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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
FOR THE COUNTY OF KING

LANE POWELL, PC, an Oregon  
professional corporation,

Plaintiff,

v.

MARK DECOURSEY and CAROL  
DECOURSEY

Defendants

No. 11-2-34596-3 SEA

**MOTION TO RECONSIDER  
ORDER FILED JULY 6, 2012  
STRIKING DECOURSEYS'  
CLAIMS AND DEFENSES AND  
GRANTING SANCTIONS  
WITH SUBJOINED  
DECLARATION**

**1. RELIEF REQUESTED**

DeCourseys respectfully ask the Court to reconsider and vacate the Order filed July 6, 2012, Dkt. 164. **Exhibit A.** DeCourseys seek reconsideration pursuant to CR 59.

**2. STATEMENT OF FACTS**

On July 6, 2012, this court dismissed DeCourseys claims and defenses, and granted sanctions and attorney fees to Lane Powell. New evidence not available to the Court at the time that motion was considered show that Lane Powell's motion included materially false statements, and foundation for the Order is invalid.

DeCourseys concede that Lane Powell is one of the largest law firms in Seattle. Lane Powell has among its lawyers politically influential persons including the former Mayor of

1 bond is just as secure as the Registry of the Court. The Registry would pay no interest to  
2 Lane Powell, and Lane Powell would suffer no losses if the final judgment in the case caused  
3 payment from the bond rather than the Registry.

4 Since Lane Powell is not aggrieved under the statute, it did not have standing to bring  
5 a motion under RCW 7.21.030, and the Court's Order is not in keeping with the law.  
6

7 **Finding of Fact, Paragraph 34**

8 The Court Cannot Know What Has Been Produced Vis A Vis Lane Powell's Claims

9 and Defenses. In a handwritten note on Page 7 Para. 34 of the July 6 order, the Court states:

10 The discovery sought by the Plaintiffs is clearly material to its case and to its defense of Defendants'  
11 counterclaims and affirmative defenses.

12 DeCourseys filed clear evidence that by March 9, 2012, DeCourseys had produced  
13 more than 12,000 pages of responsive documents, more than Lane Powell has had time to  
14 analyze. Dkt. 103. This Court cannot be familiar with the specifics because Lane Powell  
15 has never filed a catalog of the material produced *vis a vis* its claims and defenses, and what  
16 has not been produced. Hence, the Court has no basis for a finding that material withheld "is  
17 clearly material to [Lane Powell's] case and to its defense of Defendants' counterclaims and  
18 affirmative defenses."

19 **Finding of Fact, Paragraph 19, 30:**

20 DeCourseys Attested to Inability To Produce Discovery Materials. Lane Powell's

21 proposed order signed by the Court states, "The DeCourseys .... never presented evidence of  
22 inability to comply [with the discovery requests]." This is simply not true. On November 3,  
23 2011, (Dkt. 11) DeCourseys filed a 20 page motion detailing their inability to comply with  
24 Lane Powell's discovery requests within the time allowed, including a photograph of the  
25 volume of Court documents Lane Powell was requesting. DeCourseys argued that Lane  
26

1 Powell's request involved such a volume of documents that the request was harassment  
2 under the Rules.

3       Once again, Lane Powell has deliberately misled the Court into signing a statement of  
4 error.

5       **Conclusions of Law 2:**

6       The Court Has Not Rejected DeCourseys' Privilege on "Numerous Occasions."

7       When a Court denies a motion containing multiple arguments, a party is not required to  
8 presume that all arguments and assertions in the motion are "rejected" by the Court. Despite  
9 the many times Lane Powell has repeated this statement and even persuaded this Court to  
10 incorporate the statement in this Order, it is not true. The Court had never voided or zeroed  
11 DeCourseys' privilege or ordered it waived until April 25/27, 2012, when it ruled that  
12 DeCourseys must provided responsive documents "on the basis" that privilege was waived.

13       **Conclusions of Law 4, 5:**

14       Lane Powell Makes Contrary Claims in Different Courts. As shown above, pages 2-3

15 of this brief, Lane Powell claimed (and persuaded the Court to rule) that it is "prejudiced [in  
16 the] preparation of its case." The Court found (Findings of Law #3) that Lane Powell of its  
17 own volition (not DeCourseys) postponed the depositions.

18       Since Lane Powell has confessed to the Court of Appeals that that it has all the  
19 documents it needs and therefore is *not* stymied in the preparation of its case (and therefore  
20 was not "aggrieved" under the statute), it did not have standing to bring a motion under  
21 RCW 7.21.030, and the Order is not in keeping with the law.

22       This Court has once again been led into error by Lane Powell.  
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**6. AUTHORITY**

Lane Powell has not been injured or "aggrieved" by DeCourseys asserting their privilege or by posting a bond in the Registry of the Court under the meaning of RCW 7.21.030, and therefore did not have standing to bring the motion.

DeCourseys seek reconsideration for the Order on the authority of the following clauses of CR 59:

(2) Misconduct of prevailing party or jury; and whenever any one or more of the jurors shall have been induced to assent to any general or special verdict or to a finding on any question or questions submitted to the jury by the court, other and different from his own conclusions, and arrived at by a resort to the determination of chance or lot, such misconduct may be proved by the affidavits of one or more of the jurors;

(4) Newly discovered evidence, material for the party making the application, which he could not with reasonable diligence have discovered and produced at the trial;

(7) That there is no evidence or reasonable inference from the evidence to justify the verdict or the decision, or that it is contrary to law;

(9) That substantial justice has not been done.

**7. CONCLUSION**

**Lane Powell's Deeds Protected From Public View and Remedy**

It appears that the Court has not read DeCourseys pleadings, but has substantially accepted Lane Powell's characterizations. Yet on page 7, Paragraph 34, in a handwritten note, the Court has stated:

After considerable reflection on this case, the Court is unable to conceive of any lesser sanction than striking Defendant's counterclaims and affirmative defenses that has any reasonable prospect of permitting Plaintiff to proceed to trial on the merits of its claim, in a reasonably timely manner.

This Order protects Lane Powell from public knowledge of its misdeeds in the underlying case and prevents the facts of the case from coming into public view.

DeCourseys could not have rested their conscience had they not charged Lane Powell with malpractice. On February 14, 2011, for example, Lane Powell's Grant Degginger,

1 former Mayor of Bellevue with close familial ties to the Attorney General's office, was  
2 attempting to convince DeCourseys that Lane Powell could not keep its written promise to  
3 "assist [DeCourseys] regarding possible appeals ... as necessary to prevail in or retain the  
4 awards discussed." In the course of that conversation, Degginger told DeCourseys that the  
5 Supreme Court had no "discretion" on the issue of CPA attorney fee claims, and, "the only  
6 way to change that is to change the law. And only the legislature can do that." **Exhibit G.**  
7 That is, Degginger denied the existence of case law set by courts, as though *Marbury v.*  
8 *Madison, Brown v. Board of Education, Roe v. Wade, Hangman Ridge v. Safeco Title* had  
9 never happened. Even more incredible, Degginger was effectively denying the existence  
10 *Nordstrom v. Tampourlos*, a precedent-setting case in which the costs of a CPA suit was  
11 addressed -- a case in which Lane Powell itself had represented Nordstrom.

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14 High school Social Studies courses teach young students about the existence and  
15 importance of judicially set precedents. See, for example, **Exhibit H.**

16 <http://www.funnelbrain.com/c-483005-precedent.html>. and

17 [http://www.socialstudieshelp.com/Lesson\\_106\\_Notes.htm](http://www.socialstudieshelp.com/Lesson_106_Notes.htm)

18 It is not credible that Degginger, an attorney with decades of experience, and long-  
19 time Mayor of Bellevue, could truly believe that "only the legislature" can change "the law."  
20 The Court's July 6 Order would protect this and other acts of malpractice from public view  
21 and remedy.

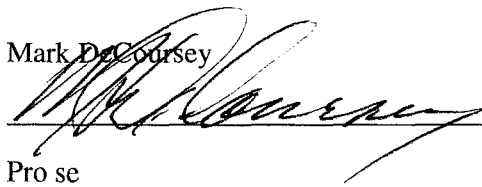
### 22 **Bad Social Effects of This Order**

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24 The Court's Order of July 6 presents grave social policy concerns. To maintain  
25 societal tranquilly, courts must maintain the confidence of society. Not only must justice be  
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**Exhibit H** is a true and fair copy of two public web pages offered for assistance to high school social studies (also known as “civics”) students concerning court precedents and the law.

DATED this 16 day of July, 2012

Mark DeCoursey  
  
Pro se