

1 Jeffrey R. Adams, #018959  
2 **THE ADAMS LAW FIRM, PLLC**  
3 125 Grove Avenue  
4 Post Office Box 2522  
5 Prescott, AZ 86302  
6 (928) 445-0003  
7 jradamslaw@aol.com  
8 *Attorneys for Defendants*

SUPERIOR COURT  
2010 DEC 14 PM 1:33  
JEANNE TROTT, CLERK  
BY: **BOBBI JO BALL** ✓

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

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

13 **Plaintiffs,**

14 **v.**

15 **DONALD COX and CATHERINE COX,**  
16 **husband and wife, ET UX ET AL.,**

17 **Defendants,**

No. P1300CV20030399

Division 1

**RESPONSE AND OBJECTION TO**  
**MOTION FOR EXTENSION OF TIME**  
**TO SERVE REMAINING PROPERTY**  
**OWNERS BY PUBLICATION**

(Assigned to the Hon. David L. Mackey)

(Oral Argument Requested)

18  
19 Defendants and Joined Defendants, by and through undersigned counsel, hereby Respond  
20 to the Motion for Permission to Serve Remaining Property Owners by Publication and object to  
21 the same as it lacks merit and Plaintiffs' service efforts have proven to be untimely. This  
22 Response and Objection are supported by the accompanying Memorandum of Points and  
23 Authorities and the Record on File, which shall be incorporated by reference.  
24

25 Respectfully submitted this 13 day of December, 2010.

26 **THE ADAMS LAW FIRM, PLLC**

27 By: \_\_\_\_\_

28 *Jeffrey R. Adams, Esq.*

*Attorneys for Defendants and Joined  
Defendants*

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**MEMORANDUM OF POINTS AND AUTHORITIES**

As the Court is aware, on March 10, 2008, and after this case had its first visit with Division One of the Court of Appeals, the Court Ordered Plaintiffs to join all of the property owners in the subject subdivision. See March 10, 2008, Nature of Proceedings. That was nearly three years ago. On May 6, 2010, Plaintiffs were Ordered to serve the subject property owners within 120 days. More recently, the Court extended Plaintiffs' time for service due to the delay in receiving the Notice to be enclosed with the Summonses and First Amended Complaint and Ordered Plaintiffs to complete service within 120 days of July 14, 2010. Now, after the time for service has expired, Plaintiffs still have not completed service on all of the subject property owners and they again want more time.

By any measurable standard, Plaintiffs had more than an adequate amount of time within which to locate and effectuate service on all of the subject property owners. The manner and timing of service was up to the Plaintiffs and their counsel and if they delayed one form of service after another form proved ineffective, that is through no fault of the Defendants. Given the years that have passed since Plaintiffs first were Ordered to join all of the subject property owners coupled with the 120 days they were provided within which to serve the subject property owners beyond July 14, 2010, there is no reason Plaintiffs should be given additional time to comply with their service obligation. Accordingly, Defendants and the Joined Defendants represented by undersigned respectfully request that the Motion for additional time to accomplish service be denied. Defendants have waited for far too long for Plaintiffs to comply with their Court-Ordered obligation to join all of the subject property owners and they are entitled to some finality in a case that has been pending for nearly seven years.

/ / /

Respectfully submitted this 13 day of December, 2010.

THE ADAMS LAW FIRM, PLLC

By: \_\_\_\_\_

Jeffrey R. Adams, Esq.

*Attorneys for Defendants Cox and  
Joined Defendants*

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A copy of the foregoing was  
hand-delivered this 13 day of  
December, 2010, to:

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

J. Jeffrey Coughlin #013801  
J. JEFFREY COUGHLIN PLLC  
114 South Pleasant Street  
Prescott, Arizona 86303  
928 445-7137 fax: 866 890-8989  
J.Coughlin@AZBar.org  
*Attorney for Plaintiffs*

And a copy mailed First Class Mail  
this 13 day of December, 2010 to:

Christopher D. Lonn #015166  
David B. Goldstein #003410  
HYMSON GOLDSTEIN & PANTILIAT, P.C.  
14646 North Kierland Blvd. #255  
Scottsdale, Arizona 85254  
480 991-9077  
minute@LegalCounselors.com  
Attorneys for Linda J. Hahn

/        /        /  
  
/        /        /  
  
/        /        /

1 Hans Clugston  
2 HANS CLUGSTON, PLLC  
3 1042 Willow Creek Road  
4 #A101-PMB 502  
5 Prescott, Arizona 86301  
6 928 772-9696  
7 HCPLLCCourtDocs@straight-talk-law.us  
8 Attorney for Margaret Kozlowski  
9 & Northern Arizona Fiduciaries, Inc.

7 William H. "Bill" Jensen  
8 2428 West Coronado Avenue  
9 Flagstaff, Arizona 86001  
10 928 710-7270  
11 W@Jensen.org  
12 pro se

11 Garry & Sabra Feddema  
12 9601 Far Away Place  
13 Prescott, Arizona 86315  
14 pro se

14 William R. Stegeman  
15 Judith K. Stegeman  
16 9200 East Faraway Place  
17 Prescott Valley, Arizona 86315  
18 pro se

17 Van Tong Cong  
18 Phi Thi Nguyen  
19 8775 North Coyote Springs Road  
20 Prescott Valley, Arizona 86315  
21 pro se

21 Linda J. Hahn  
22 10367 West Mohawk Lane  
23 Peoria, Arizona 85382  
24 623 695-4594

24 David K. Wilhelmsen  
25 Marguerite Kirk  
26 Favour Moorre & Wilhelmsen, P.A.  
27 Post Office Box 1391  
28 Prescott, Arizona 86302-1391  
928 445-2444 fax: 928 771-0450  
FMWLaw@FMWLaw.net  
Attorneys for James Varilek

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Karen L. Wargo  
Michael P. Wargo  
9200 East Spurr Lane  
Prescott Valley, Arizona 86315  
928 237-0847  
Wargo.Karen@gmail.com  
pro se

Mark W. Drutz  
Sharon Sargent-Flack  
Musgrove Drutz & Kack, P.C.  
1135 West Ironwood Springs Road  
P. O. Box 2720  
Prescott, Arizona 86302-2720  
928 445-5935 fax: 928 445-5980  
MCKPC@cableone.net  
*Attorneys for Robert D. Veres*

