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1 Mark W. Drutz, #006772  
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3 Sharon Sargent-Flack, #021590  
4 **MUSGROVE, DRUTZ & KACK, P.C.**  
5 1135 Iron Springs Road  
6 Prescott, Arizona 86305  
7 (928) 445-5935

FILED

6 *Attorneys for Defendants*

~~S. Murphy~~  
DEPUTY CLERK

7 **IN THE SUPERIOR COURT FOR THE STATE OF ARIZONA**

8 **IN AND FOR THE COUNTY OF YAVAPAI**

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

Case No. CV 2003-0399

Division No. 1

**NOTICE OF FILING JURY VERDICT  
FORMS**

15 **Plaintiffs,**

16 v.

17 **DONALD COX and CATHERINE COX,**  
18 **husband and wife,**

19 **Defendants.**

20  
21 **NOTICE IS HEREBY GIVEN, to the parties in the above entitled action, that eight (8)**  
22 **Defendants' Verdict forms and eight (8) Plaintiffs' Verdict forms have been filed with the Court, for**  
23 **a total of sixteen (16) verdict forms.**

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DATED this 22<sup>nd</sup> day of July, 2005

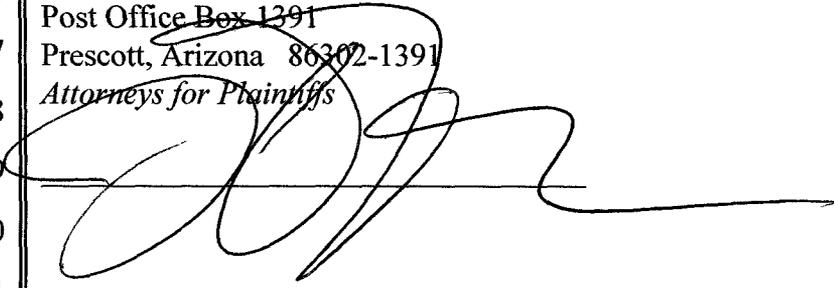
MUSGROVE, DRUTZ & KACK, P.C.

By *Mark W. Drutz*  
Mark W. Drutz  
Jeffrey R. Adams  
Sharon Sargent-Flack  
*Attorneys for Defendants*

COPY of the foregoing mailed  
this 22<sup>nd</sup> day of July, 2005, to:

Honorable David L. Mackey  
Yavapai County Superior Court  
Division 1  
Yavapai County Courthouse  
Prescott, Arizona 86301

David K. Wilhelmsen, Esq.  
Marguerite M. Kirk, Esq.  
Favour, Moore & Wilhelmsen, P.A.  
1580 Plaza West Drive  
Post Office Box 1391  
Prescott, Arizona 86302-1391  
*Attorneys for Plaintiffs*



DEFENDANTS' VERDICT

ABANDONMENT AND ENFORCEMENT

1. We, the jury, duly empaneled and sworn in the above entitled action, upon our oaths, do find that the Declaration of Restrictions at issue in this case have been abandoned.

2. We, the jury, further find that the Plaintiffs have waived their right to enforce the Declaration of Restrictions.

- |    |             |                |
|----|-------------|----------------|
| 1. | _____       | _____          |
|    | (Signature) | (Printed Name) |
| 2. | _____       | _____          |
|    | (Signature) | (Printed Name) |
| 3. | _____       | _____          |
|    | (Signature) | (Printed Name) |
| 4. | _____       | _____          |
|    | (Signature) | (Printed Name) |
| 5. | _____       | _____          |
|    | (Signature) | (Printed Name) |
| 6. | _____       | _____          |
|    | (Signature) | (Printed Name) |
| 7. | _____       | _____          |
|    | (Signature) | (Printed Name) |

FOREPERSON:

\_\_\_\_\_  
(Signature)  
\_\_\_\_\_  
(Printed Name)

DEFENDANTS' VERDICT

VAGUENESS AND AMBIGUITY  
PARAGRAPH 2 OF THE DECLARATION OF RESTRICTIONS

We, the jury, duly empaneled and sworn in the above entitled action, upon our oaths, do find that Paragraph 2 of the Declaration of Restrictions at issue in this case are vague and ambiguous. Therefore, Paragraph 2 of the Declaration of Restrictions is unenforceable.

- |    |             |                |
|----|-------------|----------------|
| 1. | _____       | _____          |
|    | (Signature) | (Printed Name) |
| 2. | _____       | _____          |
|    | (Signature) | (Printed Name) |
| 3. | _____       | _____          |
|    | (Signature) | (Printed Name) |
| 4. | _____       | _____          |
|    | (Signature) | (Printed Name) |
| 5. | _____       | _____          |
|    | (Signature) | (Printed Name) |
| 6. | _____       | _____          |
|    | (Signature) | (Printed Name) |
| 7. | _____       | _____          |
|    | (Signature) | (Printed Name) |

FOREPERSON:

\_\_\_\_\_  
(Signature)  
\_\_\_\_\_  
(Printed Name)

DEFENDANTS' VERDICT

ACTIVITIES  
PARAGRAPH 2 OF THE DECLARATION OF RESTRICTIONS

We, the jury, duly empaneled and sworn in the above entitled action, upon our oaths, do find that Defendants' activities on their property are not prohibited by Paragraph 2 of the Declaration of Restrictions.

- |    |             |                |
|----|-------------|----------------|
| 1. | _____       | _____          |
|    | (Signature) | (Printed Name) |
| 2. | _____       | _____          |
|    | (Signature) | (Printed Name) |
| 3. | _____       | _____          |
|    | (Signature) | (Printed Name) |
| 4. | _____       | _____          |
|    | (Signature) | (Printed Name) |
| 5. | _____       | _____          |
|    | (Signature) | (Printed Name) |
| 6. | _____       | _____          |
|    | (Signature) | (Printed Name) |
| 7. | _____       | _____          |
|    | (Signature) | (Printed Name) |

FOREPERSON:

\_\_\_\_\_  
(Signature)  
\_\_\_\_\_  
(Printed Name)

DEFENDANTS' VERDICT

IMPROVEMENTS  
PARAGRAPH 7(e) OF THE DECLARATION OF RESTRICTIONS

We, the jury, duly empaneled and sworn in the above entitled action, upon our oaths, do find that Defendants' improvements on their property are not prohibited by Paragraph 7(e) of the Declaration of Restrictions.

- |    |             |                |
|----|-------------|----------------|
| 1. | _____       | _____          |
|    | (Signature) | (Printed Name) |
| 2. | _____       | _____          |
|    | (Signature) | (Printed Name) |
| 3. | _____       | _____          |
|    | (Signature) | (Printed Name) |
| 4. | _____       | _____          |
|    | (Signature) | (Printed Name) |
| 5. | _____       | _____          |
|    | (Signature) | (Printed Name) |
| 6. | _____       | _____          |
|    | (Signature) | (Printed Name) |
| 7. | _____       | _____          |
|    | (Signature) | (Printed Name) |

FOREPERSON:

\_\_\_\_\_  
(Signature)  
\_\_\_\_\_  
(Printed Name)

DEFENDANTS' VERDICT

IMPROVEMENTS  
PARAGRAPH 15 OF THE DECLARATION OF RESTRICTIONS

We, the jury, duly empaneled and sworn in the above entitled action, upon our oaths, do find that Defendants' improvements on their property are not prohibited by Paragraph 15 of the Declaration of Restrictions.

- |    |             |                |
|----|-------------|----------------|
| 1. | _____       | _____          |
|    | (Signature) | (Printed Name) |
| 2. | _____       | _____          |
|    | (Signature) | (Printed Name) |
| 3. | _____       | _____          |
|    | (Signature) | (Printed Name) |
| 4. | _____       | _____          |
|    | (Signature) | (Printed Name) |
| 5. | _____       | _____          |
|    | (Signature) | (Printed Name) |
| 6. | _____       | _____          |
|    | (Signature) | (Printed Name) |
| 7. | _____       | _____          |
|    | (Signature) | (Printed Name) |

FOREPERSON:

\_\_\_\_\_  
(Signature)  
\_\_\_\_\_  
(Printed Name)

DEFENDANTS' VERDICT

ESTOPPEL

We, the jury, duly empaneled and sworn in the above entitled action, upon our oaths, do find that the Declaration of Restrictions is unenforceable under the doctrine of equitable estoppel.

- |    |             |                |
|----|-------------|----------------|
| 1. | _____       | _____          |
|    | (Signature) | (Printed Name) |
| 2. | _____       | _____          |
|    | (Signature) | (Printed Name) |
| 3. | _____       | _____          |
|    | (Signature) | (Printed Name) |
| 4. | _____       | _____          |
|    | (Signature) | (Printed Name) |
| 5. | _____       | _____          |
|    | (Signature) | (Printed Name) |
| 6. | _____       | _____          |
|    | (Signature) | (Printed Name) |
| 7. | _____       | _____          |
|    | (Signature) | (Printed Name) |

FOREPERSON:

\_\_\_\_\_

(Signature)

\_\_\_\_\_

(Printed Name)

DEFENDANTS' VERDICT

*LACHES*

We, the jury, duly empaneled and sworn in the above entitled action, upon our oaths, do find that the Declaration of Restrictions is unenforceable under the equitable doctrine of *laches*.

- |    |             |                |
|----|-------------|----------------|
| 1. | _____       | _____          |
|    | (Signature) | (Printed Name) |
| 2. | _____       | _____          |
|    | (Signature) | (Printed Name) |
| 3. | _____       | _____          |
|    | (Signature) | (Printed Name) |
| 4. | _____       | _____          |
|    | (Signature) | (Printed Name) |
| 5. | _____       | _____          |
|    | (Signature) | (Printed Name) |
| 6. | _____       | _____          |
|    | (Signature) | (Printed Name) |
| 7. | _____       | _____          |
|    | (Signature) | (Printed Name) |

FOREPERSON:

\_\_\_\_\_  
(Signature)  
\_\_\_\_\_  
(Printed Name)

DEFENDANTS' VERDICT

UNCLEAN HANDS

We, the jury, duly empaneled and sworn in the above entitled action, upon our oaths, do find that the Declaration of Restrictions is unenforceable under the equitable doctrine of 'unclean hands'.

1. \_\_\_\_\_  
(Signature) (Printed Name)

2. \_\_\_\_\_  
(Signature) (Printed Name)

3. \_\_\_\_\_  
(Signature) (Printed Name)

4. \_\_\_\_\_  
(Signature) (Printed Name)

5. \_\_\_\_\_  
(Signature) (Printed Name)

6. \_\_\_\_\_  
(Signature) (Printed Name)

7. \_\_\_\_\_  
(Signature) (Printed Name)

FOREPERSON:

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Printed Name)

PLAINTIFFS' VERDICT

ABANDONMENT AND ENFORCEMENT

1. We, the jury, duly empaneled and sworn in the above entitled action, upon our oaths, do find that the Declaration of Restrictions at issue in this case have not been abandoned.

2. We, the jury, further find that the Plaintiffs have not waived their right to enforce the Declaration of Restrictions.

1. \_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Printed Name)

2. \_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Printed Name)

3. \_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Printed Name)

4. \_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Printed Name)

5. \_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Printed Name)

6. \_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Printed Name)

7. \_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Printed Name)

FOREPERSON:

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Printed Name)

PLAINTIFFS' VERDICT

VAGUENESS AND AMBIGUITY  
PARAGRAPH 2 OF THE DECLARATION OF RESTRICTIONS

We, the jury, duly empaneled and sworn in the above entitled action, upon our oaths, do find that Paragraph 2 of the Declaration of Restrictions is not vague and ambiguous.

- |    |             |                |
|----|-------------|----------------|
| 1. | _____       | _____          |
|    | (Signature) | (Printed Name) |
| 2. | _____       | _____          |
|    | (Signature) | (Printed Name) |
| 3. | _____       | _____          |
|    | (Signature) | (Printed Name) |
| 4. | _____       | _____          |
|    | (Signature) | (Printed Name) |
| 5. | _____       | _____          |
|    | (Signature) | (Printed Name) |
| 6. | _____       | _____          |
|    | (Signature) | (Printed Name) |
| 7. | _____       | _____          |
|    | (Signature) | (Printed Name) |

FOREPERSON:

\_\_\_\_\_  
(Signature)  
\_\_\_\_\_  
(Printed Name)

PLAINTIFFS' VERDICT

ACTIVITIES  
PARAGRAPH 2 OF THE DECLARATION OF RESTRICTIONS

We, the jury, duly empaneled and sworn in the above entitled action, upon our oaths, do find that Defendants' activities on their property are prohibited by Paragraph 2 of the Declaration of Restrictions.

- |    |             |                |
|----|-------------|----------------|
| 1. | _____       | _____          |
|    | (Signature) | (Printed Name) |
| 2. | _____       | _____          |
|    | (Signature) | (Printed Name) |
| 3. | _____       | _____          |
|    | (Signature) | (Printed Name) |
| 4. | _____       | _____          |
|    | (Signature) | (Printed Name) |
| 5. | _____       | _____          |
|    | (Signature) | (Printed Name) |
| 6. | _____       | _____          |
|    | (Signature) | (Printed Name) |
| 7. | _____       | _____          |
|    | (Signature) | (Printed Name) |

FOREPERSON:

\_\_\_\_\_

(Signature)

\_\_\_\_\_

(Printed Name)

PLAINTIFFS' VERDICT

IMPROVEMENTS  
PARAGRAPH 7(e) OF THE DECLARATION OF RESTRICTIONS

We, the jury, duly empaneled and sworn in the above entitled action, upon our oaths, do find that Defendants' improvements on their property are prohibited by Paragraph 7(e) of the Declaration of Restrictions.

- |    |             |                |
|----|-------------|----------------|
| 1. | _____       | _____          |
|    | (Signature) | (Printed Name) |
| 2. | _____       | _____          |
|    | (Signature) | (Printed Name) |
| 3. | _____       | _____          |
|    | (Signature) | (Printed Name) |
| 4. | _____       | _____          |
|    | (Signature) | (Printed Name) |
| 5. | _____       | _____          |
|    | (Signature) | (Printed Name) |
| 6. | _____       | _____          |
|    | (Signature) | (Printed Name) |
| 7. | _____       | _____          |
|    | (Signature) | (Printed Name) |

FOREPERSON:

\_\_\_\_\_  
(Signature)  
\_\_\_\_\_  
(Printed Name)

PLAINTIFFS' VERDICT

IMPROVEMENTS  
PARAGRAPH 15 OF THE DECLARATION OF RESTRICTIONS

We, the jury, duly empaneled and sworn in the above entitled action, upon our oaths, do find that Defendants' improvements on their property are prohibited by Paragraph 15 of the Declaration of Restrictions.

_____	_____
(Signature)	(Printed Name)
2. _____	_____
(Signature)	(Printed Name)
3. _____	_____
(Signature)	(Printed Name)
4. _____	_____
(Signature)	(Printed Name)
5. _____	_____
(Signature)	(Printed Name)
6. _____	_____
(Signature)	(Printed Name)
7. _____	_____
(Signature)	(Printed Name)

FOREPERSON:

_____
(Signature)
_____
(Printed Name)

PLAINTIFFS' VERDICT

*LACHES*

We, the jury, duly empaneled and sworn in the above entitled action, upon our oaths, do find that the equitable doctrine of *laches* does not preclude enforcement of the Declaration of Restrictions.

1. \_\_\_\_\_  
(Signature) (Printed Name)

2. \_\_\_\_\_  
(Signature) (Printed Name)

3. \_\_\_\_\_  
(Signature) (Printed Name)

4. \_\_\_\_\_  
(Signature) (Printed Name)

5. \_\_\_\_\_  
(Signature) (Printed Name)

6. \_\_\_\_\_  
(Signature) (Printed Name)

7. \_\_\_\_\_  
(Signature) (Printed Name)

FOREPERSON:

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Printed Name)

PLAINTIFFS' VERDICT

ESTOPPEL

We, the jury, duly empaneled and sworn in the above entitled action, upon our oaths, do find that the doctrine of equitable estoppel does not preclude enforcement of the Declaration of Restrictions.

1. \_\_\_\_\_  
(Signature) (Printed Name)

2. \_\_\_\_\_  
(Signature) (Printed Name)

3. \_\_\_\_\_  
(Signature) (Printed Name)

4. \_\_\_\_\_  
(Signature) (Printed Name)

5. \_\_\_\_\_  
(Signature) (Printed Name)

6. \_\_\_\_\_  
(Signature) (Printed Name)

7. \_\_\_\_\_  
(Signature) (Printed Name)

FOREPERSON:

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Printed Name)

PLAINTIFFS' VERDICT

UNCLEAN HANDS

We, the jury, duly empaneled and sworn in the above entitled action, upon our oaths, do find that the equitable doctrine of 'unclean hands' does not preclude enforcement of the Declaration of Restrictions.

1. \_\_\_\_\_  
(Signature) (Printed Name)

2. \_\_\_\_\_  
(Signature) (Printed Name)

3. \_\_\_\_\_  
(Signature) (Printed Name)

4. \_\_\_\_\_  
(Signature) (Printed Name)

5. \_\_\_\_\_  
(Signature) (Printed Name)

6. \_\_\_\_\_  
(Signature) (Printed Name)

7. \_\_\_\_\_  
(Signature) (Printed Name)

FOREPERSON:

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Printed Name)