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SANDRA K. MARKHAM, CLERK
BY: K. Mortensen

1 Jeffrey R. Adams, #018959
2 THE ADAMS LAW FIRM, PLLC
3 125 Grove Avenue
4 Post Office Box 2522
5 Prescott, Arizona 86302
6 Phone: (928) 445-0003
7 Fax: (928) 443-9240
8 law_office@jradamslaw.com

9 Attorneys for Defendants

10 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**

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

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

18 Plaintiffs,

19 v.

20 DONALD COX and CATHERINE COX,
21 husband and wife, et al., et ux.,

22 Defendants.

CASE NO. P1300CV20030399

DIVISION 4

**CONTROVERTING STATEMENT IN
RESPONSE TO PLAINTIFFS' SEPARATE
STATEMENT OF FACTS IN SUPPORT
OF MOTION FOR SUMMARY
JUDGMENT**

AND

**DEFENDANTS' SEPARATE STATEMENT
OF FACTS IN SUPPORT OF RESPONSE
TO MOTION FOR SUMMARY
JUDGMENT**

(Assigned to the Hon. Kenton Jones)

(Oral Argument Requested)

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1 Defendants¹ submit the following statements pursuant to the provisions of Rule 56(c)(2),
2 Ariz. R. Civ. P., to controvert the Plaintiffs' Separate Statement of Facts in Support of Motion for
3 Summary Judgment ("PSOF").
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5 1. Responding to PSOF, ¶ 1, Defendants assert and incorporate as if fully restated herein
6 paragraphs 2, 5, 6, and 7 of Defendants' Controverting Statement in Response to Plaintiffs' Separate
7 Statement of Facts in Support of Motion for Summary Judgment filed on September 29, 2004
8 ("9/29/04 CSOF") and therefore deny PSOF, ¶ 1.
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10 2. Responding to PSOF, ¶ 2, Defendants assert that the Statement of General Agricultural
11 Use and Affidavit speaks for itself. Further responding to PSOF, ¶ 2, Defendants deny that the
12 Statement of General Agricultural Use and Affidavit referenced supports Plaintiffs' Motion for
13 Summary Judgment ("**Plaintiffs' Motion**") and in support of the same, Defendants assert and
14 incorporate as if fully restated herein paragraphs 2, 5, 6, and 7 of the 9/29/04 CSOF as well as
15 paragraphs 3 and 6-12 of Defendants' Separate Statement of Facts in Support of Response to Motion
16 for Summary Judgment filed on September 29, 2004 ("**9/29/04 DSOF**"). Defendants further assert
17 that Plaintiffs' Motion is barred by the Court's April 4, 2005 Under Advisement Ruling ("**4/4/05**
18 **UAR**") herein that established that there is a material question of fact on the issues of abandonment
19 and waiver. *See* 4/4/05 UAR.
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23 3. Defendants deny PSOF, ¶ 3 and assert and state that the subject Declaration of
24 Restrictions has been abandoned and waived as reflected in paragraphs 2, 5, 6, and 7 of the 9/29/04
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26 ¹Defendants as referenced herein shall be deemed to include Defendants Cox as well as
27 those other defendants represented by undersigned counsel.
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1 CSOF as well as paragraphs 3 and 6-12 of the 9/29/04 DSOF, the 4/4/05 UAR, the October 16, 2012,
2 Affidavit of Sheila Cahill and the photographs attached thereto that are attached to Defendants'
3 Thirteenth Supplemental Rule 26.1 Disclosure Statement attached hereto as Exhibit "1" as well as the
4 map attached to the Affidavit of James Cox attached hereto as Exhibit "2" detailing his observed
5 violations of the subject Declaration of Restrictions.
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7 4. Responding to PSOF, ¶ 4, Defendants assert that Plaintiffs have sued Defendants
8 seeking to enforce paragraphs 2, 7(e) and 15 of the Declaration against Defendants and likewise have
9 sought the Court's declaration that the Declaration is fully enforceable. *See* First Amended Complaint
10 filed herein.
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12 5. Defendants deny and object to PSOF, ¶ 5 and in doing so they incorporate as if fully
13 restated herein their Motion to Strike and *in Limine* filed on January 22, 2013. In support of the denial
14 of PSOF, ¶ 5, Defendants direct the Court's attention to the map attached to the Affidavit of James
15 Cox attached hereto as Exhibit "2" detailing his observed violations of the subject Declaration of
16 Restrictions and which map depicts a plethora of lots that have been subdivided resulting in them
17 containing less than nine acres. Further responding to, and denying, PSOF, ¶ 5, Defendants
18 incorporate as if fully restated herein paragraph 2 of Defendant Veres' Response to Plaintiffs'
19 Statement of Facts Controverting Statement of Facts filed on February 1, 2013 ("**2/1/13 Veres SOF**").
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1 **DEFENDANTS' SEPARATE STATEMENT OF FACTS IN SUPPORT OF THEIR**
2 **RESPONSE TO PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT**

3 Pursuant to Rule 56, Ariz. R. Civ. P., Defendants, by and through undersigned counsel, hereby
4 submit their separate Statements of Fact in support of their Response to Plaintiffs' Motion for
5 Summary Judgment:
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7 1. Plaintiffs have sued Defendants seeking to enforce paragraphs 2, 7(e) and 15 of the
8 Declaration of Restrictions that was recorded on June 13, 2004, in the Official Records of Yavapai
9 County, Arizona at Book 416, Page 680 (hereinafter, "**Declaration**"); Plaintiffs likewise have sought
10 the Court's declaration that the Declaration is fully enforceable. *See* First Amended Complaint.
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12 2. In response to Plaintiffs' lawsuit, Defendants have asserted that Plaintiffs, by their
13 conduct and actions, have waived their right to enforce the Declaration against Defendants. *See*
14 Answers to Plaintiffs' First Amended Complaint.
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16 3. Defendants have further asserted that the Declaration, including paragraph 2 thereof,
17 has been abandoned by the owners of properties purportedly governed by the Declaration. *Id.*; *see*
18 *also*, 9/29/04 DSOF, ¶ 3.
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20 4. Paragraph 19 of the Declaration states:

21 No failure of any other person or party to enforce any of the
22 restrictions, rights, reservations, limitations, covenants and conditions
23 contained herein shall, in any event, be construed or held to be a waiver
24 thereof or consent to any further or succeeding breach or violation
25 thereof.

26 *See* 9/29/04 DSOF, ¶ 4.
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5. Paragraph 2 of the Declaration provides:

No trade, business, profession or any other type of commercial or industrial activity shall be initiated or maintained within said property or any portion thereof.

See 9/29/04 DSOF, ¶ 5.

6. Defendants possess substantial evidence supporting their position that (i) Paragraph 2 of the Declaration has been abandoned and (ii) the Declaration in its entirety has been abandoned.

See Exhibit “3” attached to the 9/29/04 DSOF at ¶¶ 8, 9, 11, 12, and 14 and Exhibits “1” and “2” attached to thereto; Exhibit “4”, Affidavit of Curtis Kincheloe (“**Kincheloe Affidavit**”), attached to the 9/29/04 DSOF; Exhibit “5”, Affidavit of Sheila Cahill (“**Cahill Affidavit**”), attached to the 9/29/04 DSOF; the October 16, 2012, Affidavit of Sheila Cahill and the photographs attached thereto that are attached to Defendants’ Thirteenth Supplemental Rule 26.1 Disclosure Statement attached hereto as Exhibit “1”; and Affidavit of James Cox attached hereto as Exhibit “2” and map attached thereto. For example, prior to purchasing the Defendants’ Property, Defendants drove around the portion of Coyote Springs Ranch where their property is located and saw evidence of many types of business and commercial activities that were not residential in nature including a church under construction, a llama farm, alpaca farms, horse breeding, boarding and training facilities, a hay sales facility, properties operated by general contractors, an auto-mechanic shop and numerous properties out of which commercial vehicles are operated. *See* Exhibit “3” attached to the 9/29/04 DSOF at ¶

8. Defendants likewise saw signs posted on properties in the portion of Coyote Springs Ranch where the Subject Property is located which advertised the sale of various types of goods and services. *Id.*

Based upon our observations of Coyote Springs Ranch and the uses being made of properties in the

1 area by other property owners, Defendants believed that their anticipated use of the Defendants'
2 Property as a tree farm was permitted. *Id.* at ¶ 9.

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4 7. In January, 2001, Defendants filed an application with Yavapai County for an
5 agricultural exemption for the Subject Property. The exemption was granted (and is still valid and
6 effective today). Receipt of the exemption led Defendants to believe that our use of the Subject
7 Property as a tree farm was allowed. *Id.* at ¶ 10.

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9 8. Since the Plaintiffs filed their lawsuit on May 16, 2003, in which they alleged that
10 Defendants had violated paragraphs 2, 7(e) and 15 of the Declaration, Defendants have obtained
11 personal knowledge of, and have observed, numerous other commercial businesses being operated in
12 the Coyote Springs subdivision in which the Property is located. See Exhibit "1" to the Response to
13 Plaintiffs' Request for the Court's On-Site Inspection of Subject Real Property Subdivision filed on
14 August 11, 2004; Exhibit "3" attached to the 9/29/04 DSOF at ¶ 11; the October 16, 2012, Affidavit
15 of Sheila Cahill and the photographs attached thereto that are attached to Defendants' Thirteenth
16 Supplemental Rule 26.1 Disclosure Statement attached hereto as Exhibit "1"; and Affidavit of James
17 Cox attached hereto as Exhibit "2" and map attached thereto. Defendants possess photographic
18 evidence of business activities being conducted on properties in the portion of Coyote Springs Ranch
19 purportedly governed by the Declaration. See Exhibit "3" attached to the 9/29/04 DSOF at ¶ 12; and
20 the October 16, 2012, Affidavit of Sheila Cahill and the photographs attached thereto that are attached
21 to Defendants' Thirteenth Supplemental Rule 26.1 Disclosure Statement attached hereto as Exhibit
22 "1". Defendants have also obtained documentary evidence supporting their contention that businesses
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1 are being conducted on properties in the portion of Coyote Springs Ranch purportedly governed by
2 the Declaration. See Exhibit "3" attached to the 9/29/04 DSOF at ¶ 12.

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4 9. Since the Plaintiffs filed their lawsuit on May 16, 2003, in which they alleged that
5 Defendants had violated paragraphs 2, 7(e) and 15 of the Declaration, Defendants have observed and
6 obtained photographs of numerous properties located in the portion of Coyote Springs Ranch
7 purportedly governed by the Declaration that appear to be in violation of those paragraphs of the
8 Declaration referenced on the photographs. See Exhibit "3" attached to the 9/29/04 DSOF at ¶¶ 13-
9 14.

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11 10. Shortly after this lawsuit was filed, Defendants hired a private investigator to
12 investigate potential violations of the Declaration. See Exhibit "5" (Cahill Affidavit) attached to the
13 9/29/04 DSOF at ¶ 5. In conducting her investigation, the private investigator found that in all of
14 Coyote Springs, only 38 non-vacant properties, or approximately ten percent (10%) of the total
15 properties in Coyote Springs that were viewed, did not appear to have a violation of the Declaration.
16 *Id.* at ¶¶ 6 and 8. Thus, approximately 90 percent (90%) of the properties in Coyote Springs that were
17 investigated early in this case appeared to violate the Declaration. *Id.* During her initial investigation,
18 the private investigator observed numerous apparent violations of paragraphs 6, 7(a), 7(b), 7(c), 7(e),
19 8, 9, 12, 13 and 16 of the Declaration. Examples of apparent violations observed by the private
20 investigator included the following:

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24 Parcel 401-01-042B - The parcel had more than one residence and numerous junk
25 cars on the property in apparent violation of paragraphs 7(e)
26 and 9 of the Declaration.
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- 1 Parcel 401-01-036 - This property has a garage but does not have a residential
2 dwelling on it, which is in violation of paragraph 5 of the
3 Declaration.
- 4 Parcel 401-01-012G - The parcel has more than one residence on the property in
5 violation of paragraph 7(e) of the Declaration.
- 6 Parcel 103-01-060F - There are also two large metal trash containers visible at the
7 property, one outside the gate on the road and one inside by the
8 new building they are constructing, in violation of paragraph 16
9 of the Declaration.
- 10 Parcel 103-01-089A - On this parcel, there is one residence that has been burnt down
11 is still there, on the south side of the property, while another
12 residence (possibly an apartment house - has numerous doors)
13 is to the northeast of the burnt structure, in violation of
14 paragraph 7(e) of the Declaration.
- 15 Parcel 103-01-107B - This property has two residences and exposed propane tanks
16 next to each one in violation of paragraph 7(e) and 16 of the
17 Declaration.

18 See Exhibit "5" (Cahill Affidavit) to the 9/29/04 DSOF at ¶ 9.

19 The private investigator also verified that many business and commercial activities are being
20 conducted in Coyote Springs Ranch in apparent violation of paragraph 2 of the Declaration. *Id.* at ¶
21 10. In determining the status of any businesses or commercial activities that are being operated on
22 Coyote Springs properties, the private investigator searched the records of the Arizona Secretary of
23 State, the Arizona Corporation Commission, the Arizona Registrar of Contractor, and the Yavapai
24 County Recorder's Office. *Id.* The search covered the period from January 1, 1970 to July 20, 2004.
25 *Id.* Specific examples of business and commercial activities identified included the following:

- 26 Parcel 401-01-042B - There are several horse trailers on this property, showing
27 "Alvey Racing Diane Darrel Darcey" and "Saunders Racing
28 Stables", along with the extra residences and all of the horses.

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Parcel 103-01-084D - According to the Arizona Secretary of State, Bruce Friss-Pettitt, the owner of the parcel, has an active trademark under the name of "Round Logo, Red, Navy and Cream Colored with All New Again Paintless Dent Removal, Windshield Repair, Interior Repair, Paint Touchup". His address is listed in the corporate records as 8750 E. Faraway Place, in Prescott Valley, which is in Coyote Springs.

Parcel 103-01-078B - Daniel G. Belangeri, the owner, is involved in a lawsuit with Gloria A. Miller as Plaintiff, in the Yavapai County Superior Court case number CV 2003-0851. In this, Gloria Miller states in her complaint that Mr. Belangeri has a mobile home transportation company being operated at the property.

Parcel 401-01-126A&B - Owned by the owners of Wargo Construction, Inc. and Wargo Masonry, Inc. On the records of the Arizona Registrar of Contractors, they are showing a P.O. Box 725, Prescott, Arizona, but use a Prescott Valley phone number, 928-772-3210. However, the property has a block fence around it and the observation of the property demonstrated that it was being used as a storage facility for construction materials, supplies and vehicles.

Parcel 103-01-067F - The owners, Grant and Pamela Griffiths, have a company licensed with the Arizona Registrar of Contractors, and registered with the Arizona Corporation Commission, under the name of New Life Landscapes Inc. The address is listed as 8815 Spurr Lane, Prescott Valley, Arizona, which is the address in Coyote Springs.

Parcel 401-01-037B - The owners, Shawn Timothy Kilduff and Virginia Marie Kilduff, have two licenses with the Registrar of Contractors, and a corporate filing with the Arizona Corporation Commission, under the name of Custom Crete Inc., with their address showing as 9315 E. Spurr Lane, Prescott Valley, Arizona, which is in Coyote Springs.

Parcel 401-01-015C - Owned by Robert Taylor, he is licensed with the Registrar of Contractors, and listed with the Arizona Corporation Commission under the name of R T Contracting Specialists LLC, which appears is being operated at the property. He also owns Parcel 103-01-130E.

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Parcel 401-01-015D - One of the owners of the property, Robert K. Gardiner, has a listing with the Arizona Corporation Commission under the name of Valley to Valley Transport, Inc. With the Secretary of State, he has registered the tradename Valley to Valley Transport/Feed, and shows himself as owner at the address of 9690 E. Plum Creek Way, Prescott Valley, which is in Coyote Springs.

Parcel 103-01-065H - William H. Jensen is running a ranching/livestock corporation from this property under the corporate name of Coyote Springs Llama Ranch, Inc.

Parcel 401-01-020E - The owners, Ross Rozendaal and Kara Rozendaal, are members of Dependable Dutchman Excavating, LLC, with the address of 9335 E. Turtle Rock Road, Prescott Valley, which is in Coyote Springs. They are listed with the Registrar of Contractors and the Arizona Corporation Commission.

Parcel 401-01-020D - The owners, Leo M. and Marilyn K. Murphy, are also members of Dependable Dutchman Excavating, LLC. There is also a sign at the driveway which shows "Registered Quarter Horses Prescott Valley, AZ".

Parcel 401-01-005Z - Wiley L. Williams, the owner, currently has a corporation listed with the Arizona Corporation Commission, being Northern Arizona Hay, Inc. The domestic address of the corporation is listed as 9575 E. Turtle Rock, Prescott Valley, in Coyote Springs.

Parcel 103-01-133E - Arthur Gustafson, an owner of this property with his wife Debra Gustafson, have a listing with the Registrar of Contractors, Blackhawk Builders Inc., dba Blackhawk Construction. The property has on it plants, pallets, and buckets everywhere. It definitely looks like a nursery.

Parcel 103-01-056F - Leon H. and Noreen N. Vaughan operate "Arizona Alpacas" out of this property and have three active listings with the Secretary of State's Office for a trademark and tradenames.

Parcel 103-01-056B - Michael Glennon and Diane Glennon, have a corporation listed to this address with the Arizona Corporation Commission under the name of Sparrow Lab, Inc.

1 Parcel 103-01-057F - Jimmy Ray Hoffman and Nancy Ethel Hoffman have a current
2 license with the Registrar of Contractors, under the name of
3 Hoffman Barns, being a dba of Hoffman Building and Barns,
4 Inc. The Arizona Corporation Commission lists the type of
5 business as Contractor, and the corporation is in good standing.
6 There is also a Financing Statement recorded on June 28, 1996,
7 against the Hoffmans, listing the Coyote Springs Road address,
8 covering all equipment, etc., for their business.

7 Parcel 103-01-123D - The corporate records revealed that Michael T. Alexander and
8 his wife, Kelly J. Alexander, use the address of 7515 Coyote
9 Springs Road, Prescott Valley, for a corporation named Cobra
10 Enterprises, Inc.

10 Parcel 103-01-073F - This is a church owned by Living Faith Inc. It is obviously a
11 business being conducted.

12 Parcel 103-01-073D - Michael A. Kelly is currently listed with the Arizona
13 Corporation Commission as the Statutory Agent, and Manager,
14 of Northland Equipment Rental & Service, LLC. The address
15 listed is 8920 Dreamy Draw Way, Prescott Valley, which is in
16 Coyote Springs.

16 See Exhibit "5" (Cahill Affidavit) attached to the 9/29/04 DSOF at ¶ 11.

17 11. Once this case returned from the Court of Appeals and after the joinder issues were
18 addressed, Defendants' private investigator updated her work. See the October 16, 2012, Affidavit
19 of Sheila Cahill ("**Supplemental Cahill Affidavit**") attached to Defendants' Thirteenth Supplemental
20 Rule 26.1 Disclosure Statement attached hereto as Exhibit "1" at ¶ 6. In performing the same, she
21 again discovered that substantial and continuing violations of the Declaration exist within the
22 subdivision. In this regard, the private investigator discovered that to this day, only 30 non-vacant
23 properties lack some sort of violation of the Declaration, which is less than ten percent (10%) of the
24 total properties in the subject subdivision. *Id.* at ¶ 9. Thus, more than percent (90%) of the properties
25 viewed in Coyote Springs violate the Declaration. As was the case during her original investigation,
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1 the investigator again observed numerous violations of paragraphs 6, 7(a), 7(b), 7(c) 7(e), 8, 9, 12, 13
2 and 16 of the Declaration. *Id.* at ¶ 10. She observed that almost all of the properties have a propane
3 tank in open view while others have other violations such as trash receptacles being in open view; junk
4 and abandoned vehicles being on the property; dwellings on the property without a residence being
5 erected; travel trailers or campers on the property; two residences on the same property; or they have
6 more than one violation on the same property. *Id.* The investigator confirmed also that on multiple
7 properties, the residences themselves are falling apart and are unlivable and she has identified the
8 following examples of violations based upon visual inspections:
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11 Parcel 103-01-001T - Abandoned and unlivable trailer
12 Parcel 401-01-042D - Abandoned and boarded up
13 Parcel 401-01-042B - Residence on property along with a motor home which is also
14 being lived in along with propane tanks for both.
15 Parcel 103-01-131E - Empty house; overgrown weeds
16 Parcel 103-01-131D - There is a "not for hire" truck there and a couch left in the yard.
17 Parcel 401-01-025 - Lots of trailers, trucks and other items
18 Parcel 401-01-090C - Two residences
19 Parcel 401-01-019 - Appliances in the yard
20 Parcel 401-01-024B - Two residences - one shows as a guest house with the Yavapai
21 County Assessor's Office
22 Parcel 401-01-036B - Trailer on the property has the slide out; possibly being lived in
23 Parcel 103-01-224A - House looks to be abandoned
24 Parcel 103-01-137 - People were unloading a large truck filled with tires, and there
25 was an additional truck on the property, filled with tires.
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- 1 Parcel 103-01-064A - Residents appear to be living in the travel trailer
- 2 Parcel 103-01-132 - There are two mobile homes affixed to this property, and there
- 3 are numerous vehicles on the property. A business is being
- 4 conducted from here.
- 5 Parcel 401-01-040H - Has not only a lot of junk but two abandoned school buses
- 6 Parcel 103-01-067C - Abandoned property
- 7 Parcel 401-01-028D - Multiple structures, trailers and other junk
- 8 Parcel 103-01-065F - Abandoned house and multiple vehicles
- 9 Parcel 103-01-065C - Multiple houses with addresses; face painting business; and
- 10 tanks
- 11 Parcel 401-01-005U - Multiple propane tanks, recreational vehicles and junk
- 12 Parcel 103-01-129B - Broken down vehicles
- 13 Parcel 401-01-005V - Two houses
- 14 Parcel 103-01-061F - Trailers and junk
- 15 Parcel 103-01-074G - Trailers, propane tanks, run down house
- 16 Parcel 401-01-134 - This property has a residence and a rental house on the same
- 17 property.
- 18 Parcel 401-01-014 - There is a little shed type house on the property; it may not
- 19 make the square footage mentioned in the restrictions for a
- 20 structure.
- 21 Parcel 401-01-040A - Lots of trash, trailers and tanks
- 22 Parcel 103-01-083F - Trash, trucks and a possible refrigerator outside
- 23 Parcel 103-01-150C - Two houses
- 24 Parcel 103-01-186E - There is a big garage and two travel trailers, but there does not
- 25 seem to be a residence, which is in violation
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- 1 Parcel 103-01-077E - Only a little shed is on the property; no residence
- 2 Parcel 103-01-068 - Two residences
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- 4 Parcel 103-01-080K - Strange little building, may not comply with structure square
footage requirements
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- 6 Parcel 103-01-092D - Blue shed and tank; no residence
- 7 Parcel 103-01-092E - Two residences
- 8 Parcel 103-01-113E - Abandoned buildings
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- 10 Parcel 103-01-089L/E- Abandoned and demolished house; living in travel trailer or
other structure on property, in violation, along with a lot of
11 junk
- 12 Parcel 103-01-085D - Excessive amount of dogs and two houses; other violations
- 13 Parcel 103-01-113A - Excessive amount of dogs and kennels; other violations
- 14 Parcel 103-01-072J - Two houses
- 15
- 16 Parcel 103-01-103E - Trashed mobile home, propane tank and junk
- 17 Parcel 103-01-101J - Two houses, trailers, propane tanks
- 18 Parcel 103-01-057F - Numerous trailers, tanks and other items

19 *Id.* at ¶ 10.

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 21 The investigator's update to her investigation again revealed numerous properties where
 22 business and commercial activities are being conducted in apparent violation of paragraph 2 of the
 23 Declaration, much of which were determined based upon searches of the records of the Arizona
 24 Secretary of State, the Arizona Corporation Commission, the Arizona Registrar of Contractors, and
 25 the Yavapai County Recorder's Office, that included the following:
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- 1 Parcel 401-01-042B - There are several horse trailers on this property showing "Alvey
2 Racing Diane Darrel Darcey" and "Saunders Racing Stables",
3 along with the extra residences and all of the horses.
- 4 Parcel 103-01-084D - According to the Arizona Secretary of State, Bruce Friss-Pettitt,
5 the owner of the parcel, has an active trademark under the name
6 of "Round Logo, Red, Navy and Cream Colored with All New
7 Again Paintless Dent Removal, Windshield Repair, Interior
8 Repair, Paint Touchup". His address is listed in the corporate
9 records as 8750 E. Faraway Place, in Prescott Valley, which is
10 in Coyote Springs.
- 11 Parcel 103-01-078B - Daniel G. Belangeri, the owner, is involved in a lawsuit with
12 Gloria A. Miller as Plaintiff, in the Yavapai County Superior
13 Court case number CV 2003-0851. In that case, Gloria Miller
14 alleges in her complaint that Mr. Belangeri operates a mobile
15 home transportation company on and at the property.
- 16 Parcel 401-01-126A&B - Owned by the owners of Wargo Construction, Inc. and Wargo
17 Masonry, Inc. In the records of the Arizona Registrar of
18 Contractors, they list P.O. Box 725, Prescott, Arizona, but use
19 a Prescott Valley phone number, 928-772-3210. The property
20 has a block fence around it and the observation of the property
21 revealed that it was being used as a storage facility for
22 construction materials, supplies and vehicles.
- 23 Parcel 103-01-067F - The owners, Grant and Pamela Griffiths, have a company
24 licensed with the Arizona Registrar of Contractors, and
25 registered with the Arizona Corporation Commission, under the
26 name of New Life Landscapes Inc. The address is listed as
27 8815 Spurr Lane, Prescott Valley, Arizona, which is the
28 address in Coyote Springs.
- Parcel 401-01-037B - The owners, Shawn Timothy Kilduff and Virginia Marie
Kilduff, have two licenses with the Registrar of Contractors,
and a corporate filing with the Arizona Corporation
Commission, under the name of Custom Crete Inc., with their
address showing as 9315 E. Spurr Lane, Prescott Valley,
Arizona, which is in Coyote Springs.
- Parcel 401-01-015C - Owned by Robert Taylor, he is licensed with the Registrar of
Contractors, and listed with the Arizona Corporation
Commission under the name of R T Contracting Specialists

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LLC, which appears to being operated at the property. He also owns Parcel 103-01-130E.

Parcel 401-01-015D - One of the owners of the property, Robert K. Gardiner, has a listing with the Arizona Corporation Commission under the name of Valley-to-Valley Transport, Inc. With the Secretary of State, he has registered the trade name Valley-to-Valley Transport/Feed, and shows himself as owner at the address of 9690 E. Plum Creek Way, Prescott Valley, which is in Coyote Springs.

Parcel 103-01-065H - William H. Jensen is running a ranching/livestock corporation from this property under the corporate name of Coyote Springs Llama Ranch, Inc.

Parcel 401-01-020E - The owners, Ross Rozendaal and Kara Rozendaal, are members of Dependable Dutchman Excavating, LLC, with the address of 9335 E. Turtle Rock Road, Prescott Valley, which is in Coyote Springs. They are listed with the Registrar of Contractors and the Arizona Corporation Commission.

Parcel 401-01-020D - The owners, Leo M. and Marilyn K. Murphy, are also members of Dependable Dutchman Excavating, LLC. There is also a sign at the driveway which shows "Registered Quarter Horses Prescott Valley, AZ".

Parcel 401-01-005Z - Wiley L. Williams, the owner, currently has a corporation listed with the Arizona Corporation Commission, being Northern Arizona Hay, Inc. The domestic address of the corporation is listed as 9575 E. Turtle Rock, Prescott Valley, in Coyote Springs.

Parcel 103-01-133E - Arthur Gustafson, an owner of this property with his wife Debra Gustafson, have a listing with the Registrar of Contractors, Blackhawk Builders Inc., dba Blackhawk Construction. The property has on it plants, pallets, and buckets everywhere. It definitely looks like a nursery.

Parcel 103-01-056B - Michael Glennon and Diane Glennon, have a corporation listed to this address with the Arizona Corporation Commission under the name of Sparrow Lab, Inc.

- 1 Parcel 103-01-057F - Jimmy Ray Hoffman and Nancy Ethel Hoffman have a current
2 license with the Registrar of Contractors, under the name of
3 Hoffman Barns, being a dba of Hoffman Building and Barns,
4 Inc. The Arizona Corporation Commission lists the type of
5 business as Contractor, and the corporation is in good standing.
6 There is also a Financing Statement recorded on June 28, 1996,
7 against the Hoffmans, listing the Coyote Springs Road address,
8 covering all equipment, etc., for their business.
- 9 Parcel 103-01-123D - The corporate records revealed that Michael T. Alexander and
10 his wife, Kelly J. Alexander, use the address of 7515 Coyote
11 Springs Road, Prescott Valley, for a corporation named Cobra
12 Enterprises, Inc.
- 13 Parcel 103-01-073F - This is a church owned by Living Faith Inc.
- 14 Parcel 103-01-073D - Michael A. Kelly is currently listed with the Arizona
15 Corporation Commission as the Statutory Agent, and Manager,
16 of Northland Equipment Rental & Service, LLC. The address
17 listed is 8920 Dreamy Draw Way, Prescott Valley, which is in
18 Coyote Springs.
- 19 Parcel 103-01-001S - The address for the parcel is 8055 E. Dog Ranch Road. The
20 Arizona Corporation Commission shows a Jared Lish with a
21 business by the name of Cripple Creek Guide Services, LLC
22 with this address. This parcel is actually owned by Linda
23 McFarlin, who shows her mailing address as 11850 Coyote
24 Springs Road, Prescott Valley, which does not exist according
25 to the records of the Yavapai County Assessor. Linda McFarlin
26 also has a business, which she runs out of her house, called
27 LAM Investments LLC.
- 28 Parcel 103-01-131D - Owners Robert Kelley and Lisa Kelley owned Covenant
Excavation Inc., which had two licenses: one for sewage
treatment systems and the other for excavating, grading and oil
surfacing, with the Arizona Registrar of Contractors. These
licenses, however, were suspended in June of 2009 for
non-renewal.
- Parcel 103-01-001E - Bernard Carroll Simons and Carol Ceryes own this property.
Mr. Simons owns Equipment Plus, and has a current license
with the Arizona Registrar of Contractors for excavating,

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grading and oil surfacing, which has been renewed through February 28, 2013.

Parcel 103-01-001D - Dana S. Frank, DVM and her husband own P.V.P.C. It Forward, P.C., and runs it out of her house. It is veterinary medicine and animal care. The also own DNR Properties, LLC. Both companies have domestic addresses of 11600 Malouff, in Prescott Valley, according to records of the Arizona Corporation Commission.

Parcel 103-01-095K - Lori-Beth Anglin, one of the owners, is a real estate agent, but she seems to have an office that she works out of in town.

Parcel 401-01-042 - Diana K. Garcia and Robert L. Weaver run Orion Land Surveying, Inc. from this address.

Parcel 103-01-064J - Two businesses are registered to the owners of this property, being Picture This, LLC and P.V. Terra Visions, LLC, both with domestic addresses at this location. The owners are James Nardo and Cheryl Nardo.

Parcel 103-01-132 - Curtis Kincheloe is running Coyote Curts Auto Repair from this residence at 8950 E. Mummy View Drive, Prescott Valley.

Parcel 103-01-065C - A photograph of the FACE Painting trailer was taken at this address. It was found that Rex and Carrie Thompson own the business and work out of their house. The residence itself, however, is owned by Christine Bowra, Jeff Westra and Mychel Westra.

Parcel 103-01-056F - Leon and Noreen Vaughan own and run Arizona Alpacas & Flying "V" Alpacas at this location. They have been breeding alpacas since 1994 and breed and raise them currently. They have a trademark and a trade name at this address.

Parcel 401-01-038A - Michael and Julie Davis own this parcel, and Julie Davis works for Tarheel Towing, which is known as Rolaway Enterprises, Inc. There are vehicles from Tarheel Towing at this property, even though their office is elsewhere.

Parcel 103-01-002K - William Matthew Grace, also known as William M. Grace and W. Matthew Grace, run Calderaro Motor Sports LLC from this property.

- 1 Parcel 401-01-011A - Lloyd E. and Melva J. Self at 9250 Slash Arrow Drive, Prescott
2 Valley, own and run Circle S Trucking LLC from this property.
- 3 Parcel 401-01-022B - Gary McCorkle does land surveying from this address; his
4 business is called Advanced Surveys, Inc.
- 5 Parcel 103-01-089D - Christopher and Debra Vaughan run Coyote Springs
6 Candleworks from this address.
- 7 Parcel 103-01-069H - Wendy L. Changose, who is now known as Wendy Dittbrenner,
8 is running Peaceful Prairie Alpaca & Merino Ranch from this
9 property, offering boarding and breeding services, owner
10 support and fiber products.
- 11 Parcel 103-01-002Q - Kimberly Sharp is currently running Country Heritage Farm
12 from this address.
- 13 Parcel 401-01-028A - JM Quarterhorses shows as being listed at this address
- 14 Parcel 103-01-113J - This is the Mountain View Paint Horse Ranch, owned by
15 Sherry Marx.
- 16 Parcel 103-01-120 - Gwendolyn Anderson has a trade name registered for Coyote
17 Springs Investments at this address, which is good until March
18 5, 2014.
- 19 Parcel 103-01-063C - Prescott Area Animal Lifesavers is running out of this address,
20 adopting out pets.
- 21 Parcel 103-01-103A - Weir Stables
- 22 Parcel 401-01-134 - Automated Entry Services is being ran out of this parcel

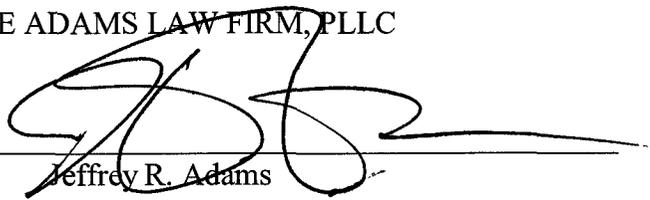
22 *Id.* at ¶¶ 11-12.

23 12. Prior to filing this lawsuit, neither Plaintiffs nor any other owner of property in the
24 portion of Coyote Springs Ranch where Plaintiffs' and Defendants' properties are located have
25 attempted to enforce the Declaration against any other property owner. *See Exhibit "4"* (Kincheloe
26 Affidavit) to the 9/29/04 DSOF; deposition transcript for deposition of Kenneth Page attached to the
27
28

1 9/29/04 DSOF as Exhibit "6" at 74:12-18; deposition transcript for deposition of Kathryn Page
2 attached to the 9/29/04 DSOF as Exhibit "7" at 36:6-9, 37:20-41:15, 124:2-8; deposition transcript
3 for deposition of John B. Cundiff attached to the 9/29/04 DSOF as Exhibit "8" at 49:5-50:15, 54:3-24,
4 55:21-59:18; deposition transcript for deposition of Barbara C. Cundiff attached to the 9/29/04 DSOF
5 as Exhibit "9" at 43:14-46:24, 51:11-53:25; and deposition transcript for deposition of Elizabeth Nash
6 attached to the 9/29/04 DSOF as Exhibit "10" at 26:17-21.
7

8 DATED this 11 day of February, 2013.
9

10 THE ADAMS LAW FIRM, PLLC
11

12 By 
13

Jeffrey R. Adams

Attorneys for Defendants

14 A copy of the foregoing was
15 hand-delivered this 11 day of
16 February, 2013 to:

17 KONTON JONES
The Honorable ~~David L. Mackey~~
18 Yavapai County Superior Court
19 Division 1
Yavapai County Courthouse
20 Prescott, Arizona

21 J. Jeffrey Coughlin, Esq.
22 J. Jeffrey Coughlin PLLC
114 S. Pleasant Street
23 Prescott, AZ 86303
24 Attorneys for Plaintiffs

25 Mark W. Drutz, Esq.
26 Musgrove, Drutz & Kack, P.C.
P.O. Box 2720
27 Prescott, Arizona 86302-2720
28

1 David K. Wilhelmsen, Esq.
2 Favour, Moore & Wilhelmsen, P.A.
3 P.O. Box 1391
4 Prescott, AZ 86302-1391
5 Attorneys for Property Owner James Varilek

6 COPY of the foregoing mailed
7 this 11 day of February, 2013, to:

8 Noel J. Hebets, Esq.
9 Noel J. Hebets, PLC
10 127 East 14th Street
11 Tempe, AZ 84281
12 Attorney for William M. Grace

13 Robert E. Schmitt, Esq.
14 Murphy, Schmitt, Hathaway & Wilson, PLLC
15 P.O. Box 591
16 Prescott, AZ 86302
17 Attorneys for Robert H. Taylor and Terri A. Thomson-Taylor

18 William H. "Bill" Jensen
19 2428 West Coronado Avenue
20 Flagstaff, AZ 86001
21 pro se

22 Gary & Sabra Feddema
23 9601 East Far Away Place
24 Prescott Valley, AZ 86315
25 pro se

26 William R. and Judith K. Stegeman Trust
27 9200 East Far Away Place
28 Prescott Valley, AZ 86315
pro se

29 Karen L. and Michael P. Wargo
30 9200 East Spurr Lane
31 Prescott Valley, AZ 86315
32 pro se

1 Linda J. Hahn
2 10367 W. Mohawk Lane
3 Peoria, AZ 85382
4 pro se

5 Sergio Martinez and Susana Navarro
6 10150 N. Lawrence Lane
7 Prescott Valley, AZ 86315
8 pro se

9 Lloyd E. and Melva J. Self
10 9250 E. Slash Arrow Drive
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12 pro se

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19 Prescott Valley, AZ 86315
20 pro se

21 Leo M. and Marilyn Murphy
22 9366 E. Turtlerock Road
23 Prescott Valley, AZ 86315
24 pro se

25 James C. and Leslie M. Richie
26 9800 E. Plum Creek Way
27 Prescott Valley, AZ 86315
28 pro se

29 Rhonda L. Folsom
30 9305 N. Coyote Springs Road
31 Prescott Valley, AZ 86315-4517
32 pro se

1 Kenneth Paloutzian
2 8200 Long Mesa Drive
3 Prescott Valley, AZ 86315
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5 Bonnie Rosson
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14 Trustees of the Robert Lee and Patti
15 Ann Trust utd March 13, 2007
16 10375 Lawrence Lane
17 Prescott Valley, AZ 86315
18 pro se

19 John D. and Dusti L. Audsley
20 6459 E. Clifton Terrace
21 Prescott Valley, AZ 86314
22 pro se

23 Dane E. and Sherrilyn G. Tapp
24 8595 E. Easy Street
25 Prescott Valley, AZ 86315
26 pro se

27 Richard and Beverly Strissel
28 9350 E. Slash Arrow Drive
Prescott Valley, AZ 86314
pro se

Jesus Manjarres
105 Paseo Sarta #C
Green Valley, AZ 85614
pro se

1 Nicholas Corea
2 4 Denia
3 Laguna Nigel, CA 92677
4 pro se

5 Jack and Dolores Richardson
6 505 Oppenheimer Drive, #4
7 Los Alamos, NM 87544
8 pro se

9 Eric Cleveland
10 9605 E. Disway
11 Prescott Valley, AZ 86315
12 pro se

13 Robert and Patricia Janis
14 7685 N. Coyote Springs Road
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21 Richard and Patricia Pinney
22 10980 N. Coyote Road
23 Prescott Valley, AZ 86315
24 pro se

25
26
27
28


1 Jeffrey R. Adams, #018959
2 THE ADAMS LAW FIRM, PLLC\
3 125 Grove Avenue
4 Post Office Box 2522
5 Prescott, Arizona 86302
6 Phone: (928) 445-0003
7 Fax: (928) 443-9240
8 law_office@jradamslaw.com

9 Attorneys for Defendants

10 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**

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

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

18 Plaintiffs,

19 v.

20 DONALD COX and CATHERINE COX,
21 husband and wife,

22 Defendants.

Case No. CV 2003-0399

Division No. 1

**DEFENDANTS' THIRTEENTH
SUPPLEMENTAL RULE 26.1
DISCLOSURE STATEMENT**

23 Defendants, by and through undersigned counsel, disclose the following information pursuant
24 to Rule 26.1 of the Arizona Rules of Civil Procedure.

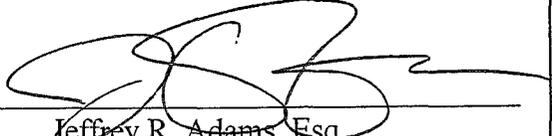
25 In support of the Defendants' defenses in this case, we provide the following information
26 regarding parcels of property out of which or on which commercial or business activities are taking
27 place in Coyote Springs Ranch:
28

1 VIII. 26.1(a)(8) TANGIBLE EVIDENCE/RELEVANT DOCUMENTS AND/OR
2 INSURANCE AGREEMENTS WHICH PLAINTIFFS PLAN TO USE AT TRIAL.

3
4 1. Affidavit of Sheila M. Cahill ****

5 DATED this 18 day of October, 2012.

6 THE ADAMS LAW FIRM, PLLC

7
8 By 
9 Jeffrey R. Adams, Esq.
10 Attorneys for Defendants

11 **** The Affidavit of Sheila M. Cahill references as "Exhibit 1" copies of photographs of properties
12 which appeared to violate the various provisions of the Declaration. Due to the extensive number
13 of photographs and the costs of reproduction of the same, the photographs are not attached to the
14 Affidavit of Sheila M. Cahill as part of this Disclosure. However, the same will be provided via
15 electronic email or the same can be viewed and/or copied at the offices of Jeffrey R. Adams to any
16 party wishing to do so. The costs of such photocopying to be paid by the party requesting the same.

16 COPY of the foregoing mailed
17 this 18 day of October, 2012, to:

18 J. Jeffrey Coughlin, Esq.
19 J. Jeffrey Coughlin PLLC
20 114 S. Pleasant Street
21 Prescott, AZ 86303
22 Attorneys for Plaintiffs

23 Mark W. Drutz, Esq.
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Noel J. Hebets, Esq.
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127 East 14th Street
Tempe, AZ 84281
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Prescott Valley, AZ 86315
pro se

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8 Prescott Valley, AZ 86314
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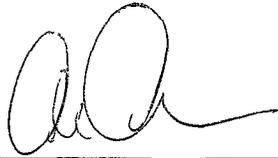
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VERIFICATION

STATE OF ARIZONA)
) ss.
COUNTY OF YAVAPAI)

JEFFREY R. ADAMS, being first duly sworn upon his oath, deposes and says:

That he is one of the attorneys for Defendants in the above-captioned matter and as such is duly authorized to make this verification; that he has read the foregoing Thirteenth Supplemental Rule 26.1 Disclosure Statement and that the contents contained therein are true in substance and in fact, except as to those matters stated upon information and belief, and as to those, he believes them to be true.

JEFFREY R. ADAMS

SUBSCRIBED AND SWORN to before me this ____ day of October, 2012, by JEFFREY R. ADAMS.

Notary Public

My Commission Expires:

1 Jeffrey R. Adams, Esq. #018959
2 **THE ADAMS LAW FIRM, PLLC**
3 125 Grove Avenue
4 P.O. Box 2522
5 Prescott, Arizona 86302
6 Tel: (928) 445-5935
7 Fax: (928) 443-9230
8 law_office@jradamslaw.com
9 *Attorneys for Defendants*

7 **IN THE SUPERIOR COURT FOR THE STATE OF ARIZONA**
8
9 **IN AND FOR THE COUNTY OF YAVAPAI**

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

15 Plaintiffs,

16 v.

17 DONALD COX and CATHERINE COX,
18 husband and wife, et al. et ux.,

19 Defendants.

Case No. CV 2003-0399

Division No. 6

AFFIDAVIT OF SHEILA M. CAHILL

20 STATE OF ARIZONA)
21) ss.
22 County of Yavapai)

23 SHEILA M. CAHILL, having been duly sworn upon her oath, deposes and states as follows:

24 1. I am over eighteen (18) years of age and have personal knowledge of the matters set
25 forth herein.
26
27
28

1 2. I have personal knowledge of, or am otherwise competent to testify as to, each and
2 every fact set forth in this Affidavit.

3
4 3. I am a licensed private investigator for Palmer Investigative Services where I have
5 worked since June, 1985.

6 4. I have been a licensed private investigator for 27 years.

7
8 5. I was hired by the Defendants in the above-referenced cause to investigate the
9 conditions of properties, and the existence of business and commercial activities, in what is commonly
10 referred to as Coyote Springs Ranch, which is located along Highway 89A in Yavapai County,
11 Arizona ("**Coyote Springs**"), and which is allegedly governed by the Declaration of Restrictions for
12 the Coyote Springs Subdivision that were recorded on June 13, 1974, at Book 944 Pages 752-754
13 ("**Declaration**").

14
15 6. I originally performed my work in this matter in 2004. I now understand that the
16 above-captioned case still has not yet resolved and was asked to update my efforts from 2004.

17
18 7. After again reviewing the Declaration, my staff and I visited each and every one of the
19 more than approximately 400 properties in the Coyote Springs and took photographs of all of the
20 properties that appeared to violate various provisions of the Declaration. Copies of those photographs
21 are attached as Exhibit "1" attached hereto. These photographs were taken between February 22,
22 2012, and March 7, 2012. Each photograph was marked with the parcel number.

23
24 8. Many of the properties in Coyote Springs are "vacant" according to the records of the
25 Yavapai County Assessor. In our canvas of the neighborhood, we found that the records of the
26 Assessor are not accurate. Many of the properties showing as vacant are not vacant.

- 1 Parcel 401-01-019 - Appliances in the yard
- 2 Parcel 401-01-024B - Two residences - one shows as a guest house with the Yavapai
3 County Assessor's Office
- 4 Parcel 401-01-036B - Trailer on the property has the slide out; possibly being lived in
- 5 Parcel 103-01-224A - House looks to be abandoned
- 6 Parcel 103-01-137 - People were unloading a large truck filled with tires, and there
7 was an additional truck on the property, filled with tires.
- 8 Parcel 103-01-064A - Residents appear to be living in the travel trailer
- 9 Parcel 103-01-132 - There are two mobile homes affixed to this property, and there
10 are numerous vehicles on the property. A business is being
11 conducted from here.
- 12 Parcel 401-01-040H - Has not only a lot of junk but two abandoned school buses
- 13 Parcel 103-01-067C - Abandoned property
- 14 Parcel 401-01-028D - Multiple structures, trailers and other junk
- 15 Parcel 103-01-065F - Abandoned house and multiple vehicles
- 16 Parcel 103-01-065C - Multiple houses with addresses; face painting business; and
17 tanks
- 18 Parcel 401-01-005U - Multiple propane tanks, recreational vehicles and junk
- 19 Parcel 103-01-129B - Broken down vehicles
- 20 Parcel 401-01-005V - Two houses
- 21 Parcel 103-01-061F - Trailers and junk
- 22 Parcel 103-01-074G - Trailers, propane tanks, run down house
- 23 Parcel 401-01-134 - This property has a residence and a rental house on the same
24 property.
- 25
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- 1 Parcel 401-01-014 - There is a little shed type house on the property; it may not
2 make the square footage mentioned in the restrictions for a
3 structure.
- 4 Parcel 401-01-040A - Lots of trash, trailers and tanks
- 5 Parcel 103-01-083F - Trash, trucks and a possible refrigerator outside
- 6 Parcel 103-01-150C - Two houses
- 7 Parcel 103-01-186E - There is a big garage and two travel trailers, but there does not
8 seem to be a residence, which is in violation
- 9 Parcel 103-01-077E - Only a little shed is on the property; no residence
- 10 Parcel 103-01-068 - Two residences
- 11 Parcel 103-01-080K - Strange little building, may not comply with structure square
12 footage requirements
- 13 Parcel 103-01-092D - Blue shed and tank; no residence
- 14 Parcel 103-01-092E - Two residences
- 15 Parcel 103-01-113E - Abandoned buildings
- 16 Parcel 103-01-089L/E- Abandoned and demolished house; living in travel trailer or
17 other structure on property, in violation, along with a lot of
18 junk
- 19 Parcel 103-01-085D - Excessive amount of dogs and two houses; other violations
- 20 Parcel 103-01-113A - Excessive amount of dogs and kennels; other violations
- 21 Parcel 103-01-072J - Two houses
- 22 Parcel 103-01-103E - Trashed mobile home, propane tank and junk
- 23 Parcel 103-01-101J - Two houses, trailers, propane tanks
- 24 Parcel 103-01-057F - Numerous trailers, tanks and other items
- 25
- 26
- 27
- 28

1 11. I also noted numerous properties where business and commercial activities are being
2 conducted in apparent violation of paragraph 2 of the Declaration. To determine whether businesses
3 or commercial activities are being operated on the Coyote Springs properties, we searched the records
4 of the Arizona Secretary of State, the Arizona Corporation Commission, the Arizona Registrar of
5 Contractors, and the Yavapai County Recorder's Office. Our search covered the period from January
6 1, 1970 to February 12, 2012.
7
8

9 12. Specific examples of business and commercial activities identified included the
10 following:

- 11 Parcel 401-01-042B - There are several horse trailers on this property showing "Alvey
12 Racing Diane Darrel Darcey" and "Saunders Racing Stables",
13 along with the extra residences and all of the horses.
- 14 Parcel 103-01-084D - According to the Arizona Secretary of State, Bruce Friss-Pettitt,
15 the owner of the parcel, has an active trademark under the name
16 of "Round Logo, Red, Navy and Cream Colored with All New
17 Again Paintless Dent Removal, Windshield Repair, Interior
18 Repair, Paint Touchup". His address is listed in the corporate
19 records as 8750 E. Faraway Place, in Prescott Valley, which is
20 in Coyote Springs.
- 21 Parcel 103-01-078B - Daniel G. Belangeri, the owner, is involved in a lawsuit with
22 Gloria A. Miller as Plaintiff, in the Yavapai County Superior
23 Court case number CV 2003-0851. In that case, Gloria Miller
24 alleges in her complaint that Mr. Belangeri operates a mobile
25 home transportation company on and at the property.
- 26 Parcel 401-01-126A&B - Owned by the owners of Wargo Construction, Inc. and Wargo
27 Masonry, Inc. In the records of the Arizona Registrar of
28 Contractors, they list P.O. Box 725, Prescott, Arizona, but use
a Prescott Valley phone number, 928-772-3210. The property
has a block fence around it and the observation of the property
revealed that it was being used as a storage facility for
construction materials, supplies and vehicles.

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Parcel 103-01-067F - The owners, Grant and Pamela Griffiths, have a company licensed with the Arizona Registrar of Contractors, and registered with the Arizona Corporation Commission, under the name of New Life Landscapes Inc. The address is listed as 8815 Spurr Lane, Prescott Valley, Arizona, which is the address in Coyote Springs.

Parcel 401-01-037B - The owners, Shawn Timothy Kilduff and Virginia Marie Kilduff, have two licenses with the Registrar of Contractors, and a corporate filing with the Arizona Corporation Commission, under the name of Custom Crete Inc., with their address showing as 9315 E. Spurr Lane, Prescott Valley, Arizona, which is in Coyote Springs.

Parcel 401-01-015C - Owned by Robert Taylor, he is licensed with the Registrar of Contractors, and listed with the Arizona Corporation Commission under the name of R T Contracting Specialists LLC, which appears to being operated at the property. He also owns Parcel 103-01-130E.

Parcel 401-01-015D - One of the owners of the property, Robert K. Gardiner, has a listing with the Arizona Corporation Commission under the name of Valley-to-Valley Transport, Inc. With the Secretary of State, he has registered the trade name Valley-to-Valley Transport/Feed, and shows himself as owner at the address of 9690 E. Plum Creek Way, Prescott Valley, which is in Coyote Springs.

Parcel 103-01-065H - William H. Jensen is running a ranching/livestock corporation from this property under the corporate name of Coyote Springs Llama Ranch, Inc.

Parcel 401-01-020E - The owners, Ross Rozendaal and Kara Rozendaal, are members of Dependable Dutchman Excavating, LLC, with the address of 9335 E. Turtle Rock Road, Prescott Valley, which is in Coyote Springs. They are listed with the Registrar of Contractors and the Arizona Corporation Commission.

Parcel 401-01-020D - The owners, Leo M. and Marilyn K. Murphy, are also members of Dependable Dutchman Excavating, LLC. There is also a

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sign at the driveway which shows "Registered Quarter Horses Prescott Valley, AZ".

Parcel 401-01-005Z - Wiley L. Williams, the owner, currently has a corporation listed with the Arizona Corporation Commission, being Northern Arizona Hay, Inc. The domestic address of the corporation is listed as 9575 E. Turtle Rock, Prescott Valley, in Coyote Springs.

Parcel 103-01-133E - Arthur Gustafson, an owner of this property with his wife Debra Gustafson, have a listing with the Registrar of Contractors, Blackhawk Builders Inc., dba Blackhawk Construction. The property has on it plants, pallets, and buckets everywhere. It definitely looks like a nursery.

Parcel 103-01-056B - Michael Glennon and Diane Glennon, have a corporation listed to this address with the Arizona Corporation Commission under the name of Sparrow Lab, Inc.

Parcel 103-01-057F - Jimmy Ray Hoffman and Nancy Ethel Hoffman have a current license with the Registrar of Contractors, under the name of Hoffman Barns, being a dba of Hoffman Building and Barns, Inc. The Arizona Corporation Commission lists the type of business as Contractor, and the corporation is in good standing. There is also a Financing Statement recorded on June 28, 1996, against the Hoffmans, listing the Coyote Springs Road address, covering all equipment, etc., for their business.

Parcel 103-01-123D - The corporate records revealed that Michael T. Alexander and his wife, Kelly J. Alexander, use the address of 7515 Coyote Springs Road, Prescott Valley, for a corporation named Cobra Enterprises, Inc.

Parcel 103-01-073F - This is a church owned by Living Faith Inc.

Parcel 103-01-073D - Michael A. Kelly is currently listed with the Arizona Corporation Commission as the Statutory Agent, and Manager, of Northland Equipment Rental & Service, LLC. The address listed is 8920 Dreamy Draw Way, Prescott Valley, which is in Coyote Springs.

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Parcel 103-01-001S - The address for the parcel is 8055 E. Dog Ranch Road. The Arizona Corporation Commission shows a Jared Lish with a business by the name of Cripple Creek Guide Services, LLC with this address. This parcel is actually owned by Linda McFarlin, who shows her mailing address as 11850 Coyote Springs Road, Prescott Valley, which does not exist according to the records of the Yavapai County Assessor. Linda McFarlin also has a business, which she runs out of her house, called LAM Investments LLC.

Parcel 103-01-131D - Owners Robert Kelley and Lisa Kelley owned Covenant Excavation Inc., which had two licenses: one for sewage treatment systems and the other for excavating, grading and oil surfacing, with the Arizona Registrar of Contractors. These licenses, however, were suspended in June of 2009 for non-renewal.

Parcel 103-01-001E - Bernard Carroll Simons and Carol Ceryes own this property. Mr. Simons owns Equipment Plus, and has a current license with the Arizona Registrar of Contractors for excavating, grading and oil surfacing, which has been renewed through February 28, 2013.

Parcel 103-01-001D - Dana S. Frank, DVM and her husband own P.V.P.C. It Forward, P.C., and runs it out of her house. It is veterinary medicine and animal care. The also own DNR Properties, LLC. Both companies have domestic addresses of 11600 Malouff, in Prescott Valley, according to records of the Arizona Corporation Commission.

Parcel 103-01-095K - Lori-Beth Anglin, one of the owners, is a real estate agent, but she seems to have an office that she works out of in town.

Parcel 401-01-042 - Diana K. Garcia and Robert L. Weaver run Orion Land Surveying, Inc. from this address.

Parcel 103-01-064J - Two businesses are registered to the owners of this property, being Picture This, LLC and P.V. Terra Visions, LLC, both with domestic addresses at this location. The owners are James Nardo and Cheryl Nardo.

- 1 Parcel 103-01-132 - Curtis Kincheloe is running Coyote Curts Auto Repair from
2 this residence at 8950 E. Mummy View Drive, Prescott Valley.
- 3 Parcel 103-01-065C - A photograph of the FACE Painting trailer was taken at this
4 address. It was found that Rex and Carrie Thompson own the
5 business and work out of their house. The residence itself,
6 however, is owned by Christine Bowra, Jeff Westra and
7 Mychel Westra.
- 8 Parcel 103-01-056F - Leon and Noreen Vaughan own and run Arizona Alpacas &
9 Flying "V" Alpacas at this location. They have been breeding
10 alpacas since 1994 and breed and raise them currently. They
11 have a trademark and a trade name at this address.
- 12 Parcel 401-01-038A - Michael and Julie Davis own this parcel, and Julie Davis works
13 for Tarheel Towing, which is known as Rolaway Enterprises,
14 Inc. There are vehicles from Tarheel Towing at this property,
15 even though their office is elsewhere.
- 16 Parcel 103-01-002K - William Matthew Grace, also known as William M. Grace and
17 W. Matthew Grace, run Calderaro Motor Sports LLC from this
18 property.
- 19 Parcel 401-01-011A - Lloyd E. and Melva J. Self at 9250 Slash Arrow Drive, Prescott
20 Valley, own and run Circle S Trucking LLC from this property.
- 21 Parcel 401-01-022B - Gary McCorkle does land surveying from this address; his
22 business is called Advanced Surveys, Inc.
- 23 Parcel 103-01-089D - Christopher and Debra Vaughan run Coyote Springs
24 Candleworks from this address.
- 25 Parcel 103-01-069H - Wendy L. Changose, who is now known as Wendy Dittbrenner,
26 is running Peaceful Prairie Alpaca & Merino Ranch from this
27 property, offering boarding and breeding services, owner
28 support and fiber products.
- Parcel 103-01-002Q - Kimberly Sharp is currently running Country Heritage Farm
from this address.
- Parcel 401-01-028A - JM Quarterhorses shows as being listed at this address

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- Parcel 103-01-113J - This is the Mountain View Paint Horse Ranch, owned by Sherry Marx.
- Parcel 103-01-120 - Gwendolyn Anderson has a trade name registered for Coyote Springs Investments at this address, which is good until March 5, 2014.
- Parcel 103-01-063C - Prescott Area Animal Lifesavers is running out of this address, adopting out pets.
- Parcel 103-01-103A - Weir Stables
- Parcel 401-01-134 - Automated Entry Services is being ran out of this parcel

13. Our investigation is on-going and we will update the foregoing findings as we move forward.

AFFIANT FURTHER SAITH NOT.

DATED this 16th day of October, 2012.

Sheila M. Cahill

 SHEILA M. CAHILL, AFFIANT

SUBSCRIBED AND SWORN TO BEFORE me this 16 day of October, 2012, by SHEILA M. CAHILL.

Alfred M. Cedro

 Notary Public



ALFRED M. CEDRO
 Notary Public - State of Arizona
 YAVAPAI COUNTY
 My Commission Expires
 September 28, 2016

**NON-IMAGEABLE ATTACHMENT
PURGED FROM THE FILE**

Case # P1300CV20030399

Case Name: JOHN B CUNDIFF ET AL VS DONALD COX ET AL

Description of Item Not Imaged: THUMB DRIVE IN ENVELOPE

1 Jeffrey R. Adams, #018959
2 THE ADAMS LAW FIRM, PLLC
3 125 Grove Avenue
4 P.O. Box 2522
5 Prescott, Arizona 86302
6 (928) 445-5935
7 Fax: (928) 443-9230
8 law_office@jradamslaw.com

9 *Attorneys for Defendants*

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

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

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

18 Plaintiffs,

19 v.

20 DONALD COX and CATHERINE COX,
21 husband and wife, et al. et ux.,

22 Defendants.

Case No.P1300CV20030399

Division No. 4

AFFIDAVIT OF JAMES M. COX

23 STATE OF ARIZONA)
24) ss.
25 COUNTY OF YAVAPAI)

26 James M. Cox, having been duly sworn upon his oath, deposes and states as follows:

27 1. I am the son of the Defendants Donald and Catherine Cox herein.

28 2. I am over eighteen (18) years of age and have personal knowledge of the matters set

forth herein.

**NON-IMAGEABLE ATTACHMENT
PURGED FROM THE FILE**

Case # P1300CV20030399

Case Name: JOHN B CUNDIFF ET AL VS DONALD COX ET AL

Description of Item Not Imaged: MAP IN LARGE MANILA
ENVELOPE