

FILED  
SUPREME COURT  
STATE OF WASHINGTON  
10/22/2019 8:00 AM  
BY SUSAN L. CARLSON  
CLERK

No. 97724-1

---

SUPREME COURT OF THE STATE OF WASHINGTON

---

PATRICIA LANDES,  
Petitioner,

v.

PATRICK CUZDEY,  
Respondent.

---

RESPONSE TO MOTION TO DISQUALIFY  
ATTORNEY DREW MAZZEO

---

By:

Drew Mazzeo  
Bauer Pitman Snyder Huff Lifetime Legal, PLLC  
1235 4th Ave E #200  
Olympia, WA 98506  
(360) 754-1976  
[dpm@lifetime.legal](mailto:dpm@lifetime.legal)

Attorney for Petitioner

## **1. IDENTITY OF RESPONDING PARTY**

Petitioner, Patricia Landes (“Mrs. Landes”), responds to Respondent (“Mr. Cuzdey’s”) Motion to Disqualify Attorney Drew Mazzeo.

## **2. STATEMENT OF RELIEF SOUGHT**

Mrs. Landes requests the motion be denied.

## **3. FACTS RELEVANT TO MOTION**

3.1. In January of 2018, attorney Mary Ann Strickler was the third or fourth attorney to withdraw as counsel for Mr. Cuzdey in as many years (regarding these matters related to Mrs. Landes’ real property). (Att. 1, Notice of Intent to Withdraw).

3.2. In February of 2018, Mr. Cuzdey brought a motion to disqualify undersigned counsel on the basis of an alleged conflict of interest, allegedly regarding Mr. Cuzdey’s son, and Thurston County Superior Court denied such motion. (Att. 2, Court Minutes from February 16, 2018).

3.3. In August of 2019, after the Court of Appeals, Division 2, issued its unpublished decision (for which Mrs. Landes is seeking review), Mr. Cuzdey’s (fourth or fifth) attorney, Mr. Cushman, accused undersigned counsel of yet another baseless conflict of interest. (Att. 3, Emails Between Counsel).

3.4. On October 21, 2019<sup>1</sup>, Mr. Cuzdey moved to disqualify undersigned counsel based on conjecture, speculation, and an alleged conflict of interest via a combination of RPC 1.9 (duties to former clients), RPC 1.10 (imputation of conflicts of interest), and RPC 1.17 (sale of law practice). (Mr. Cuzdey's Motion to Disqualify).

#### **4. GROUNDS FOR RELIEF**

RPC 1.7 provides that an attorney will not take on a new client if that representation would create a conflict of interest with a current client. RPC 1.9 provides that an attorney will not take on a new client if that representation would create a conflict of interest with a prior client. RPC 1.10 provides that an attorney will not take on a new client if that representation would create a conflict of interest with other attorneys' clients' in his law firm.

RPC 1.17 provides in pertinent part the following:

A lawyer or a law firm may sell or purchase a law practice, or an area of law practice, including good will, if the following conditions are satisfied:

(a) [Reserved.]

(b) The entire practice, or the entire area of practice, is sold to one or more lawyers or law firms; (c) The seller gives written notice to each of the seller's clients regarding:

(1) the proposed sale;

(2) the client's right to retain another legal practitioner or to take possession of the file; and

(3) the fact that the client's consent to the transfer of the

---

<sup>1</sup> Undersigned Counsel's birthday.

client's files will be presumed if the client does not take any action or does not otherwise object within ninety (90) days of receipt of the notice.

\*\*\*\*

[Comment 6:] The Rule requires that the seller's entire practice, or an entire area of practice, be sold. The prohibition against sale of less than an entire practice area protects those clients whose matters are less lucrative and who might find it difficult to secure another legal practitioner if a sale could be limited to substantial fee-generating matters. The purchasers are required to undertake all client matters in the practice or practice area, *subject to client consent. This requirement is satisfied, however, even if a purchaser is unable to undertake a particular client matter because of a conflict of interest.* See also Washington Comment [17].

\*\*\*\*

[Comment 16:] *If, at the time the notice under paragraph (c) is given, the buyer or seller knows of a conflict that would preclude the buyer from representing a client of the seller, . . . the notice described in paragraph (c)(3) cannot be given because there can be no presumption that the client's file will be transferred to the buyer.*

(emphasis added).

Stated simply, RPC 1.7, RPC 1.9, and RPC 1.10 all provide that an attorney's foremost duties are to his current, prior, and imputed (firm) clients. RPC 1.17 is in accord. It places duties on a seller of a law practice to provide certain notices to clients when selling his or her firm. To ensure that RPC 1.17 does not conflict with RPC 1.7, RPC 1.9, and RPC 1.10—RPC 1.17 expressly states that purchasers cannot “undertake a particular

client matter because of a conflict of interest.” See RPC 1.7, RPC 1.9, and RPC 1.10; RPC 1.17; RPC 1.17 Comment 6; RPC 1.17 Comment 16.

Notably, and as a matter of common sense, purchasers under RPC 1.17, by its plain language, have no obligation regarding notices to seller’s clients. RPC 1.17(b). Rather, a purchaser’s obligation is to his own clients; that is, a purchaser cannot take on clients or matters that are conflicts of interest with his or her clients, current, prior, or imputed. See RPC 1.7; RPC 1.9; RPC 1.10; RPC 1.17; RPC 1.17 Comment 6; RPC 1.17 Comment 16. Any rule, or interpretation otherwise of RPC 1.17 and its comments, would either mandate purchasers create conflicts of interest *by mandating they take on all of a seller’s clients regardless of existing conflicts*, or, alternatively, would wreak havoc in small communities by making it a practical impossibility to sell a law practice.

Here, undersigned counsel has always respected his duties to his client, Mrs. Landes, under RPC 1.7, RPC 1.9, RPC 1.10, and/or RPC 1.17.<sup>2</sup> He avoids creating conflicts of interest with her. One way he does so is by never representing Mr. Cuzdey, nor even considering it.

---

<sup>2</sup> Outside of his comments about Mrs. Landes’ representation, and his non-representation of Mr. Cuzdey, which are matters of record in this case, undersigned counsel expressly makes no comments and reveals nothing as to who he does or does not represent or whether or not he has or has not purchased anything. All such matters are subject to attorney-client privilege. Undersigned counsel merely corrects Mr. Cuzdey’s misinterpretation of RPC’s in this Response.


Moreover, undersigned counsel has never spoken with Mr. Cuzdey, and he has never had Mr. Cuzdey as a client, imputed or otherwise. He does not know anything more about Mr. Cuzdey than he has learned in court filings. Mary Ann Strickler, to undersigned counsel's knowledge, has maintained her professional duties to her prior client, Mr. Cuzdey, as well as all of her former/current clients.

Last, undersigned counsel does not have Mr. Cuzdey's client file, nor could he because he never took Mr. Cuzdey on as a client—neither expressly nor by imputation—because he could not ethically. *See* RPC 1.7; RPC 1.9; RPC 1.10; 1.17; RPC 1.17 Comment 6; RPC 1.17 Comment 16.

## **5. CONCLUSION**

There is no conflict of interest present in this case. Mr. Cuzdey torchers RPC 1.17 with a blatant misreading/omission of relevant portions, via this frivolous motion, in an attempt to manufacture a way to remove undersigned counsel from this case. Undersigned counsel takes the (desperate) desire and tactic to remove him as counsel for Mrs. Landes as compliment. Regardless, this Court should deny Mr. Cuzdey's motion.

Respectfully submitted this 22 day of October, 2019,

  
\_\_\_\_\_  
Drew Mazzeo WSBA No. 46506  
Attorney for Respondent

# **ATTACHMENT 1**

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

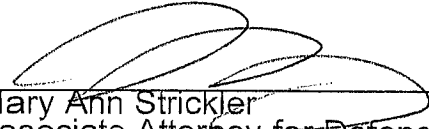
IN THE SUPERIOR COURT OF WASHINGTON FOR THURSTON COUNTY  
PATRICIA LANDES,  
Plaintiff,  
vs.  
PATRICK CUZDEY, et al.,  
Defendants.  
No. 17-2-05765-34  
NOTICE OF INTENT TO  
WITHDRAW

TO: THE CLERK OF THE ABOVE-ENTITLED COURT  
AND TO: OPPOSING PARTY AND COUNSEL

PLEASE TAKE NOTICE that Mary Ann Strickler, associate attorney of record for defendant intends to withdraw as associate counsel for defendant Patrick Cuzdey, effective immediately. Ms. Strickler may withdraw without order of the court unless an objection to the withdrawal is served upon her prior to the date set forth above. The matter is not set for trial.

Jon E. Cushman, Cushman Law Offices, PS, 924 Capitol Way South, Olympia, WA 98501, remains as counsel herein.

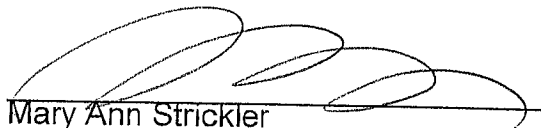
Dated: January 16, 2018.

  
Mary Ann Strickler  
Associate Attorney for Defendant  
WSBA No. 25294



1  
2 I declare under penalty of perjury under the laws of the State of Washington  
3 that on January 16 2018, I personally mailed a copy of this notice by certified mail,  
4 return receipt requested, to my client, and copies to all other parties by regular first  
5 class mail, postage prepaid.

6  
7 Dated: January 16, 2018, at Tumwater, Washington.  
8

9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
  
Mary Ann Strickler

# **ATTACHMENT 2**



# THURSTON COUNTY SUPERIOR COURT

Friday, February 16, 2018, 10:00 a.m.

Unlawful Detainer Calendar

Court Commissioner Rebekah Zinn

Dawn M. Nastansky, Deputy Clerk

Hearing Recorded

## Underlined Parties Present at Hearing

---

1. 17-2-05765-34

LANDES, PATRICIA

vs.

CUZDEY, PATRICK

MAZZEO, ANDREW PETERSON

HOCHHALTER, KEVIN

**Unlawful Detainer**

**Motion to Disqualify Counsel**

---

Mr. Hochhalter and Mr. Mazzeo presented argument to the Court.

Ruling: Court denied the Motion to Disqualify Counsel.

Court directed Mr. Mazzeo prepare an order, based upon the Court's ruling.

# **ATTACHMENT 3**

## Drew P Mazzeo

---

**From:** Drew P Mazzeo  
**Sent:** Thursday, August 29, 2019 4:13 PM  
**To:** Jon Cushman  
**Cc:** 'Kevin Hochhalter'; Stacia Smith  
**Subject:** RE: COA opinion

Hey Jon,

See my responses in **RED**.

We categorically reject your mischaracterization of the meaning of the COA opinion.

If Mr. Cuzdey is still asserting that he was a tenant-at-will, i.e., guest, on Mrs. Landes' real property, he has no legal basis to come back onto Mrs. Landes' real property now. A tenant at will, i.e., guest, once off another's property—has no legal basis to lawfully return. The Court of Appeals decision did not decide whether he was or was not a tenant at will or whether or not he was a month to month tenant on Mrs. Landes' real property.

On the other hand, if Mr. Cuzdey agrees with Mrs. Landes and is now admitting that he was a month to month tenant on Mrs. Landes' real property only, per the rental agreement the court of appeals just issued an opinion regarding, then of course Mrs. Landes cannot bar him from the real property without a valid court order/writ because Mr. Cuzdey has, as Mrs. Landes has always asserted, a month to month rental agreement allowing him on the real property. In other words, to be clear, if Mr. Cuzdey comes onto Mrs. Landes' real property because the writ has been reversed—the only way he can legally do so without trespassing—is because he concedes/admits that he entered into the month-to-month rental agreement regarding the real property in January of 2016.

The writ was reversed. He did not leave. He was improperly ejected. He was at lunch when the deputy arrived one day early and posted the premises. His ejection was wrongful, and he is presently entitled to possession. In order to avoid any confusion, and surprise, Patrick intends to re-take possession this Saturday, August 31. Please advise your client of this.

The order at summary judgment was reversed and remanded I agree. Mr. Cuzdey still has no legal claim to come on the property unless he is asserting he entered into a month to month tenancy in January of 2016. See above.

Patrick will immediately inventory his personal property and the condition of same, including his mobile home. In that regard, your client is liable for Cuzdey's loss of occupancy and all loss and damage to his personal property including but not limited to your client's actions limiting Cuzdey's right to possession of his tools and belongings for a term now over 530 days.

You were previously informed that there was a conflict due to Jake seeking legal assistance from your partner.

Mr. Cuzdey brought a motion before the trial court on this issue years ago now, and the court found the assertion of a conflict baseless and denied the motion to remove me as counsel. No appeal was taken.

# THURSTON COUNTY SUPERIOR COURT

Friday, February 16, 2018, 10:00 a.m.  
Unlawful Detainer Calendar

Court Commissioner Rebekah Zinn  
Dawn M. Nastansky, Deputy Clerk  
Hearing Recorded

## Underlined Parties Present at Hearing

---

1. 17-2-05765-34

LANDES, PATRICIA

vs.

CUZDEY, PATRICK

Unlawful Detainer

Motion to Disqualify Counsel

MAZZEO, ANDREW PETERSON

HOCHHALTER, KEVIN

---

Mr. Hochhalter and Mr. Mazzeo presented argument to the Court.

Ruling: Court denied the Motion to Disqualify Counsel.

Court directed Mr. Mazzeo prepare an order, based upon the Court's ruling.

But now an even greater grounds for a conflict exist. You have purchased Mary Ann Strickler's practice. Patrick was a client of Mary Ann's, so now he is a former client of yours on this same matter.

My firm purchased assets and good will from Mary Ann. I have never been Mr. Cuzdey's attorney, he has never asked me to be, and I have never offered to be. I have never spoken with him.

Finally, Patrick's former wife has died. She is a party to the superior court matter. As it appears from the court records you have represented her as a party here and I believe you should have informed us of that death. We understand she died intestate and hence her heirs will inherit. Jake is her son, and on the instant of her death he inherited. As a majority of his siblings would agree Jake intends to intervene in his own name, as the heir to his mother's interests in these lawsuits, and as such you face a new conflict.

I have never represented Mr. Wallen, Patricks former wife. Nor did my old boss, Mr. Taylor. Nothing in the court record indicates otherwise because I have never represented her nor did my former boss. For example, here is the answer to Mr. Cuzdey's second amended complaint, and it says the same thing as to representation as the previous two:

**FILED**

MAY 21 2015

Superior Court  
Linda Myhre Enlow  
Thurston County Clerk

Expedite  
 No Hearing Set  
 Hearing is Set  
Date:  
Time:  
Judge/Calendar: Gary Tabor

**IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR THURSTON COUNTY**

PATRICK CUZDEY, an unmarried  
person,

Plaintiff,

vs.

PATRICIA LANDES, a widow; THE  
ESTATE OF BENNY J. LANDES,  
deceased; KARLA WALLEN, an  
unmarried person, and all other persons  
claiming any right, title or interest, etc.,

Defendants.

NO. 14-2-01483-7

SECOND AMENDED ANSWER AND  
AFFIRMATIVE DEFENSES OF  
DEFENDANT PATRICIA L. LANDES

COMES NOW, Defendant, Patricia L. Landes, by through her undersigned  
counsel of record, and in answer to Plaintiff's Second Amended Complaint admits,  
denies, and alleges as follows:

**I. ANSWERS**

\*\*\*

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15

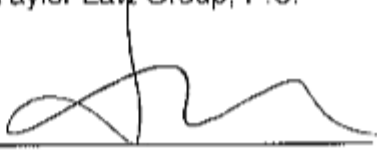
WHEREFORE, this Defendant prays for relief as follows:

3.1 That the Second Amended Complaint be dismissed with prejudice and that Plaintiff take nothing thereby;

3.2 That this Defendant be awarded judgment against Plaintiff for costs and reasonable attorney's fees; and

3.3 For such other and further relief as this Court deems just and equitable.

DATED this 21 day of May, 2015.

Taylor Law Group, P.S.  
  
Drew Mazzeo WSBA # 46506  
Attorneys for Defendant Patricia Landes

You must immediately withdraw.

No, your attempt to prejudice Mrs. Landes by somehow making up reasons to get me off this case will not work and are unappreciated.

Please inform your clients that Patrick fully intends to pursue every legal remedy afforded to him on these matters and their decisions moving forward will greatly dictate just how extensive that is.

We will pursue every legal remedy as well. I will represent Mrs. Landes for free if that is what this takes. She has already exhausted her limited retirement on this case and appeal. I take my ethical duties to protect her interests seriously. She is elderly and I will not allow her to be subjected to frivolous complaints and threats, regardless of payment. We are filing a petition for review of the court of appeals decision and moving to stay this decision.

If they wish to mitigate their liabilities moving forward Patrick will accept a deed to the subject property free and clear of all encumbrances in partial satisfaction of the claims that he has for his losses occasioned by his wrongful eviction and as a good faith gesture.

Mr. Cuzdey will never take or own Mrs. Landes' real property.

There is no end in sight to the options available for my client to pursue this, but my clients are willing to meet with Landes and her new counsel to see if there is a way to end this matter now before further damage to both parties continue.

I will defend Mrs. Landes zealously at every turn. If Mr. Cuzdey's settlement offer includes any "damages" it will be rejected.



Please inform Patricia Landes of this proposal for a meeting between the parties.

There will be no meeting of the parties. As she has made known and stated on the record numerous times, she is literally afraid of Mr. Cuzdey. Meeting is inappropriate. You can relay any settlement offers to me directly.

Best, and appreciate your time,

Drew

Drew Mazzeo  
Attorney at Law  
Bauer Pitman Snyder Huff Lifetime Legal, PLLC  
1235 4<sup>th</sup> Avenue East, Suite 200  
Olympia, WA 98506  
Phone: (360) 754-1976  
Fax: (360) 943-4427

This message is confidential and may be protected by the attorney-client privilege; it is intended solely for the use of the individual named above. Any waiver of attorney client privilege or work product doctrine is expressly limited to the contents of this email and no other waiver is occurring. If you are not the intended recipient, you are hereby advised that any dissemination, distribution, or copying of this communication is strictly prohibited. If you have received this e-mail in error, please immediately notify the sender by telephone or e-mail, delete this message from your files, and return any printed copies to the sender by U.S. mail.

---

**From:** Jon Cushman <joncushman@cushmanlaw.com>  
**Sent:** Wednesday, August 28, 2019 3:57 PM  
**To:** Drew P Mazzeo <DPM@lifetime.legal>  
**Cc:** 'Kevin Hochhalter' <kevin@olympicappeals.com>  
**Subject:** COA opinion

Drew:

We categorically reject your mischaracterization of the meaning of the COA opinion.

The writ was reversed. He did not leave. He was improperly ejected. He was at lunch when the deputy arrived one day early and posted the premises. His ejection was wrongful, and he is presently entitled to possession. In order to avoid any confusion, and surprise, Patrick intends to re-take possession this Saturday, August 31. Please advise your client of this.

Patrick will immediately inventory his personal property and the condition of same, including his mobile home. In that regard, your client is liable for Cuzdey's loss of occupancy and all loss and damage to his personal property including but not limited to your client's actions limiting Cuzdey's right to possession of his tools and belongings for a term now over 530 days.

You were previously informed that there was a conflict due to Jake seeking legal assistance from your partner.

But now an even greater grounds for a conflict exist. You have purchased Mary Ann Strickler's practice. Patrick was a client of Mary Ann's, so now he is a former client of yours on this same matter.

Finally, Patrick's former wife has died. She is a party to the superior court matter. As it appears from the court records you have represented her as a party here and I believe you should have informed us of that death. We understand she died intestate and hence her heirs will inherit. Jake is her son, and on the instant of her death he inherited. As a majority of his siblings would agree Jake intends to intervene in his own name, as the heir to his mother's interests in these lawsuits, and as such you face a new conflict.

You must immediately withdraw.

Please inform your clients that Patrick fully intends to pursue every legal remedy afforded to him on these matters and their decisions moving forward will greatly dictate just how extensive that is.

If they wish to mitigate their liabilities moving forward Patrick will accept a deed to the subject property free and clear of all encumbrances in partial satisfaction of the claims that he has for his losses occasioned by his wrongful eviction and as a good faith gesture.

There is no end in sight to the options available for my client to pursue this, but my clients are willing to meet with Landes and her new counsel to see if there is a way to end this matter now before further damage to both parties continue.

Please inform Patricia Landes of this proposal for a meeting between the parties.

**LIFETIME LEGAL, PLLC**

**October 22, 2019 - 12:19 AM**

**Transmittal Information**

**Filed with Court:** Supreme Court  
**Appellate Court Case Number:** 97724-1  
**Appellate Court Case Title:** Patricia Landes v. Patrick Cuzdey, and Any Other Residents  
**Superior Court Case Number:** 17-2-05765-4

**The following documents have been uploaded:**

- 977241\_Answer\_Reply\_20191022001404SC557096\_4646.pdf  
This File Contains:  
Answer/Reply - Answer to Motion  
*The Original File Name was LANDES PATRICIA supreme court response to motion to disqualify FINAL to be FILED.pdf*

**A copy of the uploaded files will be sent to:**

- elisabethc@cushmanlaw.com
- joncushman@cushmanlaw.com
- kevin@olympicappeals.com
- sierra@olympicappeals.com

**Comments:**

---

Sender Name: Andrew Mazzeo - Email: dpm@lifetime.legal  
Address:  
1235 4TH AVE E STE 200  
OLYMPIA, WA, 98506-4278  
Phone: 360-754-1976

**Note: The Filing Id is 20191022001404SC557096**