

**SUPERIOR COURT, STATE OF ARIZONA, IN AND FOR THE COUNTY OF YAVAPAI**

<p>JOHN B. CUNDIFF and BARBARA C. CUNDIFF, husband and wife; BECKY NASH, a married woman dealing with her separate property; KENNETH PAGE and KATHRYN PAGE, as Trustee of the Kenneth Page and Catherine Page Trust,</p> <p align="center">Plaintiff,</p> <p align="center">-vs-</p> <p>DONALD COX and CATHERINE COX, husband and wife,</p> <p align="center">Defendant.</p>	<p>Case No. CV2003-0399</p> <p><b>RULING RE: OBJECTION TO SUBPOENA DUCES TECUM</b></p>	<p align="center"><b>FILED</b></p> <p>DATE: <u>JUL 05 2005</u> <u>5</u> O'Clock <u>2</u> .M.</p> <p align="center">JEANNE HICKS, CLERK</p> <p>BY: <u>SIJE FERGUSON</u> Deputy</p>
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<p><b>HONORABLE DAVID L. MACKEY</b></p> <p><b>DIVISION 1</b></p>	<p>BY: Cheryl Wagster Judicial Assistant</p> <p>DATE: June 29, 2005</p>
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The Court has considered the Defendants' Objection To Plaintiffs' Subpoena Duces Tecum, the response and reply. The Court has fully considered the issues involved in this case. The Court finds that the Plaintiffs' request for partnership tax returns as well as documents regarding the subject property used in the preparation of the returns is reasonably calculated to lead to the discovery of admissible evidence. Specifically, the manner in which Defendants characterized the property in question on the partnership tax returns as well as documents supporting that characterization may be admissible to establish the Plaintiffs' claims. Furthermore, the Court finds that the Plaintiffs have established good cause for the production of the documents even though they may contain information regarding persons not parties to this action. The concern for the privacy rights of others can be addressed by an appropriate restriction on the distribution of the tax returns and related documents. However, the Court finds that Plaintiffs' request for "all business and financial documents, records or the like used in the preparation of the partnership returns" is overbroad as only documents regarding the subject property used in the preparation of the partnership returns are discoverable. In addition, the Plaintiffs have not established that the 1998 and 1999 tax returns and supporting documents are discoverable.

**THEREFORE, IT IS ORDERED** that by **July 8, 2005**, the Defendants shall produce complete copies of all Prescott Valley Growers' income tax returns for the years 2000, 2001, 2002, 2003 and 2004 including, but not limited to, all business and financial documents, records or the like regarding the property that is the subject of this lawsuit used in the preparation of the partnership returns.

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**IT IS FURTHER ORDERED** Plaintiffs' Counsel shall not disseminate the partnership returns or other records produced pursuant to this Order to Plaintiffs or anyone else without further Court order.

Since the Court granted some relief to both parties, the Court declines to award attorney's fees to either party.

cc: David K. Wilhelmsen – Favour Moore & Wilhelmsen, P.O. Box 1391, Prescott, AZ 86302  
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