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BY: Ivy Rios

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

8 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**  
9 **IN AND FOR THE COUNTY OF YAVAPAI**

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

16 Plaintiffs,

17 v.

18 DONALD COX and CATHERINE COX,  
19 husband and wife, LEON H. VAUGHN and  
20 NOREEN N. VAUGHN, husband and wife;  
21 MARTHA LILLIAN CAUDILL and SANDRA  
22 GODINEZ; CURTIS D. KINCHELOE; JOHN  
23 L. HATFIELD and GENA D. HATFIELD,  
24 TRUSTEES of the BRIT- CHAR TRUST utd  
25 July 10, 2007; CINDIE. LEBASH; ROBERTA  
26 L. BALDWIN; JAMES H. STROM and  
27 DORIS L. STROM, husband and wife;  
28 MICHAEL K. DAVIS and JULIE A. DAVIS,  
husband and wife; JOY D. BASSET; JAMES  
B. DARRIN and LORRAINE DARRIN,  
TRUSTEES of the JAMES B. DARRIN  
FAMILY TRUST, utd December 14, 1998;

No. P1300CV20030399

Division 1

**ANSWER TO FIRST AMENDED  
COMPLAINT BY JOINED PROPERTY  
OWNER**

(Assigned to the Hon. David L. Mackey)

1 TRACY L. GREENLEE; FRANKLIN B.  
2 LAMBERSON and LAURA L.  
3 LAMBERSON, husband and wife; RHONDA  
4 L. FOLSOM; RICHARD A. STRISSEL and  
5 BEVERLY A. STRISSEL, husband and wife;  
6 DANIEL BAUMAN and LOUELLA  
7 BAUMAN, husband and wife; THERESA E.  
8 MASSARDI; JAMES STEPHENSON and  
9 SHIRLEY STEPHENSON, husband and wife;  
10 WEST R. RIVERS and CATHERINE S.  
11 RIVERS, husband and wife; LAWRENCE  
12 KYLE MCCARTHY and HEIDE JANE  
13 MCCARTHY, TRUSTEES of the  
14 MCCARTHY LIVING TRUST utc May 20,  
15 1981; EDWARD C. WOODWORTH and  
16 CHRISTINE WOODWORTH, husband and  
17 wife; DONALD J. KLIEN, and CHARLOTTE  
18 F. KLEIN, as TRUSTEES to the KLEIN  
19 FAMILY TRUST; JEFF and MYCHEL  
20 WESTRA, husband and wife, CHRISTINE L.  
21 BOWRA; CHARLES RICHARD COAKLEY,  
22 TRUSTEE of the CHARLES COAKLEY  
23 TRUST utd June 10, 1991; DANA E. TAPP  
24 and SHERRILYN G. TAPP, husband and wife;  
25 ELSE CLARK, TRUSTEE of the 2005 ELSE  
26 CLARK REVOCABLE TRUST utd October  
27 27, 2005; WENDY L. CHANGOSE; KARI L.  
28 DENNIS; JOHN P. HOUGH and KAREN R.  
HOUGH, husband and wife; JAMES  
BARSTAD; MICHAEL J. GLENNON and  
DIANE GLENNON, husband and wife;  
MICHAEL D. WHITE; STEVE M. WILSON  
and DEBORAH D. WILSON, husband and  
wife; WILLIAM M. GRACE and  
CATHERINE ANNETTE GRACE, husband  
and wife, OTTIS R. CLARK and DELORES  
F. CLARK, husband and wife;

1 MARK S. WILLIAMS and SOMA D.  
2 WILLIAMS, TRUSTEES of the MARK AND  
3 SOMA WILLIAMS TRUST utd October 10,  
4 2007; RICHARD A. PINNEY and PATRICIA  
5 A. PINNEY, husband and wife; GEOFFREY  
6 MOORE MCNABB and KRISTIN D.  
7 MCNABB, husband and wife; GRANT L.  
8 GRIFFITHS and PAMELA L. GRIFFITHS,  
9 husband and wife; STEVE WILSON and  
10 DEBORAH D. WILSON, husband and wife.

11 Defendants.

12 Defendants STEVE WILSON and DEBORAH D. WILSON, husband and wife, and as joined  
13 property owners in Coyote Springs Ranch, (collectively "**Joined Defendants**"), by and through  
14 undersigned counsel, hereby answer Plaintiffs' First Amended Complaint ("**Complaint**") in the  
15 above-captioned matter and admit, deny and allege as follows:

- 16 1. Joined Defendants admit the allegations contained in Paragraph 1 of the Complaint.
- 17 2. Joined Defendants assert and allege that they are owners of property located within  
18 the property described in Paragraph 1 of the Complaint.
- 19 3. Joined Defendants admit the allegations contained in Paragraphs 2 and 3 of the  
20 Complaint.
- 21 4. Joined Defendants deny the allegations contained in Paragraphs 4 through 7 of the  
22 Complaint.
- 23 5. Answering Paragraph 8 of the Complaint, Joined Defendants assert that the  
24 Declaration of Restrictions attached as EXHIBIT A to the Complaint speaks for itself but deny that  
25 the subject Declaration of Restrictions ever encumbered or now encumbers Joined Defendants' or  
26 Defendants Coxes' property or were breached by Joined Defendants or Defendants Cox in any way  
27 and therefore Joined Defendants deny the allegations or any inferences contained in Paragraph 8 of  
28 the Complaint.
6. Joined Defendants deny the allegations contained in Paragraph 9 of the Complaint.

1           7.       Answering Paragraph 10 of the Complaint, Joined Defendants admit that the subject  
2 Declaration of Restrictions were part of the public record at the time they and Defendants Cox  
3 acquired their respective properties but deny that they were on notice that the Declaration of  
4 Restrictions were applicable, enforceable or in effect at the time of their acquisition of their  
5 respective properties and further assert and allege that the subject Declaration of Restrictions were  
6 long-ago abandoned and therefore Joined Defendants deny the allegations of Paragraph 10 of the  
7 Complaint.  
8

9           8.       Answering Paragraphs 11 through 13 of the Complaint, Joined Defendants deny that  
10 they or Defendants Cox have breached any provision of the Declaration of Restrictions and further  
11 allege that because the subject Declaration of Restrictions were long-ago abandoned, the Declaration  
12 of Restrictions could no longer be breached by any property owner in the subject subdivision and  
13 therefore Joined Defendants deny the allegations of Paragraphs 11 through 13 of the Complaint.  
14

15           9.       Answering Paragraph 14 of the Complaint, Joined Defendants are without knowledge  
16 or information sufficient to form a belief as to the truthfulness of the allegations contained therein  
17 and therefore deny the same.

18           10.       Joined Defendants admit Paragraph 15 of the Complaint.

19           11.       Answering Paragraph 16 of the Complaint, Joined Defendants reallege and  
20 incorporate by reference their answers to Paragraphs 1-15 of the Complaint as if each were fully set  
21 forth herein.  
22

23           12.       Joined Defendants deny the allegations contained in Paragraphs 17 and 18 of the  
24 Complaint.  
25

26           13.       Answering Paragraph 19 of the Complaint, Joined Defendants reallege and  
27 incorporate by reference their answers to Paragraphs 1-18 of the Complaint as if each were fully set  
28 forth herein.

1           14.     Joined Defendants deny the allegations contained in Paragraphs 20 and 21 of the  
2 Complaint.

3           15.     Answering Paragraph 22 of the Complaint, Joined Defendants reallege and  
4 incorporate by reference their answers to Paragraphs 1-21 of the Complaint as if each were fully set  
5 forth herein.

6           16.     Joined Defendants deny the allegations contained in Paragraphs 23 and 24 of the  
7 Complaint.  
8

9           17.     Answering Paragraph 25 of the Complaint, Joined Defendants reallege and  
10 incorporate by reference their answers to Paragraphs 1-24 of the Complaint as if each were fully set  
11 forth herein.

12           18.     Answering Paragraph 26 of the Complaint, Joined Defendants admit that a  
13 controversy exists as to the enforceability of the subject Declaration of Restrictions and further allege  
14 and assert that the subject Declaration of Restrictions do not constitute covenants and restrictions  
15 running with the land and that they are not enforceable by any owner of the subject property.  
16

17           19.     Answering Paragraph 27 of the Complaint, Joined Defendants deny that they and  
18 Defendants Cox or their respective properties are bound by or subject to the Declaration of  
19 Restrictions and therefore deny that any obligation to comply with the same exists and therefore they  
20 deny the allegations contained therein.  
21

22           20.     Joined Defendants admit Paragraph 28 of the Complaint.

23           21.     Answering Paragraph 29 of the Complaint, Joined Defendants reallege and  
24 incorporate by reference their answers to Paragraphs 1-28 of the Complaint as if each were fully set  
25 forth herein.  
26

27           22.     Joined Defendants deny the allegations contained in Paragraph 30 of the Complaint.  
28

1 23. Joined Defendants deny each and every allegation in the Complaint not expressly  
2 admitted herein.

3 24. Defendants deny that Plaintiffs are entitled to any of the relief or remedies requested  
4 in the Complaint or to any relief or remedy of any kind whatsoever.

5 25. Defendants are entitled to an award of their reasonable attorneys' fees incurred in  
6 defending against the Complaint pursuant to A.R.S. §§ 12-341.01 and 12-349.  
7

8 **AFFIRMATIVE DEFENSES**

9 26. Joined Defendants allege Plaintiffs have failed to state a claim upon which relief can  
10 be granted.

11 27. Joined Defendants allege that the Declaration of Restrictions attached as EXHIBIT  
12 A to the Complaint have been abandoned and are no longer enforceable as against Defendants.  
13

14 28. Joined Defendants allege that the counts against them in this action are barred by the  
15 doctrines of estoppel, waiver and laches.

16 29. Joined Defendants allege the Complaint fails to allege a legitimate equitable or legal  
17 basis for imposing any liability against them in this matter.

18 30. Joined Defendants allege that the Complaint is barred because of Plaintiffs' own  
19 negligence, acts, omissions, carelessness and/or inattention.  
20

21 31. Joined Defendants allege that the Complaint is barred because the damages alleged  
22 by Plaintiffs were a direct and proximate result of acts and omissions of persons or entities other than  
23 Joined Defendants or Defendants Cox.

24 32. Joined Defendants allege that any legal obligations required of them under the law  
25 have been discharged.  
26

27 33. Joined Defendants allege for affirmative defenses release and any other matter  
28 constituting an avoidance or affirmative defense and also alleges that discovery may reveal the

1 existence of other affirmative defenses as set forth in Rules 8(c) and 12(b), Ariz. R. Civ. P., and they  
2 reserve the right to amend this Answer to allege any and all of said affirmative defenses as may be  
3 applicable.

4 WHEREFORE, having fully answered each and every Count of Plaintiffs' First Amended  
5 Complaint, Joined Defendants request Judgment in their favor and against Plaintiffs as follows:

6 A. For and Order dismissing the Complaint with prejudice and ordering that  
7 Plaintiffs take nothing thereby;

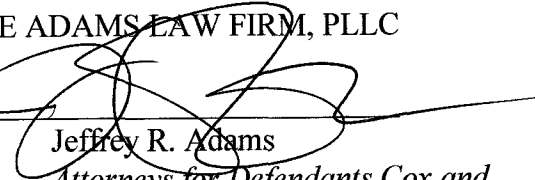
8 B. For an Order declaring that the subject Declaration of Restrictions is no longer  
9 enforceable as against any property owner in the subject subdivision;

10 C. For an Order declaring that the Defendants Cox and Joined Defendants and  
11 their respective properties are not bound or encumbered by the subject Declaration of Restrictions;

12 D. For an Order awarding Joined Defendants their reasonable attorneys' fees and  
13 costs pursuant to A.R.S. §§ 12-341.01 and 12-348 and interest thereon at the highest legal rate;

14 E. For such other and further relief as the Court deems just and necessary under  
15 the premises.

16 Dated this 11 day January, 2011.

17 THE ADAMS LAW FIRM, PLLC  
18 By   
19 Jeffrey R. Adams  
20 Attorneys for Defendants Cox and  
21 Joined Defendants  
22  
23

24 A copy of the foregoing was  
25 hand-delivered this 11 day of  
26 December, 2010, to:

27 The Honorable David L. Mackey  
28 Yavapai County Superior Court  
Division 1  
Yavapai County Courthouse

1 J. Jeffrey Coughlin #013801  
2 J. JEFFREY COUGHLIN PLLC  
3 114 South Pleasant Street  
4 Prescott, Arizona 86303  
5 928 445-7137 fax: 866 890-8989  
6 J.Coughlin@AZBar.org  
7 *Attorney for Plaintiffs*

8 And a copy mailed First Class Mail  
9 this 11 day of ~~December~~, 2010 to:

10 *Jan*  
11 Christopher D. Lonn #015166  
12 David B. Goldstein #003410  
13 HYMSON GOLDSTEIN & PANTILIAT, P.C.  
14 14646 North Kierland Blvd. #255  
15 Scottsdale, Arizona 85254  
16 480 991-9077  
17 minute@LegalCounselors.com  
18 Attorneys for Linda J. Hahn

19 Hans Clugston  
20 HANS CLUGSTON, PLLC  
21 1042 Willow Creek Road  
22 #A101-PMB 502  
23 Prescott, Arizona 86301  
24 928 772-9696  
25 HCPLCCourtDocs@straight-talk-law.us  
26 Attorney for Margaret Kozlowski  
27 & Northern Arizona Fiduciaries, Inc.

28 William H. "Bill" Jensen  
29 2428 West Coronado Avenue  
30 Flagstaff, Arizona 86001  
31 928 710-7270  
32 W@Jensen.org  
33 pro se

34 Garry & Sabra Feddema  
35 9601 Far Away Place  
36 Prescott, Arizona 86315  
37 pro se

38 William R. Stegeman  
39 Judith K. Stegeman  
40 9200 East Faraway Place  
41 Prescott Valley, Arizona 86315  
42 pro se



1 Van Tong Cong  
2 Phi Thi Nguyen  
3 8775 North Coyote Springs Road  
4 Prescott Valley, Arizona 86315  
5 pro se

6 Linda J. Hahn  
7 10367 West Mohawk Lane  
8 Peoria, Arizona 85382  
9 623 695-4594

10 David K. Wilhelmsen  
11 Marguerite Kirk  
12 Favour Moorre & Wilhelmsen, P.A.  
13 Post Office Box 1391  
14 Prescott, Arizona 86302-1391  
15 928 445-2444 fax: 928 771-0450  
16 FMWLaw@FMWLaw.net  
17 Attorneys for James Varilek

18 Karen L. Wargo  
19 Michael P. Wargo  
20 9200 East Spurr Lane  
21 Prescott Valley, Arizona 86315  
22 928 237-0847  
23 Wargo.Karen@gmail.com  
24 pro se

25  
26 Mark W. Drutz  
27 Sharon Sargent-Flack  
28 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*

