

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

FILED
DATE: July 21, 2004
5:00 O'Clock P. M.
JEANNE HICKS, CLERK
BY: Diane Riley
Deputy

DIVISION 1

JEANNE HICKS, CLERK

HON. DAVID L. MACKEY

BY: Diane Riley, Deputy Clerk

CASE NO. CV 2003 0399

DATE: July 20, 2004

TITLE:

COUNSEL:

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

David Wilhelmsen/Marguerite Kirk
Favour, Moore & Wilhelmsen

(Plaintiffs)

(For Plaintiffs)

vs

DONALD COX AND CATHERINE COX,
husband and wife,

Mark Drutz/Jeffrey Adams
Musgrove Drutz & Kack

(Defendants)

(For Defendant)

HEARING ON:

NATURE OF PROCEEDINGS

COURT REPORTER

ORAL ARGUMENT ON MOTION TO DISQUALIFY

LISA EDGAR ✓

APPEARANCES: David Wilhelmsen, Counsel for Plaintiff
Marguerite Kirk, Counsel for Plaintiff
Mark Drutz, Counsel for Defendant
Jeffrey Adams, Counsel for Defendant

The Court notes it has reviewed the motion and the response in this matter.

Counsel Wilhelmsen presents argument on the motion.

Counsel Drutz presents argument on Plaintiff's motion.

Counsel Wilhelmsen presents rebuttal comments.

The Court declines the offer of an in camera review of the file by Counsel Drutz.

The Court finds there is a good faith dispute with respect to the resolution of this matter and any further complaints can be filed through the Arizona Bar Association and the Courts.

The Court does not find that there is a prior relationship which would constitute a conflict. If there was confidential information, the firm of Musgrove, Drutz and Kack could not use that information.

There is a remedy before the State Bar and State Courts if prior confidences are revealed.

IT IS ORDERED DENYING the Motion to Disqualify Defendants' Counsel and the Motion for Protective Order is **denied**.

The Defense motion for sanctions including attorneys fees is **denied**.

The Court notes there is a Pretrial Conference set for August 16, 2004 and inquires of Counsel regarding this hearing.

Counsel Wilhelmsen says discovery will now proceed and the date is acceptable.

Counsel Drutz requests the Court continue the Pretrial Conference for sixty days to allow time for the parties to consider a settlement conference and to allow additional time for discovery issues.

IT IS ORDERED granting the request for a sixty-day continuance of the Pretrial Conference. The hearing will be set by further minute entry.

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***THEREAFTER***

**IT IS ORDERED continuing the Pretrial Conference to Monday, October 18, 2004, at 11:30 a.m. with one half hour allotted.**

Counsel shall submit a Joint Pretrial memorandum ten (10) days prior to the Pretrial Conference.