

SUPERIOR COURT
YAVAPAI COUNTY, ARIZONA

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BY: B. Chamberlain

1 J. Jeffrey Coughlin (013801)
2 **J. JEFFREY COUGHLIN PLLC**
3 114 S. Pleasant Street
4 Prescott, Arizona 86303
5 Telephone: (928) 445-7137
6 Facsimile: (866) 890-8989
7 j.coughlin@azbar.org
8 Attorney for Plaintiffs

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IN THE SUPERIOR COURT FOR THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF YAVAPAI

26 JOHN B. CUNDIFF and BARBARA C.
27 CUNDIFF, husband and wife; ELIZABETH
28 NASH, a married woman dealing with her
29 separate property; KENNETH PAGE and
30 KATHRYN PAGE, as Trustee of the Kenneth
31 Page and Catherine Page Trust,

32 Plaintiffs,

33 vs.

34 DONALD COX and CATHERINE COX,
35 husband and wife,

36 Defendants.

CASE NO. P1300CV20030399

**REQUEST FOR EXPEDITED
STATUS CONFERENCE AND
DETERMINATION THAT
PLAINTIFFS HAVE TAKEN
SUBSTANTIAL STEPS TO JOIN
ALL NECESSARY AND
INDISPENSABLE PARTIES**

37 Plaintiffs, by and through their attorney undersigned, hereby request an expedited status
38 conference be scheduled in the above-referenced matter. The purpose of the status conference
39 will be to discuss the current status and to address issues that have arisen through the process.
40 Some examples of such issues are whether and how served parties should be defaulted, how
41 much time should lapse between the available methods of service, by what procedure this Court
42 and the parties can determine whether joined parties are plaintiffs or defendants.

43 On May 7, 2010 this Court issued its ruling on Plaintiffs' class action request and ordered
44 Plaintiffs to join all necessary and indispensable parties. As part of that process, this Court
45 ordered that a Notice be included in the documents served on the additional parties. After

1 providing Plaintiffs and Defendants with the opportunity to comment on the proposed Court's
2 Notice, this Court, on June 17, 2010, issued the Notice to be distributed by Plaintiffs to all
3 property owners. However, the Notice was not received by Plaintiffs' or Defendants' counsel
4 until July 13, 2010 when this Court's judicial assistant became aware of the problem. Plaintiffs
5 had the Summons issued on July 21, 2010 and mailed the required documentation to all
6 property owners on July 23, 2010.

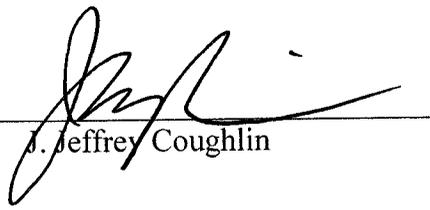
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8 Currently, Plaintiffs have received 85 signed Acceptances of Service representing 88 of
9 231 parcel numbers. Roughly thirty-seven percent of the owners have been served and their
10 acceptances of service filed with the Clerk. The signed Acceptances of Service continue to
11 arrive slowly by mail. Notwithstanding the slow influx of Acceptances of Service, Plaintiffs are
12 prepared to mail certified letters to all property owners who have not signed Acceptances of
13 Service as authorized by this Court in its May 7, 2010 Ruling. Plaintiffs cannot predict how
14 many will collect their mail and sign the receipt provided to them. As has been the case with
15 the Acceptances of Service, Plaintiffs will diligently process the returned receipts and file the
16 appropriate affidavits as authorized by this Court and Rule 4.2(c) of the Arizona Rules of Civil
17 Procedure.

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19 At this time, Plaintiffs request that this Court determine that Plaintiffs have taken
20 substantial steps to join all necessary and indispensable parties within one hundred and twenty
21 days as ordered by this Court. As explained above, Plaintiffs did not have in their possession,
22 the Notice provided by this Court to include in the service of documents accompanying the
23 Summons until July 13, 2010. Within ten days of receiving that Notice Plaintiffs accomplished
24 having the Summons issued, the packets containing all of the required documents assembled
25 and mailed to all property owners.

1 If the Court is not inclined to determine that Plaintiffs have taken the substantial steps
2 contemplated by the Court, then Plaintiffs request an extension of time to take additional steps
3 as a result of not having received the Court's Notice filed June 17, 2010 until July 13, 2010.

4 DATED this 18th day of August, 2010

5 **J. JEFFREY COUGHLIN PLLC**

6
7
8 By: 
J. Jeffrey Coughlin

9 COPY of the foregoing
10 mailed this 18th day of
August, 2010 to:

11 Jeffrey R. Adams
12 ADAMS & MULL, PLLC
13 211 East Sheldon Street
14 Prescott, AZ 86301
15 Attorneys for Defendants

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22
23
24
25 By: C. Padilla