

2008 SEP 23 PM 3:40 ✓

JEANNE HICKS, CLERK

Beth Blanton

BY: _____

1 FAVOUR MOORE & WILHELMSSEN, P.A.
Post Office Box 1391
2 Prescott, AZ 86302-1391
Phone: 928/445-2444
3 Fax: 928/771-0450
David K. Wilhelmsen, 007112
4 Marguerite A. Kirk, 018054

5 Attorneys for Plaintiffs

6 IN THE SUPERIOR COURT OF ARIZONA

7 COUNTY OF YAVAPAI

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

11 Plaintiffs,

12 vs.

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

15 Defendants.

No. CV 2003-0399

Division 1

**MOTION FOR STAY OF
PROCEEDINGS ON JUDGMENT
PENDING PETITION FOR SPECIAL
ACTION**

17 Plaintiffs, through counsel undersigned, move this Court for an order staying all actions
18 relating to the court's minute entry of August 25, 2008, including the order of dismissal in 90 days.
19 This motion is supported by the following Memorandum of Points and Authorities and the entire
20 record herein.

21 RESPECTFULLY SUBMITTED this 23rd day of September, 2008.

22 FAVOUR, MOORE & WILHELMSSEN, P.A.

23
24 By _____

25 David K. Wilhelmsen
Marguerite Kirk
Post Office Box 1391
26 Prescott, AZ 86302-1391
Attorneys for Plaintiffs CUNDIFF and PAGE


1 MEMORANDUM OF POINTS AND AUTHORITIES

2 Plaintiffs bring this motion pursuant to Ariz. R. Civ. P. 62(b), which places within the
3 sound discretion of the court the authority to grant a stay of execution of or any proceedings to enforce
4 a judgment for a variety a stated motions “or when justice so requires in other cases until such time
5 as the court may fix.” In the instant matter, a minute entry order was entered by Division 1 on
6 August 25, 2008, which gives Plaintiffs 90 days from the entry of the minute entry within which to
7 “join all necessary and indispensable parties” or the matter will be dismissed.

8 Plaintiffs are preparing a Petition for Special Action to the appellate courts. Plaintiffs
9 request a stay of the 90-day dismissal order until such time that the special action is considered
10 by the appropriate court.

11 Dated this 23rd day of September, 2008.

12 FAVOUR, MOORE & WILHELMSSEN, P.A.

13
14 By 
15 David K. Wilhelmsen
Marguerite Kirk

16 ORIGINAL of the foregoing Motion
17 for Stay of Proceedings on Judgment
18 Pending Special Action filed
this 23rd day of September, 2008,
with:

19 Clerk, Superior Court of Arizona
20 Yavapai County
120 S. Cortez Street
Prescott, Arizona 86302

21 COPY of the foregoing
22 hand-delivered this 23rd day
of September, 2008, to:

23 Honorable David L. Mackey
24 Division One
25 Superior Court of Arizona
Yavapai County
120 S. Cortez Street
26 Prescott, Arizona 86302

1 and COPY mailed this
2 ^{23rd} day of September,
2008, to:

3 Jeffrey Adams
4 ADAMS & MULL
5 Post Office box 1031
6 Prescott, Arizona 86302-1031
7 Attorneys for DEFENDANTS COX

8 By: 
9 David K. Wilhelmsen

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