



1 *Schwarzkopf Technologies Corp. v. Ingersoll Cutting Tool Co.*, 142 F.R.D. 420, 423 (D.  
2 Del.1992). Additionally, federal judges “are subject to the injunction of Rule 1 [Federal  
3 Rules of Civil Procedure] that [the Rules] ‘be construed to secure the just, *speedy* and  
4 inexpensive determination of every action.’ ” *Herbert v. Lando*, 441 U.S. 153, 177, (1979)  
5 (emphasis added). Plaintiffs’ failure to timely comply with the Court’s prior order is  
6 frustrating the speedy and inexpensive resolution of this case.

7 Absent the express consent of all the parties, a United States magistrate judge does  
8 not have the statutory or constitutional authority to try a civil case to judgment or rule upon  
9 a dispositive motion. 28 U.S.C. §636(b)(1)(A). The Magistrates Act, however, permits  
10 magistrate judges to conduct all proceedings in civil cases if the parties expressly consent:  
11 "Upon consent of the parties, a . . . United States magistrate judge . . . may conduct any or  
12 all proceedings in a jury or non-jury civil matter and order the entry of judgment in the case,  
13 when specially designated to exercise such jurisdiction by the district court or courts he  
14 serves." *Hanson v. Mahoney*, 433 F.3d. 1107, 1111 (9<sup>th</sup> Cir. 2006) (citing 28 U.S.C. §  
15 636(c)(1)); *Gomez v. United States*, 490 U.S. 858, 865-872 (1989) (outlining the evolution  
16 of the Act). No precise written form is required to consent to a magistrate judge or to elect  
17 an assignment of a civil case to a district judge. *Kofoed v. IBEW, Local 48*, 237 F.3d 1001,  
18 1004 (9th Cir.2001); Fed. R. Civ. 73(b), Advisory Committee note. The Clerk, however,  
19 electronically provided Plaintiffs’ counsel with an appropriate consent/election form on  
20 April 29, 2010.<sup>1</sup>

21 Any party is free to withhold consent to magistrate judge jurisdiction and elect to  
22 proceed before a district judge without adverse consequences. 28 U.S.C. 636(c)(2); Rule  
23 73(b), Fed.R.Civ.P.; *Anderson v. Woodcreek Venture Ltd.*, 351 F.3d 911, 914 (9th Cir.2003)

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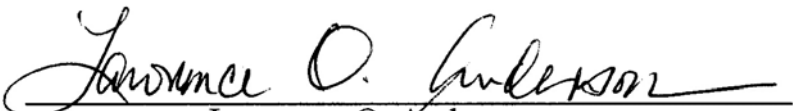
25 <sup>1</sup> One may also find the consent/election form on the District’s web site, click on  
26 “Local Rules” at the top of the page, then click on “Forms” on the left side of the page and  
27 then click on and print the appropriate form. Consent/election forms are not to be e-filed;  
28 rather, they are to be filed in paper form with the Clerk's Office. ECF Policies and Procedure  
Manual, II, ¶ N at p.24.

1 (pointing out that consent is the “touchstone of magistrate judge jurisdiction” under 28  
2 U.S.C. § 636(c)).

3 Pursuant to *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260 (9<sup>th</sup> Cir. 1992) (trial courts  
4 have the inherent power to control their dockets and in the exercise of that power, they may  
5 impose or recommend sanctions including, where appropriate, dismissal of a case without  
6 prejudice),

7 **IT IS ORDERED** that Plaintiffs show cause in writing on or before **Friday, June**  
8 **4, 2010** why Plaintiffs’ Complaint should not be dismissed without prejudice. If Plaintiffs  
9 comply with the Court’s April 30, 2010 Order **on or before 5:00 p.m. on Friday, June 4,**  
10 **2010** or if Plaintiffs have already done so but their consent or election has not yet been  
11 docketed by the Clerk, the undersigned will automatically discharge and vacate this OSC  
12 without imposing any sanctions.

13 DATED this 21<sup>st</sup> day of May, 2010.

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16 Lawrence O. Anderson  
17 United States Magistrate Judge  
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