

2004 DEC -1 PM 4:45 ✓

JEANNE HICKS, CLERK

BY *Andrew Miller*

1 FAVOUR MOORE & WILHELMSSEN, P.A.
Post Office Box 1391
2 Prescott, AZ 86302-1391
928/445-2444
3 David K. Wilhelmsen, #007112
Marguerite Kirk, #018054

4 Attorneys for Plaintiffs

5 **IN THE SUPERIOR COURT OF ARIZONA**

6 **COUNTY OF YAVAPAI**

7
8 **JOHN B. CUNDIFF and BARBARA C.)**
9 **CUNDIFF, husband and wife; BECKY)**
10 **NASH, a married woman dealing with her)**
separate property; **KENNETH PAGE and)**
11 **KATHRYN PAGE, as Trustee of the)**
Kenneth Page and Catherine Page Trust,)

12 Plaintiffs,)

13 vs.)

14 **DONALD COX and CATHERINE COX,)**
husband and wife,)
15 Defendants.)

Case No. [REDACTED]

Division 1

**MOTION TO CONSOLIDATE
ORAL ARGUMENTS
ON PLAINTIFFS' MOTIONS
FOR SUMMARY JUDGMENT**

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17 Plaintiffs, by and through undersigned counsel, hereby request that this Court, in the interest
18 of judicial economy, schedule oral argument on Plaintiffs' motion for summary judgment on the issues
19 of Defendants' admitted violations of the recorded Declaration of Restrictions, dated June 13, 1974,
20 and the affirmative defenses of estoppel, laches and unclean hands, with the oral argument on
21 Plaintiffs' motion for summary judgment on the issue of Defendants' affirmative defense of waiver
22 of the restrictive covenants scheduled before this Court for January 31, 2005 at 1:30 p.m. The time
23 for briefing on the current motion for summary judgment will have concluded by January 31, 2005.
24 Holding oral argument on both motions for summary judgment filed by Plaintiffs at the currently
25 scheduled time will promote efficient resolution of the matter, as the only outstanding issue that would
26 remain in the case is Defendants' contention that the restrictive covenants have been abandoned.

DIV. 1
DEC - 2 2004

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RESPECTFULLY SUBMITTED this 1st day of December, 2004.

FAVOUR MOORE & WILHELMSSEN, P.A.

By 
David K. Wilhelmsen
Marguerite Kirk
Attorneys for Plaintiffs

ORIGINAL of the foregoing filed
this 1st day of December, 2004 to:

Clerk, Superior Court of Arizona
Yavapai County
Prescott, Arizona

A copy hand-delivered this 1st day
of December, 2004 to:

Honorable David L. Mackey
Division One
Superior Court of Arizona
Yavapai County
Prescott, Arizona

and, a copy hand-delivered this
1st day of December, 2004 to:

Jeffrey Adams
MUSGROVE, DRUTZ & KACK, P.C.
1135 Iron Springs Road
Prescott, Arizona 86302
Attorneys for Defendants

By: 
David K. Wilhelmsen