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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

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Patricia L. Spears; and Suzanne Ross,)

No. CV-08-01918-PHX-LOA

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Plaintiffs,)

**NOTICE OF ASSIGNMENT
AND ORDER**

11

vs.)

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Scott H. Sacharow,)

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Defendant.)

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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.

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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 U.S. district judge, the appropriate section of the form, entitled Consent To Exercise Of Jurisdiction By United States Magistrate Judge¹, must be completed, signed

¹The 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. To find the

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 without
7 adverse consequences. 28 U.S.C. 636(c)(2); Rule 73(b), Fed.R.Civ.P.; *Anderson v.*
8 *Woodcreek Venture Ltd.*, 351 F.3d 911, 913-14 (9th Cir. 2003) (pointing out that consent
9 is the "touchstone of magistrate judge jurisdiction" under 28 U.S.C. §636(c). "A party to
10 a federal civil case has, subject to some exceptions, a constitutional right to proceed
11 before an Article III judge." *Dixon v. Ylst*, 990 F.2d 478, 479 (9th Cir. 1993) (citing
12 *Pacemaker Diagnostic Clinic of Am. Inc. v. Instromedix, Inc.*, 725 F.2d 537, 541 (9th Cir.
13 1984) (*en banc*)).

14 A review of the Court's file indicates that the Defendant Scott H. Sacharow filed a
15 Motion to Dismiss on November 13, 2008.

16 It is unknown if a copy of the appropriate consent form sent to Plaintiffs by the
17 Clerk on October 21, 2008, was served with the Complaint and Summons upon the
18 Defendant per the written instructions from the Clerk.

19 **IT IS ORDERED** that Defendant Scott H. Sacharow shall file his written election
20 to either consent to magistrate-judge jurisdiction or elect to proceed before a United
21 States district judge on or before **Friday, December 5, 2008**.

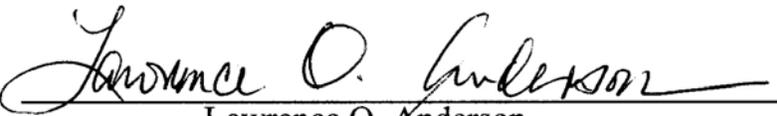
22 **IT IS FURTHER ORDERED** that counsel and any party, if unrepresented, shall
23 hereinafter comply with the Rules of Practice for the United States District Court for
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25 _____
26 consent/election form on the District's web site, click on "Local Rules" at the top of the page,
27 then click on "Forms" on the left side of the page and then click on and print the appropriate
28 form.

1 the District of Arizona, as amended on December 1, 2007. The District's Rules of
2 Practice may be found on the District Court's internet web page at
3 www.azd.uscourts.gov/. All other rules may be found as www.uscourts.gov/rules/. The
4 fact that a party is acting pro se does not discharge this party's duties to "abide by the
5 rules of the court in which he litigates." *Carter v. Commissioner of Internal Revenue*, 784
6 F.2d 1006, 1008 (9th Cir. 1986).

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

9 DATED this 21st day of November, 2008.

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12 Lawrence O. Anderson
United States Magistrate Judge