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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA

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Paula R. Guth,

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Plaintiff,

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vs.

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Best Western Hotel

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Defendant.

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No. CV-08-01909-PHX-LOA  
**ORDER TO SHOW CAUSE**

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This matter arises on the Court’s review of the file. Plaintiff filed her Complaint on October 17, 2008. (docket #1) On October 22, 2008, the Court issued a Notice of Assignment and Order giving Plaintiff until November 3, 2008 within which to file her consent to the exercise of jurisdiction by a United States magistrate judge or elect to proceed before a United States district judge. (docket #5) As of this date, Plaintiff has failed to file her written election to either consent to magistrate judge jurisdiction or elect to proceed before a United States district judge.

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The Civil Justice Reform Act of 1990 (“CJRA”), 28 U.S.C. § 471 *et seq.*, mandates the early and on-going judicial management of the pretrial process. Under the CJRA mandate, “[f]ederal trial courts are now required, by statute, to implement techniques and strategies designed to dispose of cases in an efficient and inexpensive manner.” See, *Schwarzkopf Technologies Corp. v. Ingersoll Cutting Tool Co.*, 142 F.R.D. 420, 423 (D. Del.1992). Additionally, federal judges “are subject to the injunction of Rule 1 [Federal Rules of Civil Procedure] that [the Rules] ‘be construed to secure the just, *speedy* and inexpensive determination of every action.’ ” *Herbert v. Lando*, 441 U.S.

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1 153, 177, 99 S.Ct. 1635, 1649, 60 L.Ed.2d 115 (1979) (emphasis added). Plaintiffs’  
2 failure to timely comply with the Court’s prior order is frustrating the speedy and  
3 inexpensive resolution of this case.

4 Absent the express consent of all the parties, a United States magistrate judge  
5 does not have the statutory or constitutional authority to try a civil case to judgment or  
6 rule upon a dispositive motion. 28 U.S.C. §636(b)(1)(A). The Magistrates Act, however,  
7 permits magistrate judges to conduct all proceedings in civil cases if the parties expressly  
8 consent: "Upon consent of the parties, a . . . United States magistrate judge . . . may  
9 conduct any or all proceedings in a jury or non-jury civil matter and order the entry of  
10 judgment in the case, when specially designated to exercise such jurisdiction by the  
11 district court or courts he serves." *Hanson v. Mahoney*, 433 F.3d. 1107, 1111 (9<sup>th</sup> Cir.  
12 2006) (citing 28 U.S.C. § 636(c)(1)); *Gomez v. United States*, 490 U.S. 858, 865-872  
13 (1989) (outlining the evolution of the Act). No precise written form is required to consent  
14 to a magistrate judge or to elect an assignment of a civil case to a district judge. *Kofoed v.*  
15 *IBEW, Local 48*, 237 F.3d 1001, 1004 (9<sup>th</sup> Cir.2001); Fed. R. Civ. 73(b), Advisory  
16 Committee note. The Clerk, however, electronically provided Plaintiff’s counsel with an  
17 appropriate consent/election form on October 17, 2008.<sup>1</sup>

18 Any party is free to withhold consent to magistrate judge jurisdiction and elect  
19 to proceed before a district judge without adverse consequences. 28 U.S.C. 636(c)(2);  
20 Rule 73(b), Fed.R.Civ.P.; *Anderson v. Woodcreek Venture Ltd.*, 351 F.3d 911, 914 (9<sup>th</sup>  
21 Cir.2003) (pointing out that consent is the “touchstone of magistrate judge jurisdiction”  
22 under 28 U.S.C. § 636(c)).

23 Pursuant to *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260 (9<sup>th</sup> Cir. 1992) (trial  
24 courts have the inherent power to control their dockets and in the exercise of that power,  
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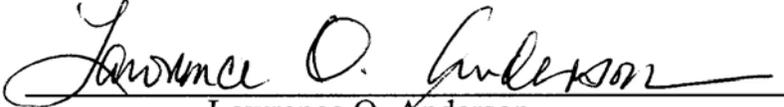
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26 <sup>1</sup> One may also find the consent/election form on the District’s web site, click on “Local Rules”  
27 at the top of the page, then click on “Forms” on the left side of the page and then click on and print the  
28 appropriate form. Consent/election forms are not to be e-filed; rather, they are to be filed in paper form  
with the Clerk's Office. ECF Policies and Procedure Manual, II, ¶ M at p.19.

1 they may impose or recommend sanctions including, where appropriate, dismissal of a  
2 case without prejudice) and the Court's inherent authority,

3 **IT IS ORDERED** that Plaintiff show cause in writing on or before **Friday,**  
4 **November 14, 2008** why Plaintiff and/or her counsel should not be sanctioned pursuant  
5 to Title 18 U.S.C. § 401, 28 U.S.C. § 636(e) and/or the Court's inherent authority for  
6 failing to comply with the Court's prior order. If Plaintiff complies with the Court's  
7 October 22, 2008 Order **on or before 5:00 p.m. on Friday, November 14, 2008** or if  
8 Plaintiff has already done so but her consent or election has not yet been docketed by the  
9 Clerk, the undersigned will automatically discharge and vacate this OSC without  
10 imposing any sanctions.

11 DATED this 5<sup>th</sup> day of November, 2008.

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14 Lawrence O. Anderson  
15 United States Magistrate Judge  
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