

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

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| <p>JOHN B. CUNDIFF and<br/>BARBARA C. CUNDIFF, husband<br/>and wife; BECKY NASH, a<br/>married woman dealing with her<br/>separate property; KENNETH<br/>PAGE and KATHRYN PAGE, as<br/>Trustee of the Kenneth Page and<br/>Catherine Page Trust,</p> <p align="right">Plaintiff,</p> <p align="center">-vs-</p> <p>DONALD COX and CATHERINE<br/>COX, husband and wife,</p> <p align="right">Defendant.</p> | <p><b>Case No.</b> P1300CV20030399</p> <p><b>RULING RE: REQUESTS</b></p> | <p align="center"><b>FILED</b></p> <p>DATE: <u>8/27/2010</u><br/><u>9:40</u> O'clock <u>A</u>.M.</p> <p align="center">JEANNE HICKS, CLERK ✓</p> <p>BY: <u>Karen Wilkes</u><br/>Deputy</p> |
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| <p><b>HONORABLE DAVID L. MACKEY</b></p> <p><b>DIVISION 1</b></p> | <p><b>BY:</b> Cheryl Wagster<br/>Judicial Assistant</p> <p><b>DATE:</b> August 25, 2010</p> |
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The Court has considered the Plaintiffs' Request For Expedited Status Conference And Determination That Plaintiffs Have Taken Substantial Steps To Join All Necessary And Indispensable Parties. The Court also has reviewed the file. On May 6, 2010, the Court ruled that the case will be dismissed unless the Plaintiffs take substantial steps to join all necessary and indispensable parties within the next one hundred twenty (120) days. The Court also notes that the Plaintiffs could not proceed to begin serving additional parties until the wording of the Notice was resolved. The Court is aware that the June 15, 2010 Ruling was not distributed to the parties until mid-July. Therefore, the Court will not penalize the Plaintiffs for the delay between the Court's May 6, 2010 Under Advisement Ruling and July 14, 2010. The Court finds that it is appropriate to exclude the time between the Court's May 6, 2010 Under Advisement Ruling and July 14, 2010 from the one hundred and twenty (120) day time frame set by the Court.

**IT IS ORDERED** the time between the Court's May 6, 2010 Under Advisement Ruling and July 14, 2010 is excluded from the one hundred and twenty (120) day time frame set by the Court.

Next, the Court notes that the Plaintiffs have taken a great deal of action to comply with the Court's May 6, 2010 Under Advisement Ruling, including filing an Excel spreadsheet of parcel numbers in paper and electronic form, securing the issuance of Summons, avowing that they have mailed a packet with an Acceptance of Service to all property owners and filing over 80 Acceptances of Service for the 269 parcels. Therefore, the Court notes that the Plaintiffs have taken steps to join additional parties as Ordered. However, the Court declines to find that the Plaintiffs have taken substantial steps to join all

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necessary and indispensable parties at this time as there are still steps to be taken. The Plaintiffs can proceed to the next step of attempting to serve parties who have not returned the tendered Acceptance of Service by the alternative method previously authorized. The Plaintiffs also may proceed with default procedures as they believe may be appropriate.

Given the steps Plaintiffs have taken and the steps Plaintiffs still need to take, the Court does not anticipate making a *sua sponte* decision that Plaintiffs have or have not taken substantial steps. The Court will only proceed to make such a finding after the time frame has passed and the current Plaintiffs and Defendants have an opportunity to brief the issue for the Court.

If the Plaintiffs have specific issues that they wish to address and proposals for solutions to those issues, they should set forth those issues and proposed solutions in writing. Only then can those issues be fully considered and briefed by the other parties. The Court declines to set a status conference to discuss matters without limitation and without the ability of all the parties as well as the Court to analyze the issues in advance.

**IT IS ORDERED** the Plaintiffs' Request For Expedited Status Conference is **DENIED**.

The Court has considered the Request For Clarification Re: Court's Notice Filed June 17, 2010. The Court is not able to render an advisory opinion to Counsel for the property owner James Varilek.

**IT IS ORDERED** the Request For Clarification Re: Court's Notice Filed June 17, 2010 on behalf of the property owner James Varilek is **DENIED**.

cc: (e) J. Jeffrey Coughlin – 114 S. Pleasant Street, Prescott, AZ 86303  
(e) Jeffrey Adams – Adams & Mull, P.O. Box 1031, Prescott, AZ 86302