

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. P1300CV20030399</p> <p>RULING</p>	<p align="center">FILED JUL 05 2011</p> <p>DATE: _____ 10 O'Clock _____ M.</p> <p align="center">JEANNE HICKS, CLERK</p> <p>BY: _____ SHEETAL PATEL Deputy</p>
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<p>HONORABLE DAVID L. MACKEY</p> <p>DIVISION 1</p>	<p>BY: Cheryl Wagster Judicial Assistant</p> <p>DATE: June 30, 2011</p>
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The Court has considered James L. Varilek's Request For Judicial Re-Assignment, the Cox Defendants' Response And Objection, the Plaintiffs' Objection, Robert D. Veres Joinder and James L. Varilek's Consolidated Reply.

The resolution of this issue turns upon a few simple facts. In P1300CV20090822, James L. Varilek properly exercised his right to a change of judge pursuant to Rule 42(f)(1), *Ariz.R.Civ.P.* on July 27, 2009. He then vigorously opposed consolidation of that case into this case. Over his objection, P1300CV20090822 was consolidated into this case. He has never waived or waived from the assertion of his right to have another Judge determine the issues involved in his Complaint against Robert D. Veres.

In addition to those facts, the Court also has considered the recent changes in judicial officers in Yavapai County. The current Administrative Order regarding case assignments places the responsibility of presiding over civil cases such as this with other judicial officers. Although this Court had concluded that this Judge would retain this case given the long history, the Court now recognizes that cannot happen given James L. Varilek's timely notice of change of judge.

Based upon both James L. Varilek's timely notice of change of judge in P1300CV20090822 and Administrative Order 2011-07 this case should be reassigned. Since the Honorable Kenton D. Jones is already familiar with this case given his prior assignment of P1300CV20090822, the Court finds that it is appropriate to reassign the case to Judge Jones.

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THEREFORE, IT IS ORDERED reassigning this case to the Honorable Kenton D. Jones, Division 4.

Although the Court had been holding a number of other motions until this issue was resolved, the Court has ruled upon those motions including motions to withdraw and motions to amend as they were unopposed and ministerial.

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