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Federal Court Addresses Standing to Bring Disqualification Motion under Former Client Conflict Rule

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The federal district court in Seattle recently highlighted a key procedural requirement for most disqualification motions based on asserted former client conflicts: the party bringing the motion must show that they were, in fact, a former client of the lawyer or law firm targeted. *Thompson v. Seattle Public Schools*, 2025 WL 2654650 (W.D. Wash. Aug. 8, 2025) (unpublished), involved employment discrimination claims against the defendant school district. The lead lawyer for the school district had earlier investigated employment claims by the plaintiff against another local school district. The plaintiff argued that the lawyer's earlier investigation constituted a former client conflict under RPC 1.9 that warranted disqualification.

The court noted that regardless of whether the two matters shared any common facts, the plaintiff lacked standing to bring a disqualification motion against the lawyer because the plaintiff had never been a client of the lawyer. The court reasoned that RPC 1.9 on its face is predicated on the fact that the lawyer or law firm involved had formerly represented the client. Disqualification motions for conflicts, in turn, are ordinarily reserved solely for current or former clients of the law firm involved—usually framed under the procedural requirement of “standing.” Lacking that here, the court denied the motion. The court also

later denied reconsideration at 2025 WL 2653675 (W.D. Wash. Sept. 16, 2025) (unpublished).

Although *Thompson* is an “unpublished” decision, the federal court in Seattle discussed standing in the disqualification context for conflicts generally in the relatively recent reported decision of *United States Fire Insurance Company v. Icicle Seafoods, Inc.*, 523 F. Supp.3d 1262 (W.D. Wash. 2021).

ABOUT THE AUTHOR

Mark J. Fucile of Fucile & Reising LLP advises lawyers, law firms and legal departments throughout the Northwest on professional responsibility and risk management. Mark has chaired both the WSBA Committee on Professional Ethics and its predecessor, the WSBA Rules of Professional Conduct Committee. Mark has served on the Oregon State Bar Legal Ethics Committee and is a member of the Idaho State Bar Section on Professionalism & Ethics. Mark writes the Ethics Focus column for the Multnomah (Portland) Bar’s *Multnomah Lawyer*, the Ethics & the Law column for the WSBA *Bar News* and is a regular contributor on legal ethics to the WSBA *NWSidebar* blog. Mark is a contributing author and the editor-in-chief for the WSBA *Legal Ethics Deskbook* and is a contributing author and principal editor for the OSB *Ethical Oregon Lawyer* and the WSBA *Law of Lawyering in Washington*. Before co-founding Fucile & Reising LLP in 2005, Mark was a partner and in-house ethics counsel for a large Northwest regional firm. He also teaches legal ethics as an adjunct for the University of Oregon School of Law at its Portland campus. Mark is admitted in Oregon, Washington, Idaho, Alaska and the District of Columbia. He is a graduate of the UCLA School of Law. Mark’s telephone and email are 503.860.2163 and Mark@frllp.com.