

2008 SEP 18 PM 3:42

JEANNE MOORE, CLERK

BY: V. Rosa

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5 Attorneys for Plaintiffs

6 **IN THE SUPERIOR COURT OF ARIZONA**
7 **COUNTY OF YAVAPAI**

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

12 Plaintiffs,)

13 vs.)

14 **DONALD COX** and **CATHERINE COX,)**
husband and wife,)

15 Defendants.)
16

Case No. CV 2003-0399

Division 1

NOTICE OF CHANGE OF JUDGE

17 Plaintiffs, John and Barbara Cundiff, Becky Nash, and, Kenneth and Kathryn Page, pursuant
18 to Rule 42(f), Ariz.R.Civ.Proc., hereby exercise their peremptory right to a change of judge upon
19 remand from the Court of Appeals. The name of the judge to whom this matter is presently assigned
20 and who is to be changed by virtue of this notice is the Honorable David L. Mackey.

21 Undersigned counsel for Plaintiffs hereby certifies that this Notice of Change of Judge is
22 timely under the rule, that the right to secure a change of judge by notice under Rule 42(f)(1) has not
23 previously been waived, that Plaintiffs are entitled to file this notice in accordance with Rule
24 42(f)(1)(D) and (E), as well as applicable case law, and that Plaintiffs have not previously been
25
26

1 granted a change of judge as a matter of right in this case.¹

2 DATED this 18th day of September, 2008.

3 FAVOUR MOORE & WILHELMSSEN, P.A.

4 By: 
5 David K. Wilhelmsen
6 Marguerite Kirk
7 Post Office Box 1391
8 Prescott, Arizona 86302-1391
9 Attorneys for Plaintiffs

10 Original of the foregoing filed
11 this 18th day of September, 2008 with:

12 Clerk, Superior Court of Arizona
13 Yavapai County
14 120 S. Cortez Street
15 Prescott, Arizona 86302

16 A copy of the foregoing
17 hand-delivered this 18th
18 day of September, 2008, to:

19 Honorable David L. Mackey
20 Division One
21 Superior Court of Arizona
22 Yavapai County
23 120 S. Cortez Street
24 Prescott, Arizona 86302

25 and, a copy mailed this
26 18th day of September, 2008, to:

Jeffrey Adams
ADAMS & MULL, PLLC
P.O. Box 1031
Prescott, Arizona 86302
Attorneys for Defendants Cox

By: 
David K. Wilhelmsen

¹ It is noted that Defendants Cox have previously filed a peremptory notice of change of judge.