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SUPERIOR COURT
YAVAPAI COUNTY, ARIZONA

2005 JUL 22 PM 4: 25 ✓

JEANNE HICKS CLERK

BY: 

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4 Attorneys for Plaintiffs

5 **IN THE SUPERIOR COURT OF ARIZONA**
6 **COUNTY OF YAVAPAI**
7

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

12 Plaintiffs,

13 vs.

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

16 Defendants.)

Case No. CV 2003-0399

Division 1

**PLAINTIFFS' PROPOSED
FORM OF VERDICT
RE: ADVISORY JURY**

17 Plaintiffs, John and Barbara Cundiff, Becky Nash, and, Kenneth and Kathryn Page, hereby
18 submit the following proposed form of verdict for the advisory jury in this case.

19 The Arizona court of appeals, in a case involving the enforcement of restrictive covenants, has
20 held that the grant or denial of injunctive relief "rests within the sound discretion of the trial court,"
21 as does a claim for attorney's fees. *Ahwatukee Custom Estates Management Assoc. Inc. v. Turner*, 196
22 *Ariz. 631, 634, 2 P.3d 1276, 1279 (App. Div. 1 2000)*. Consequently, where equitable remedies are
23 sought, it is for the Court "to structure the remedy so as to promote equity between the parties." *Id.*
24 *at 635, 2 P.3d 1280.*

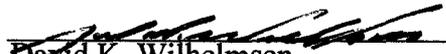
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DATED this 22nd day of July, 2005.

FAVOUR MOORE & WILHELMSSEN, P.A.

By: 
David K. Wilhelmsen
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Attorneys for Plaintiffs

Original of the foregoing filed
this 22nd day of July, 2005 with:

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

A copy of the foregoing
hand-delivered this 22nd
day of July, 2005, to:

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

and, a copy mailed this
22nd day of July, 2005, to:

Mark Drutz
Jeffrey Adams
MUSGROVE, DRUTZ & KACK, P.C.
1135 Iron Springs Road
Prescott, Arizona 86302
Attorneys for Defendants Cox

By: 
David K. Wilhelmsen