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Jeffrey R. Adams, #018959
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211 East Sheldon Street
Post Office Box 1031
Prescott, AZ 86302
(928) 445-0003
Attorneys for Defendants

SUPERIOR COURT ✓
YAVAPAI COUNTY, ARIZONA
2010 SEP 20 PM 4:53
JEANNE HILTS, CLERK
S. KELBAUGH
BY: _____

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

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

Plaintiffs,

v.

DONALD COX and CATHERINE COX, husband and wife, LEON H. VAUGHN and NOREEN N. VAUGHN, husband and wife; MARTHA LILLIAN CAUDILL and SANDRA GODINEZ; JOHN D. AUDSLEY and DUSTI L. AUDSLEY, husband and wife; CURTIS D. KINCHELOE; JOHN L. HATFIELD and GENA D. HATFIELD, TRUSTEES of the BRIT- CHAR TRUST utd July 10, 2007; CINDI E. LEBASH; ROBERTA L. BALDWIN; JAMES H. STROM and DORIS L. STROM, husband and wife; MICHAEL K. DAVIS and JULIE A. DAVIS, husband and wife; JOY D. BASSET; JAMES B. DARRIN and LORRAINE DARRIN, TRUSTEES of the JAMES B. DARRIN FAMILY TRUST, utd December 14, 1998; WILLIAM HECKETHORN and SHAUNLA D. HECKETHORN, husband and wife; JOHN J FEDDEMA and REBECCA FEDDEMA, husband and wife; GARY J. FEDDEMA and SABRA J. FEDDEMA, husband and wife;

No. P1300CV20030399

Division 1

**ANSWER TO FIRST AMENDED
COMPLAINT BY JOINED PROPERTY
OWNER DEFENDANTS**

(Assigned to the Hon. David L. Mackey)

1 TRACY L. GREENLEE; LLOYD E. SELF
2 and MELVA J. SELF, husband and wife;
3 WILLIAM R. and JUDITH K. STEGEMAN,
4 TRUSTEES of the STEGEMAN TRUST utd
5 March 9, 2001; FRANKLIN B.
6 LAMBERSON and LAURA L.
7 LAMBERSON, husband and wife; RHONDA
8 L. FOLSOM; RICHARD A. STRISSEL and
9 BEVERLY A. STRISSEL, husband and wife;
10 BONNIE ROSSON; DANIEL BAUMAN and
11 LOUELLA BAUMAN, husband and wife;
12 RYNDA HOFFMAN and JIMMY
13 HOFFMAN, husband and wife; KENNETH
14 PALOUTZIAN; THERESA E. MASSARDI;
15 JAMES STEPHENSON and SHIRLEY
16 STEPHENSON, husband and wife; WEST R.
17 RIVERS and CATHERINE S. RIVERS,
18 husband and wife; LAWRENCE KYLE
19 MCCARTHY and HEIDE JANE
20 MCCARTHY, TRUSTEES of the
21 MCCARTHY LIVING TRUST utc May 20,
22 1981; EDWARD C. WOODWORTH and
23 CHRISTINE WOODWORTH, husband and
24 wife; DONALD J. KLIEN, and
25 CHARLOTTE F. KLEIN, as TRUSTEES to
26 the KLEIN FAMILY TRUST; JEFF and
27 MYCHEL WESTRA, husband and wife,
28 CHRISTINE L. BOWRA; CHARLES
RICHARD COAKLEY, TRUSTEE of the
CHARLES COAKLEY TRUST utd June 10,
1991; DANA E. TAPP and SHERRILYN G.
TAPP, husband and wife; ELSE CLARK,
TRUSTEE of the 2005 ELSE CLARK
REVOCABLE TRUST utd October 27, 2005;
WENDY L. CHANGOSE; KARI L.
DENNIS; JOHN P. HOUGH and KAREN R.
HOUGH, husband and wife; JAMES
BARSTAD; MICHAEL J. GLENNON and
DIANE GLENNON, husband and wife;
MICHAEL D. WHITE; STEVE M. WILSON
and DEBORAH D. WILSON, husband and
wife; WILLIAM M. GRACE and
CATHERINE ANNETTE GRACE, husband
and wife, OTTIS R. CLARK and DELORES
F. CLARK, husband and wife; JAMES C.
RICHIE and LESLIE M. RICHIE, husband and

1 wife; ROBERT LEE STACK and PATTI ANN
2 STACK, TRUSTEES of the ROBERT LEE
3 and PATTI ANN TRUST utd March 13, 2007;
4 MARK S. WILLIAMS and SOMA D.
5 WILLIAMS, TRUSTEES of the MARK AND
6 SOMA WILLIAMS TRUST utd October 10,
7 2007; RICHARD A. PINNEY and PATRICIA
8 A. PINNEY, husband and wife; LEO M.
9 MURPHY and MARILYN K. MURPHY,
10 husband and wife; GEOFFREY MOORE
11 MCNABB and KRISTIN D. MCNABB,
12 husband and wife; GRANT L. GRIFFITHS and
13 PAMELA L. GRIFFITHS, husband and wife;
14 SERGIO MARTINEZ and SUSANA
15 NAVARRO, as joint tenants; VAN TONG
16 CONG and PHI THI NGUYEN, husband and
17 wife;

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Defendants.

Defendants SERGIO MARTINEZ and SUSANA NAVARRO, as joint tenants, and VAN TONG CONG and PHI THI NGUYEN, husband and wife, as joined property owners in Coyote Springs Ranch, (collectively "**Joined Defendants**"), by and through undersigned counsel, hereby answer Plaintiffs' First Amended Complaint ("**Complaint**") in the above-captioned matter and admit, deny and allege as follows:

1. Joined Defendants admit the allegations contained in Paragraph 1 of the Complaint.
2. Joined Defendants assert and allege that they are owners of property located within the property described in Paragraph 1 of the Complaint.
3. Joined Defendants admit the allegations contained in Paragraphs 2 and 3 of the Complaint.
4. Joined Defendants deny the allegations contained in Paragraphs 4 through 7 of the Complaint.
5. Answering Paragraph 8 of the Complaint, Joined Defendants assert that the Declaration of Restrictions attached as EXHIBIT A to the Complaint speaks for itself but deny

1 that the subject Declaration of Restrictions ever encumbered or now encumbers Joined
2 Defendants' or Defendants Coxes' property or were breached by Joined Defendants or
3 Defendants Cox in any way and therefore Joined Defendants deny the allegations or any
4 inferences contained in Paragraph 8 of the Complaint.

5 6. Joined Defendants deny the allegations contained in Paragraph 9 of the Complaint.

6 7. Answering Paragraph 10 of the Complaint, Joined Defendants admit that the subject
7 Declaration of Restrictions were part of the public record at the time they and Defendants Cox
8 acquired their respective properties but deny that they were on notice that the Declaration of
9 Restrictions were applicable, enforceable or in effect at the time of their acquisition of their
10 respective properties and further assert and allege that the subject Declaration of Restrictions were
11 long-ago abandoned and therefore Joined Defendants deny the allegations of Paragraph 10 of the
12 Complaint.
13

14 8. Answering Paragraphs 11 through 13 of the Complaint, Joined Defendants deny
15 that they or Defendants Cox have breached any provision of the Declaration of Restrictions and
16 further allege that because the subject Declaration of Restrictions were long-ago abandoned, the
17 Declaration of Restrictions could no longer be breached by any property owner in the subject
18 subdivision and therefore Joined Defendants deny the allegations of Paragraphs 11 through 13 of
19 the Complaint.
20

21 9. Answering Paragraph 14 of the Complaint, Joined Defendants are without
22 knowledge or information sufficient to form a belief as to the truthfulness of the allegations
23 contained therein and therefore deny the same.
24

25 10. Joined Defendants admit Paragraph 15 of the Complaint.
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1 11. Answering Paragraph 16 of the Complaint, Joined Defendants reallege and
2 incorporate by reference their answers to Paragraphs 1-15 of the Complaint as if each were fully
3 set forth herein.

4 12. Joined Defendants deny the allegations contained in Paragraphs 17 and 18 of the
5 Complaint.

6 13. Answering Paragraph 19 of the Complaint, Joined Defendants reallege and
7 incorporate by reference their answers to Paragraphs 1-18 of the Complaint as if each were fully
8 set forth herein.

9 14. Joined Defendants deny the allegations contained in Paragraphs 20 and 21 of the
10 Complaint.

11 15. Answering Paragraph 22 of the Complaint, Joined Defendants reallege and
12 incorporate by reference their answers to Paragraphs 1-21 of the Complaint as if each were fully
13 set forth herein.

14 16. Joined Defendants deny the allegations contained in Paragraphs 23 and 24 of the
15 Complaint.

16 17. Answering Paragraph 25 of the Complaint, Joined Defendants reallege and
17 incorporate by reference their answers to Paragraphs 1-24 of the Complaint as if each were fully
18 set forth herein.

19 18. Answering Paragraph 26 of the Complaint, Joined Defendants admit that a
20 controversy exists as to the enforceability of the subject Declaration of Restrictions and further
21 allege and assert that the subject Declaration of Restrictions do not constitute covenants and
22 restrictions running with the land and that they are not enforceable by any owner of the subject
23 property.
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1 30. Joined Defendants allege that the Complaint is barred because of Plaintiffs' own
2 negligence, acts, omissions, carelessness and/or inattention.

3 31. Joined Defendants allege that the Complaint is barred because the damages alleged
4 by Plaintiffs were a direct and proximate result of acts and omissions of persons or entities other
5 than Joined Defendants or Defendants Cox.

6 32. Joined Defendants allege that any legal obligations required of them under the law
7 have been discharged.

8 33. Joined Defendants allege for affirmative defenses release and any other matter
9 constituting an avoidance or affirmative defense and also alleges that discovery may reveal the
10 existence of other affirmative defenses as set forth in Rules 8(c) and 12(b), Ariz. R. Civ. P., and
11 they reserve the right to amend this Answer to allege any and all of said affirmative defenses as
12 they reserve the right to amend this Answer to allege any and all of said affirmative defenses as
13 may be applicable.

14 WHEREFORE, having fully answered each and every Count of Plaintiffs' First Amended
15 Complaint, Joined Defendants request Judgment in their favor and against Plaintiffs as follows:

16 A. For an Order dismissing the Complaint with prejudice and ordering that
17 Plaintiffs take nothing thereby;

18 B. For an Order declaring that the subject Declaration of Restrictions is no
19 longer enforceable as against any property owner in the subject subdivision;

20 C. For an Order declaring that the Defendants Cox and Joined Defendants and
21 their respective properties are not bound or encumbered by the subject Declaration of Restrictions;

22 D. For an Order awarding Joined Defendants their reasonable attorneys' fees
23 and costs pursuant to A.R.S. §§ 12-341.01 and 12-348 and interest thereon at the highest legal
24 rate;

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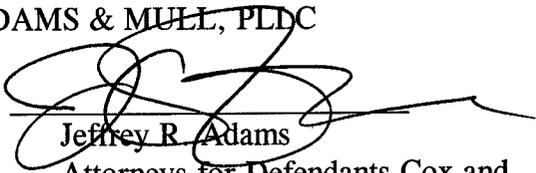
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E. For such other and further relief as the Court deems just and necessary
under the premises.

Dated this 20 day September, 2010.

ADAMS & MULL, PLLC

By



Jeffrey R. Adams

Attorneys for Defendants Cox and
Joined Defendants

A copy of the foregoing was
hand-delivered this 20 day of
September, 2010, to:

The Honorable David L. Mackey
Yavapai County Superior Court
Division 1
Yavapai County Courthouse
Prescott, Arizona

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Joined Party pro per

