

2008 DEC -2 PM 3:49

JEANNE HICKS, CLERK

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5 Attorneys for Plaintiffs

6 IN THE SUPERIOR COURT OF ARIZONA
7 COUNTY OF YAVAPAI

8 **JOHN B. CUNDIFF** and **BARBARA C.**)
9 **CUNDIFF**, husband and wife; **BECKY J.**)
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.
16

No. CV 2003-0399

Division 1

**MOTION FOR STAY OF
PROCEEDINGS ON JUDGMENT
PENDING PETITIONS FOR REVIEW
RE: CHANGE OF JUDGE AND
JOINDER**

17 Plaintiffs, through counsel undersigned, move this Court for an order staying all actions
18 relating to the court's minute entry of August 25, 2008, including the order of dismissal in 90 days.
19 This motion is supported by the following Memorandum of Points and Authorities and the entire
20 record herein.

21 RESPECTFULLY SUBMITTED this 2^d day of December, 2008.

22 FAVOUR, MOORE & WILHELMSSEN, P.A.

23
24 By 
25 David K. Wilhelmsen
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26 Post Office Box 1391
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Attorneys for Plaintiffs CUNDIFF and PAGE

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 Plaintiffs bring this motion pursuant to Ariz. R. Civ. P. 62(b), which places within the
3 sound discretion of the court the authority to grant a stay of execution of or any proceedings to enforce
4 a judgment for a variety of stated motions **“or when justice so requires in other cases until such
5 time as the court may fix.”** In the instant matter, a minute entry order was entered by Division 1 on
6 August 25, 2008, which gives Plaintiffs 90 days from the entry of the minute entry within which to
7 “join all necessary and indispensable parties” or the matter will be dismissed.

8 Plaintiffs filed Petitions for Special Action to the appellate court, and relief was denied.
9 Plaintiffs now have timely filed their Petition for Review by the Supreme Court regarding the
10 appellate decision re peremptory challenge and soon will file a Petition for Review by the Supreme
11 Court regarding the joinder issue. Plaintiffs hereby request a stay of the 90-day dismissal order until
12 such time that petitions for review are decided by the Arizona Supreme Court.

13 Dated this 2nd day of December, 2008.

14 FAVOUR, MOORE & WILHELMSSEN, P.A.

15
16 By 
17 David K. Wilhelmsen
18 Marguerite Kirk
19 Post Office Box 1391
20 Prescott, AZ 86302-1391
21 Attorneys for Petitioners

22 ORIGINAL of the foregoing Motion
23 for Stay of Proceedings on Judgment
24 Pending Petitions for Review Re: Change
25 of Judge and Joinder filed this 2nd
26 day of December, 2008, with:

27 Clerk, Superior Court of Arizona
28 Yavapai County
29 120 S. Cortez Street
30 Prescott, Arizona 86302

31 COPY of the foregoing
32 hand-delivered this 2nd day
of December, 2008, to:

1 Honorable David L. Mackey
2 Division One
3 Superior Court of Arizona
4 Yavapai County
5 120 S. Cortez Street
6 Prescott, Arizona 86302

7 and COPY mailed this
8 2nd day of December,
9 2008, to:

10 Jeffrey Adams
11 ADAMS & MULL
12 Post Office box 1031
13 Prescott, Arizona 86302-1031
14 Attorneys for DEFENDANTS COX

15 By: 
16 David K. Wilhelmsen

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