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**Superior Court of the State of Washington
In and for the County of Spokane**

STEPHEN KERR EUGSTER,)
)
Plaintiff,)
v.)
)
WASHINGTON STATE BAR)
ASSOCIATION, a legislatively created)
Washington association (WSBA); and)
PAULA LITTLEWOOD, Executive Director,)
WSBA, in her official capacity;)
)
and)
)
DOUGLAS J. ENDE, Director of the WSBA)
Office of Disciplinary Counsel, in his official)
capacity; FRANCESCA D'ANGELO,)
Disciplinary Counsel, WSBA Office of)
Disciplinary Counsel, in her official capacity,)
)
Defendants.)
)

No. 15-2-04614-9

DECLARATION OF STEPHEN KERR
EUGSTER DATED FEBRUARY 19, 2016

Stephen Kerr Eugster, under penalty of perjury under the laws of the state of Washington
declares that the following is true and correct:

1. I am competent to be a witness in proceedings before the above-entitled court; and, I

**Declaration of Stephen Kerr Eugster
Dated February 19, 2016 - 1**

Eugster Law Office PSC
2418 W Pacific Ave.
Spokane, Washington 99201-6422
eugster@eugsterlaw.com / (509) 624-5566

1 make the statements herein based upon my own personal knowledge.

2
3 2. The Appendix attached and each item included therein is a part of this Declaration by this
4 reference.

5
6 3. Defendants in their Reply in Support of Motion to Dismiss Complaint at page 11, lines 11-
7 12, state "Eugster's claims should be dismissed under the doctrine of res judicata,
8 because he could and should have brought those claims in his prior lawsuit against the
9 WSBA." [Emphasis added.] The prior lawsuit Defendants are referring to is *Eugster v.*
10 *WSBA*, District Court for the Western District of Washington, Case No. 2:15-cv-00375-JLR,
11 now on appeal to the Ninth Circuit Court of Appeals, Case No. 15-35743, and referred in
12 these proceedings by Defendants as Case III.

13
14
15 4. It is factually incorrect to say that Eugster "could and should have brought those claims"
16 in Case III, "his prior lawsuit against the WSBA."

17
18 5. Case III asserts that it violates Eugster's First and Fourteenth Amendment Rights under
19 the United States Constitution to compel him to be a member of the WSBA, an integrated
20 bar association, and to compel him to pay dues to the WSBA.

21
22 6. Eugster could not have brought the claims in this case, the above entitled action, in Case
23 III, because Eugster at the time of Case III, could not have met the court's U.S. Const.
24 Article III standing requirements:

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27 a. At the time Case III was brought, March 12, 2015, the WSBA was not, at the time,
28 about to bring or bringing a discipline action against Eugster.

29
30 b. The WSBA was not about to bring a discipline action against Eugster until January 29,
31 2016, when the Review Committee of the WSBA Disciplinary Board ordered a "public
32

1 hearing on the alleged misconduct." Appendix at 1.

- 2
- 3 7. The claim could not have been brought when Case III was filed because Eugster did not
- 4 then have U.S. Const. Article III standing. *Eugster v. WSBA*, U.S. District Court for the
- 5 Eastern District of Washington, No. CV 09-357-SMM (2010) *affirmed*, Ninth Circuit Court
- 6 of Appeals, No. 10-35694 (2012).
- 7
- 8 8. The District Court held in *Eugster v. WSBA*, U.S. District Court for the Eastern District of
- 9 Washington, No. CV 09-357-SMM (2010) in its Memorandum of Decision and Order
- 10 (Appendix 2 at 13) as follows:
- 11

12 And, Plaintiff admits that he has no claim regarding any past or ongoing

13 disciplinary proceedings.6 Rather, his claim is based on his fear of

14 continued scrutiny or threat of future discipline. As such, Plaintiff merely

15 seeks an absolute shield from discipline in any form arising out of future

16 violations should they occur, not redress for an actual or imminent injury.

17 "At this stage, any ruling from a federal district court would be an

18 advisory opinion, something federal courts cannot give. In the absence of

19 some concrete threatened injury, Article III bars the relief requested . . ."

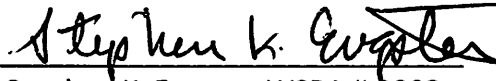
20 *Partington*, 961 F.2d at 862. [Footnote omitted.]

- 21 9. The decision referred to in the above quoted material, *Partington v. Gedan*, 961 F.2d 852,
- 22 862 (9th Cir. 1992), is found in Appendix at 25.
- 23 10. The 9th Circuit's affirming decision can be found at Appendix at 21.

24 Signed at Spokane, Washington on February 19, 2016.

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28 Stephen K. Eugster, WSBA # 2003

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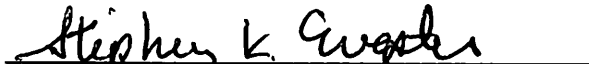
I hereby certify that on February 19, 2016, I emailed the foregoing document to the attorneys for the Defendants in these proceedings at their email addresses below.

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February 19, 2016.


Stephen K. Eugster, WSBA # 2003

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