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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

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Garet Gary Smith and Traci Lynn Smith,)
husband and wife,)

No. CV-07-8041-PCT-LOA

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Plaintiffs,)

**NOTICE OF ASSIGNMENT
AND ORDER**

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vs.)

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CRST Van Expedited, Inc., an Iowa)
corporation, Simsheng Vue and Jane Doe)
Vue, husband and wife; Roger Sutton and)
Jane Doe Sutton, husband and wife; John)
Does I-X and Jane Does I-X,)

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Defendants.)

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Pursuant to Local Rule ("LRCiv") 3.8(a), Rules of Practice, effective
December 1, 2006, all civil cases are, and will be, randomly assigned to a U.S. district
judge or to a U.S. magistrate judge. This matter has been assigned to the undersigned U.S.
Magistrate Judge.

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As a result of the aforesaid Local Rule, 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
district judge, the appropriate section of the form, entitled Consent To Exercise Of

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1 Jurisdiction By United States Magistrate Judge¹, must be completed, signed and filed.
2 The party filing the case or removing it to this 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 not later than 20 days after entry of appearance, and
5 must serve a copy by mail or hand delivery upon all parties of record in the case.

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

14 A review of the Court's file indicates that Defendants CRST Van
15 Expedited, Inc., Simsheng Vue, Jane Doe Vue, Roger Sutton and Jane Doe Sutton
16 ("Defendants") have filed a Notice of Removal on June 28, 2007.

17 Defendants shall have until July 19, 2007, within which to make their
18 selection to either consent to magistrate judge jurisdiction or elect to proceed before a U.
19 S. district judge. It is unknown if a copy of the appropriate consent form, electronically
20 transmitted to Defendants' counsel on June 28, 2007 by the Clerk's office was served
21 with the Notice of Removal per the written instructions from the Clerk.

22 Accordingly,
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25 ¹The consent/election form may be obtained directly from the Clerk of the Court or
26 by accessing the District of Arizona's web site at www.azd.uscourts.gov. To find the
27 consent/election form on the District's web site, click on "Local Rules" at the top of the page,
28 then click on "forms" on the left side of the page and then click on and print the appropriate
form.

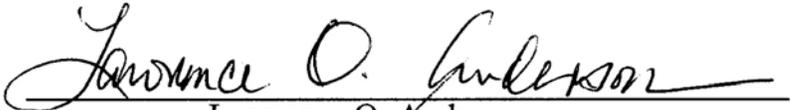
1 **IT IS ORDERED** that the Defendants shall file on or before **July 19, 2007**
2 their written election to either consent to magistrate judge jurisdiction or elect to proceed
3 before a United States district judge.

4 **IT IS FURTHER ORDERED** that if Defendants shall serve upon the
5 Plaintiffs the appropriate consent form electronically transmitted to Defendants' counsel
6 on June 28, 2007 by the Clerk's office at the time of service of their Notice of Removal
7 upon Plaintiffs.

8 **IT IS FURTHER ORDERED** that Plaintiffs shall either consent to
9 proceed before a magistrate judge or elect to proceed before a district judge by **July 19,**
10 **2007.**

11 **IT IS FURTHER ORDERED** that counsel and any party, if
12 unrepresented, shall hereinafter comply with the Rules of Practice for the United States
13 District Court for the District of Arizona, as amended on December 1, 2006. The
14 District's Rules of Practice may be found on the District Court's internet web page at
15 www.azd.uscourts.gov/. All other rules may be found as www.uscourts.gov/rules/. The
16 fact that a party is acting pro se does not discharge this party's duties to "abide by the
17 rules of the court in which he litigates." *Carter v. Commissioner of Internal Revenue*, 784
18 F.2d 1006, 1008 (9th Cir. 1986).

19 DATED this 6th day of July, 2007.

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22 Lawrence O. Anderson
23 United States Magistrate Judge
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