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JEANNE HICKS, CLERK

BY: 

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

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)**
12 **PAGE, as Trustee of the Kenneth Page and)**
13 **Kathryn Page Trust,)**

12 Plaintiffs,

13 vs.

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

15 Defendants.)

Case No. CV 2003-0399

Division 1

**PLAINTIFFS' REQUESTED
VOIR DIRE**

16
17 Plaintiffs, John and Barbara Cundiff, Becky Nash, and, Kenneth and Kathryn Page, hereby
18 submit the following as proposed *voir dire* for the trial scheduled for August 2, 2005:

- 19 1. Has anyone been involved in the nursery business or the business of raising trees or
- 20 plants for sale?
- 21 2. Has anyone been involved as an owner or principal manager of a business?
- 22 3. If you have been involved in a business as an owner or a principal manager, did you
- 23 conduct any portion of your business from your home?
- 24 4. Has anyone worked exclusively from the home?
- 25 5. Has anyone maintained an office in the home from which a portion of the normal work
- 26 activity has been conducted?
6. Does anyone currently reside, or has anyone previously lived, in the Coyote Springs

DM

- 1 area?
- 2 7. Does anyone on the panel have a family member, friend or acquaintance who lives in
- 3 the Coyote Springs area?
- 4 8. Has anyone been involved in a dispute over restrictive covenants either in court or out
- 5 of court?
- 6 9. Does anyone feel it is unreasonable for a person who owns property to have to conform
- 7 his or her conduct to restrictive covenants that apply to land?
- 8 10. How many people have purchased residential real property? Was the property you
- 9 purchased subject to restrictive covenants? How were you made aware of the
- 10 restrictive covenants when you purchased the property?
- 11 11. How many people have purchased commercial or industrial real property?
- 12 12. Is there anyone on the panel who is unaware of what restrictive covenants or deed
- 13 restrictions are?
- 14 13. Is there anyone on the panel who has had a dispute with a neighbor concerning your
- 15 activities or your neighbor's activities on the property?
- 16 14. Is there anyone on the panel who has had a dispute with a person or business over a
- 17 contract?
- 18 15. Is there anyone on the panel who does not know what a real estate sales agreement is?
- 19 16. Is there anyone on the panel who does not know what an escrow officer does in
- 20 connection with a sale?
- 21 17. How many people on the panel have consulted with an attorney or legal advisor?
- 22 18. Is there anyone on the panel who does not know what a contract is?
- 23 19. Is there anyone on the panel who believes a person does not have to live up to the
- 24 promises they have made in a contract?
- 25 20. Is there anyone on the panel who feels they would be unwilling to enforce restrictive
- 26 covenants if they are found to be valid and enforceable?

- 1 21. Is there anyone on the panel who has been involved in a dispute over the meaning of
2 a contract whether in court or out of court?
- 3 22. Is there anyone on the panel who feels they would be unable to require a party to abide
4 by restrictive covenants if they were sympathetic toward that party?
- 5 23. Is there anyone on the panel who has heard of this case either through the media or
6 conversation? If you have heard about this case, have you formed an opinion as to
7 whether either party is right or wrong?
- 8 24. Is there anyone on the panel who has patronized Prescott Valley Growers or Prescott
9 Valley Nursery?
- 10 25. Is there anyone on the panel who is or has been employed by Prescott Valley Growers
11 or Prescott Valley Nursery?
- 12 26. Is there any on the panel who knows of, or is related to, anyone who currently or
13 previously worked for Prescott Valley Growers or Prescott Valley Nursery?
- 14 27. Is there anyone on the panel who believes restrictive covenants have a negative impact
15 on the value of the land subject to the restrictions?
- 16 28. Is there anyone on the panel who believes restrictive covenants enhance or have a
17 positive impact on the value of the land subject to the restrictions?
- 18 29. Is there anyone on the panel who believes an owner of land should be entitled to use
19 his property however he sees fit regardless of what the zoning code or restrictive
20 covenants may provide?


21 Plaintiffs reserve the right to augment or amplify these *voir dire* questions with any additional
22 questions which would be reasonable in light of the response or responses made by the prospective
23 jurors.

24 Plaintiffs reserve the right to augment or amplify these *voir dire* questions with any questions
25 posed by the court or counsel for defendants or any additional questions which would be reasonable
26 in light of the response(s) made by the prospective jurors.

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DATED this 22nd day of July, 2005.

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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
120 S. Cortez Street
Prescott, Arizona 86302

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

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