed before a United States district  
22 judge on or before **Tuesday, September 23, 2008.**

---

23  
24  
25 <sup>1</sup>The consent/election form was or will be electronically provided to Plaintiff’s  
26 counsel by the Clerk. One may also find the consent/election form on the District’s web site,  
27 click on “Local Rules” at the top of the page, then click on “Forms” on the left side of the  
28 page and then click on and print 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.

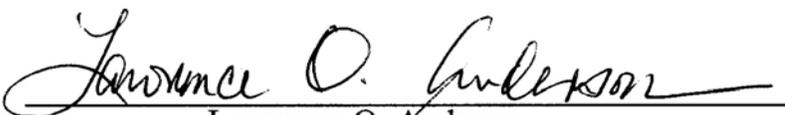
1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**IT IS FURTHER ORDERED** that Defendant shall file its written election to either consent to magistrate-judge jurisdiction or elect to have this case assigned to a United States district judge within 20 days of its appearance herein or as otherwise directed by the Court.

**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. The District's Rules of Practice may be found on the District Court's internet web page at [www.azd.uscourts.gov/](http://www.azd.uscourts.gov/).

**IT IS FURTHER ORDERED** that counsel and any party, if unrepresented, shall use the above caption, number and initials until further order of the Court.

DATED this 8<sup>th</sup> day of September, 2008.

  
Lawrence O. Anderson  
United States Magistrate Judge