

2008 OCT 31 PM 3: 52 ✓

JEANNE HICKS, CLERK ✓

V. Rosa

BY: _____

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8 Attorneys for Plaintiffs

9 IN THE SUPERIOR COURT OF ARIZONA
10 COUNTY OF YAVAPAI

11 **JOHN B. CUNDIFF** and **BARBARA C.)**
12 **CUNDIFF**, husband and wife; **BECKY J.)**
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 vs.

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

21 Defendants.)

No. CV 2003-0399 ✓

Division 1 ✓

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

22 Plaintiffs, through counsel undersigned, move this Court for an order staying all actions
23 relating to the court's minute entry of August 25, 2008, including the order of dismissal in 90 days.
24 This motion is supported by the following Memorandum of Points and Authorities and the entire
25 record herein.
26

RESPECTFULLY SUBMITTED this 31st day of October, 2008.

FAVOUR, MOORE & WILHELMSSEN, P.A.

By *Marguerite Kirk*

David K. Wilhelmsen
Marguerite Kirk

Post Office Box 1391
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 of 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 have filed 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 31st day of October, 2008.

12 FAVOUR, MOORE & WILHELMSSEN, P.A.

13
14 By Marguerite Kirk
15 David K. Wilhelmsen
Marguerite Kirk
16 Post Office Box 1391
Prescott, AZ 86302-1391
17 Attorneys for Petitioners

18 ORIGINAL of the foregoing Motion
19 for Stay of Proceedings on Judgment
Pending Special Action Re: Joinder
20 filed this 31st day of October, 2008,
with:

21 Clerk, Superior Court of Arizona
Yavapai County
120 S. Cortez Street
22 Prescott, Arizona 86302

23 COPY of the foregoing
24 hand-delivered this 31st day
of October, 2008, to:

25 Honorable David L. Mackey
Division One
26 Superior Court of Arizona

1 Yavapai County
120 S. Cortez Street
2 Prescott, Arizona 86302

3 and COPY mailed this
4 31st day of October,
2008, to:

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

8
9 By: Marguerite Wick
David K. Wilhelmsen

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