

**Supreme Court
of the State of Washington**

Patricia Landes,
Petitioner,

v.

Patrick Cuzdey,
Respondent.

No. 97724-1

COA No. 51841-4-II

**Motion to Strike Declaration of
Drew Mazzeo**

1. Identity of Moving Party

Respondent, Patrick Cuzdey, asks for the relief designated in Part 2.

2. Statement of Relief Sought

Strike the “Declaration of Attorney Drew Mazzeo,” filed October 28, 2019.

3. Facts Relevant to Motion

Cuzdey filed his “Motion to Disqualify Attorney Drew Mazzeo” on October 21. Landes filed a response on October 22. The same day, this Court acknowledged receipt of both the motion and the response, indicating that any reply should be filed by October 25.

Cuzdey filed his Reply on October 25. Landes then filed a “Declaration of Attorney Drew Mazzeo” on October 28. Paragraph 1 of the Declaration attests to the facts stated in Landes’ response to the motion. The remainder of the Declaration presents arguments in response to Cuzdey’s Reply.

4. Grounds for Relief

When a party files a motion in the appellate court, a non-moving party is permitted to submit a written answer to the motion. RAP 17.4(e). The moving party is then permitted to submit a written reply to the answer. RAP 17.4(e). Nothing in the rule permits any other papers to be filed after the reply. RAP 17.4(e). “Affidavits and other papers submitted in support of an answer or reply [to a motion] **must be served and filed with the answer or reply.**” RAP 17.4(f) (emphasis added).

Under these rules, the Declaration of Attorney Drew Mazzeo is entirely improper. It was not filed with the answer, as required. It is an impermissible attempt to get in the last word on Cuzdey’s motion. The rules give Cuzdey the last word. Anything filed after the reply is improper and should be stricken.

5. Conclusion

This Court should strike the Declaration of Attorney Drew Mazzeo, filed October 28, 2019.

DATED this 31st day of October, 2019.

/s/ Kevin Hochhalter
Kevin Hochhalter, WSBA #43124
Attorney for Appellant
kevin@olympicappeals.com
Olympic Appeals PLLC
4570 Avery Ln SE #C-217
Lacey, WA 98503
360-763-8008

Certificate of Service

I certify, under penalty of perjury under the laws of the State of Washington, that on October 31, 2019, I caused the foregoing document to be filed with the Court and served on counsel listed below by way of the Washington State Appellate Courts' Portal.

Drew P. Mazzeo
Bauer, Pitman, Snyder, Huff
Lifetime Legal, PLLC
1235 Fourth Avenue East Suite 200
Olympia WA 98506
dpm@lifetime.legal
stacias@lifetime.legal

DATED this 31st day of October, 2019.

/s/ Kevin Hochhalter
Kevin Hochhalter, WSBA #43124
Attorney for Appellant
kevin@olympicappeals.com
Olympic Appeals PLLC
4570 Avery Ln SE #C-217
Lacey, WA 98503
360-763-8008

OLYMPIC APPEALS PLLC

October 31, 2019 - 9:35 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_Motion_20191031093356SC555673_6925.pdf
This File Contains:
Motion 1 - Strike
The Original File Name was Mtn to Strike Mazzeo Dec 2019-10-31.pdf

A copy of the uploaded files will be sent to:

- dpm@lifetime.legal
- elisabethc@cushmanlaw.com
- joncushman@cushmanlaw.com
- stacias@lifetime.legal

Comments:

Sender Name: Kevin Hochhalter - Email: kevin@olympicappeals.com
Address:
4570 AVERY LN SE STE C-217
LACEY, WA, 98503-5608
Phone: 360-763-8008

Note: The Filing Id is 20191031093356SC555673