# Notice of Availability of Magistrate Judge to Exercise Jurisdiction

(Form 33 Notice)

In accordance with the provisions of Title 28, United States Code, Section 636(c), you are hereby notified that a United States magistrate judge of this District Court is available to exercise the Court's jurisdiction and to conduct any or all proceedings in this case including a jury or nonjury trial, and entry of a final judgment. Exercise of this jurisdiction by a magistrate judge is, however, permitted ***only if all parties voluntarily consent.***

You may, without adverse substantive consequences, withhold your consent. If any party withholds consent, the identity of the parties consenting or withholding consent will not be communicated to any magistrate judge or to the district judge to whom the case has been assigned. Failure to file the Joint Stipulation of Consent constitutes the withholding of consent, no declination of consent is to be filed.

An appeal from a judgment entered by a magistrate judge may be taken directly to the United States Court of Appeals for this judicial circuit in the same manner as an appeal from any other judgment of a district court.

Consent to the jurisdiction of a magistrate judge is exercised in this district by the filing of a ***Joint Stipulation of Consent*** which is to be executed by the parties any time after service of this Notice but not later than immediately after the Initial Attorney's Conference. To withhold consent to the jurisdiction of a magistrate judge the parties are **NOT** to file anything; the case will remain with the Article III judge already assigned to the case. Parties are reminded that each Article III judge may and regularly do refer civil matters to the magistrate judges in this district in accordance with their own Order of Reference. Orders of Reference for each Article III judge are available on the court's web site at www.ncwd.uscourts.gov.

Local Rule 16.1(A) requires that "as soon as practicable, and in any event not later than fourteen (14) days from joinder of the issues the parties or their counsel shall confer as provided by Fed. R. Civ. P. 26(f), and conduct an "Initial Attorney's Conference." The parties are directed to discuss the issue of consent to the jurisdiction of a magistrate judge at this conference, and if ***ALL*** parties agree, execute a ***Joint Stipulation of Consent*** and file this stipulation with the Certification and Report of Initial Attorneys Conference as required by the above local rule.

Local Rule 16.1(B) defines joinder of issues for the limited purpose of the local rules as occurring "when the last responsive pleading other than a Motion to Dismiss is filed. Where a briefed Motion to Dismiss is filed, either as a separate pleading or is included in the Answer and accompanied by a brief, joinder of the issues does not occur until that motion is resolved and the Answer to the Complaint, Reply to a Counterclaim, or Answer to a Cross claim is filed. Motions to dismiss contained in an Answer, but not supported by a brief, simply preserve the motion and do not prevent joinder of the issues."

# Joint Stipulation of Consent to Exercise of Jurisdiction by a United States Magistrate Judge

(Form 34 Consent Form)

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA

Plaintiff,

Vs. Case Number:

Defendant.

In accordance with the provisions of Title 28, United States Code, Section 636(c) and Fed. R. Civ. P. 73, the parties in this case consent to have a United States magistrate judge conduct any and all proceedings in the case, including the trial, order the entry of a final judgment and conduct all post-judgment proceedings.

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| Counsel's Signature | Party | Date |
| Counsel's Signature | Party | Date |
| Counsel's Signature | Party | Date |
| Counsel's Signature | Party | Date |
| Counsel's Signature | Party | Date |

**Note: Return this form to the Clerk of the Court *ONLY* if all parties have consented on this form to the exercise of jurisdiction by a United States magistrate judge.**