

2010 MAY 28 PM 4:06

JEANNE HICKS, CLERK ✓

BY: S. KELBAUGH

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

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

10 JOHN B. CUNDIFF and BARBARA C.)
11 CUNDIFF, husband and wife; ELIZABETH)
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,)

16 Plaintiffs,)

17 v.)

18 DONALD COX and CATHERINE COX,)
19 husband and wife,)

20 Defendants.)
21)
22)
23)
24)
25)
26)
27)
28)

P1300
CASE NO. CV 2003-0399
DIVISION 1

**DEFENDANTS' NOTICE OF
SUGGESTED MODIFICATIONS TO
NOTICE TO PROPERTY OWNERS**

(Assigned to the Hon. David L. Mackey)

Defendants Donald and Catherine Cox, by and through undersigned counsel and pursuant to the Court's May 6, 2010, Order set forth in its Under Advisement Ruling of the same date do hereby provide to the Court their suggested modifications, reflected in red-line format on Exhibit "1" attached hereto, to the notice to be sent to the owners of property to be joined in this action.

Respectfully submitted this 28 day of May, 2010.

ADAMS & MULL, PLLC

By _____


Jeffrey R. Adams, Esq.
Attorneys for Defendants

1 A copy of the foregoing was
hand-delivered this 28 day of
2 May, 2010, to:
3
4 The Honorable David L. Mackey
Yavapai County Superior Court
Division 1
5 Yavapai County Courthouse
6 Prescott, Arizona
7 J. Jeffrey Coughlin, Esq.
8 J. Jeffrey Coughlin PLLC
114 South Pleasant Street
9 Prescott, Arizona 86303
Attorney for Plaintiffs

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**THIS LAWSUIT MAY AFFECT YOUR COYOTE SPRINGS RANCH
PROPERTY RIGHTS.**

You have been served as party in this lawsuit based upon your interest in real property located in the Coyote Springs Ranch subdivision in Prescott Valley, Arizona that is subject to the that certain Declaration of Restrictions for Coyote Springs Ranch dated December 20, 1974, in the Official Records of Yavapai County, Arizona at Book 944, Page 752 (“Declaration of Restrictions”). This Notice is being provided so that you can decide what action you wish to take regarding this pending lawsuit as it pertains to your ownership of your property. A copy of the subject Declaration of Restrictions for Coyote Springs Ranch is attached to the Plaintiffs’ First Amended Complaint that is being served upon you along with this Notice.

This lawsuit involves claims by the Plaintiffs that the Defendants are violating the terms of the Declaration of Restrictions for Coyote Springs Ranch. The Defendants have denied the Plaintiffs’ claims and are seeking an Order from this Court that certain terms of restrictive covenants contained within the Declaration of Restrictions for Coyote Springs Ranch have been abandoned and/or waived.

If you wish to obtain additional information regarding this case, you may access the Clerk of the Yavapai County Superior Court’s high profile case web site to review the file in this case at <http://www.co.yavapai/az/us/clerksupct.aspx>

In the event you chose to file a responsive pleading in this case you must do so within the time set forth in the Summons. The Court will determine by from your response whether you should be joined with the Plaintiffs or Defendants.

Be advised that in the event you chose to do nothing after being served with this lawsuit take no action in these proceedings following the service of the First Amended Complaint and Summons upon you, you will be bound by the decisions of this Court regarding the validity and enforceability of the Declaration of Restrictions for Coyote Springs Ranch as those restrictive covenants affect you and your property rights.

Since you have been served with this lawsuit, you must comply with the Orders of this Court as follows:

IT IS ORDERED if you no longer own an interest in real property that is subject to the Declaration of Restrictions for Coyote Springs Ranch you should provide written notice to the Court and the other parties to this lawsuit that you no longer own an interest in the property and the notice shall include your Assessor’s Parcel Number together with the name, address and phone number of the new owner as well as a copy of any documentation reflecting the change in ownership.

IT IS ORDERED in the event you sell or transfer your interest in the property while this case is pending you shall provide the purchaser or transferee with a copy of this Notice and the Plaintiffs’ First Amended Complaint no later than the close of escrow or on the date of transfer

of ownership in the event the sale or transfer does not occur through an escrow with a title company.

IT IS ORDERED in the event you sell or transfer your interest in the property you shall notify the Court in writing immediately and the notice shall include your Assessor's Parcel Number together with the name, address and phone number of the buyer or transferee.

IT IS ORDERED by ~~May 31, 2010~~ or that at the time of filing an initial pleading or motion with the Court, ~~whichever is sooner~~, all parties and attorneys appearing in this case **SHALL** designate and maintain an e-mail address with the Clerk of the Court **and** the other parties. The e-mail address will be used to electronically distribute any document, including minute entries and other orders, rulings, and notices described in Rule 125, *Rules of the Supreme Court* by e-mail or electronic link in lieu of distribution of paper versions by regular mail. The e-mail address shall be designated on each document filed. In the event that a party's e-mail address changes, that change shall immediately be brought to the attention of the Clerk of Superior Court and included on subsequent filings and pleadings.

IT IS ORDERED any party who declines to provide the Clerk of the Court and the other parties with an e-mail address **SHALL** be assessed the actual cost of mailing.