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8 Attorneys for Defendants

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

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

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

17 **Plaintiffs,**

18 **v.**

19 **DONALD COX and CATHERINE COX,**  
20 **husband and wife,**

21 **Defendants.**

Case No. CV 2003-0399

Division No. 1

**NOTICE OF FILING DEFENDANTS'**  
**AMENDED WITNESS LIST**

*(Assigned to the Honorable David L.  
Mackey)*

SUPERIOR COURT  
YAVAPAI COUNTY, ARIZONA

2005 JUL 18 PM 3: 52 ✓

JEANNE HICKS, CLERK  
C. SUTTON

BY: \_\_\_\_\_

22 In response to the Court's action in striking Defendants' Witness List, Defendants hereby  
23 submit an Amended Witness List. Defendants and their counsel advise the Court that submitting  
24 their initial witness list was certainly not intended to harass either the Plaintiffs or the Court nor was  
25 it intended to cause undo delay in this matter.

26 In defending this case, Defendants have raised the defense of abandonment of the Declaration  
27 of Restrictions ("**Declaration**"). During the course of discovery, Defendants identified a plethora  
28 of violations of the Declaration and disclosed to Plaintiffs evidence of all of those violations as well

1 as the names and addresses of all of those owners of properties where violations existed. In filing  
2 their initial List of Witnesses, Defendants identified over three hundred (300) individuals who fell  
3 within the category of indispensable party Defendants. In light of the Court's ruling dated July 18,  
4 2005 regarding Defendants' Motion to Join Indispensable Parties, Defendants do not intend to call  
5 any of these individuals. Rather, Defendants may call only those witnesses listed below in their case  
6  
7 in chief:

- 8 1. Catherine Cox
- 9 2. Donald Cox
- 10 3. James Cox
- 11 4. Dennis J. Booth
- 12 5. Robert J. Lauenders
- 13 6. Laura Lamberson
- 14 7. Mike Wargo
- 15 8. Christin L. Bowra
- 16 9. Mychel Westra
- 17 10. Sheila Cahill
- 18 11. Jim Savoini
- 19 12. Beau Boisvert
- 20 13. Wendy Dittbrenner
- 21 14. Charles A. Hildebrant
- 22 15. Joe Pearson
- 23 16. Frank Lamberson

- 1 17. Dr. Nichols
- 2 18. John Hough
- 3 19. Noreen Vaughn
- 4 20. Kenneth Yarbrough
- 5 21. William W. Furbee
- 6 22. Patricia Hocken
- 7 23. Curtis D. Kincheloe
- 8 24. Edward C. Woodworth
- 9 25. Jefferson Van Der Meersche
- 10 26. Mark Williams
- 11 27. John Hatfield
- 12 28. Wiley L. Williams
- 13 29. Karen Wargo
- 14 30. Jeff Westra
- 15 31. Bill Jensen
- 16 32. Grant L. Griffiths
- 17 33. Kevin S. Eikleberry
- 18 34. Beverly Strissel
- 19 35. Larry Kirby
- 20 36. Al McRoberts
- 21 37. Robert Taylor
- 22 38. Karrie Decker
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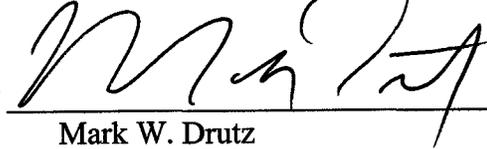
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- 39. Brent Boling
- 40. Sue Stoks
- 41. Edward V. Carlin
- 42. Patricia M. Norbury
- 43. Eugene Morton
- 44. Robert D. Conlin

The testimony of many of these witnesses will be brief and will address the issue of abandonment of the restrictive covenants.

RESPECTFULLY SUBMITTED this 18<sup>th</sup> day of July, 2005.

MUSGROVE, DRUTZ & KACK, P.C.

By 

Mark W. Drutz  
 Jeffrey R. Adams  
 Sharon Sargent-Flack  
*Attorneys for Defendants*

COPY of the foregoing hand-delivered this 18<sup>th</sup> day of July, 2005 to:

Honorable David L. Mackey  
 Yavapai County Superior Court  
 Division 1  
 Yavapai County Courthouse  
 Prescott, Arizona 86301

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