

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
29
30
31
32

**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

NOTICE OF APPEAL TO
COURT OF APPEALS
DIVISION III

Stephen Kerr Eugster, Plaintiff, seeks review by the designated appellate court of the
Conclusions and Order Granting Defendants' Motion to Dismiss Complaint dated and entered
on April 1, 2016 (Order). A copy of the Order is attached to this notice.

1 April 1, 2016.

2
3 EUGSTER LAW OFFICE, PSC

4
5 By Stephen K. Eugster
6 Stephen K. Eugster, WSBA # 2003
7 Appellant
8 2418 W Pacific Ave.
9 Spokane, WA 99201-6422
10 (509) 624-5566
11 eugster@eugsterlaw.com

12 **PROOF OF SERVICE**

13 I hereby certify that on April 1, 2016, I emailed the foregoing document to the attorneys
14 for the Defendants in these proceedings at their email addresses below.

15
16 Paul J. Lawrence
17 Pacifica Law Group LLP
18 1191 2nd Ave Ste 2000
19 Seattle, WA 98101-3404
20 paul.lawrence@pacificalawgroup.com

Jessica Anne Skelton
Pacifica Law Group LLP
1191 2nd Ave Ste 2000
Seattle, WA 98101-3404
jessica.skelton@pacificalawgroup.com

21 Taki V. Flevaris
22 Pacifica Law Group LLP
23 1191 2nd Ave Ste 2000
24 Seattle, WA 98101-3404
taki.flevaris@pacificalawgroup.com

25 April 1, 2016.

26
27 Stephen K. Eugster
28 Stephen K. Eugster, WSBA # 2003
29
30
31
32

HONORABLE SALVATORE F. COZZA

FILED

APR 01 2016

Timothy W. Fitzgerald
SPOKANE COUNTY CLERK

IN THE 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. 15204614-9

CONCLUSIONS AND ORDER
GRANTING DEFENDANTS'
MOTION TO DISMISS
COMPLAINT

~~PROPOSED~~

THIS MATTER came before the Court on Defendants' Motion to Dismiss Complaint.

The Court has heard the argument of counsel and has considered the following:

1. Defendants' Motion to Dismiss Complaint;
2. Defendants' Memorandum of Authorities in Support of Motion to Dismiss and the Appendix thereto;

~~PROPOSED~~ CONCLUSIONS AND ORDER GRANTING DEFENDANTS'
MOTION TO DISMISS COMPLAINT - 1

1 3. Plaintiff's Amended and Restated Complaint for Declaratory Judgments,
2 Injunction, and Damages;

3 4. Response of Plaintiff to Defendants' Memorandum in Support of Motion to
4 Dismiss;

5 5. Defendants' Reply in Support of Motion to Dismiss Complaint and the
6 Appendices thereto;

7 6. Declaration of Stephen K. Eugster dated February 19, 2016; and

8 7. The other pleadings and papers on file in this matter.

9
10 **CONCLUSIONS OF LAW**

11 Based on the foregoing, the Court makes the following conclusions:

12
13 1. General Rule ("GR") 12.3 provides:

14 All boards, committees, or other entities, and their members and personnel, and
15 all personnel and employees of the Washington State Bar Association, acting on
16 behalf of the Supreme Court under the Admission to Practice Rules, the rules for
17 Enforcement of Lawyer Conduct, and the Disciplinary Rules for Limited Practice
18 Officers, shall enjoy quasi-judicial immunity if the Supreme Court would have
19 immunity in performing the same functions.

20 2. Defendants, the Washington State Bar Association and its personnel and
21 employees, are subject to the protections of GR 12.3.

22 3. Under GR 12.3, Plaintiff cannot recover damages against Defendants. Plaintiff's
23 claims for damages must be dismissed with prejudice under Civil Rule ("CR") 12(b)(6).

24 4. The grant of general jurisdiction to this Court under the Washington State
25 Constitution and RCW 2.08.010 is not unlimited and must be considered in the context of other
26 applicable provisions.

1 5. Such other provisions support the conclusion that exclusive jurisdiction over
2 matters of lawyer discipline rests with the Washington Supreme Court. See Const. art. IV; RCW
3 2.48.060 (the State Bar Act); Rule for Enforcement of Lawyer Conduct ("ELC") 2.1; *State ex rel*
4 *Schwab v. State Bar Ass'n*, 80 Wn.2d 266 (1972); *In re Discipline of Szalai*, 177 Wn.2d 743
5 (2013).
6

7 6. ELC 2.1 provides:

8 The Washington Supreme Court has exclusive responsibility in the state to
9 administer the lawyer discipline and disability system and has inherent power to
10 maintain appropriate standards of professional conduct and to dispose of
11 individual cases of lawyer discipline and disability. Persons carrying out the
12 functions set forth in these rules act under the Supreme Court's authority.

13 7. The Washington Supreme Court has set up a system of lawyer discipline in which
14 the ultimate step is review before the Washington Supreme Court. Title 12 ELC.

15 8. Constitutional claims and objections ~~such as those raised by Plaintiff in this case~~ *SFC*
16 have previously been heard within discipline cases. See, e.g., *In re Discipline of Blanchard*, 158
17 Wn.2d 317 (2006); *In re Discipline of Scannell*, 169 Wn.2d 723 (2010).

18 9. Plaintiff had the opportunity to raise his constitutional concerns with the
19 Washington Supreme Court in his prior discipline case.

20 10. Collateral attack of lawyer discipline procedures in this Court is not available
21 under current law.

22 11. Plaintiff's claims under 42 U.S.C. § 1983 and under the Washington Constitution
23 against Defendants are within the exclusive jurisdiction of the Washington Supreme Court and
24 must also be dismissed with prejudice.

25 12. Based on the foregoing, Defendants are entitled to dismissal of Plaintiff's claims
26 with prejudice under CR 12(b)(1) and CR 12(b)(6). Dismissal with prejudice is appropriate
27

[PROPOSED] CONCLUSIONS AND ORDER GRANTING DEFENDANTS'
MOTION TO DISMISS COMPLAINT - 3


1 because no further amendment to Plaintiff's complaint could cure the legal deficiencies upon
2 which dismissal is based.

3 13. Because the foregoing resolves this matter, the Court need not decide Defendants'
4 other grounds for dismissal of Plaintiff's claims.

5
6 **ORDER**

7 Based on the foregoing conclusions, the Court hereby ORDERS that Defendants' Motion
8 to Dismiss Complaint is GRANTED and that this action is dismissed with prejudice, with each
9 party to bear its own attorney fees and costs.

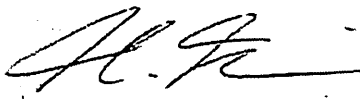
10 SO ORDERED this 1 day of ~~March~~^{April}, 2016.

11
12 

13 Honorable Salvatore F. Cozza
14 Spokane Superior Court Presiding Judge

15 Presented by:

16 PACIFICA LAW GROUP LLP

17
18 By 

19 Paul J. Lawrence, WSBA #13557
20 Jessica A. Skelton, WSBA #36748
21 Taki V. Flevaris, WSBA #42555

22 Attorneys for Defendants
23
24
25
26
27

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

CERTIFICATE OF SERVICE

I am and at all times hereinafter mentioned was a citizen of the United States, a resident of the State of Washington, over the age of 21 years, competent to be a witness in the above action, and not a party thereto; that on the 18th day of March, 2016 I caused to be served a true copy of the foregoing document upon:

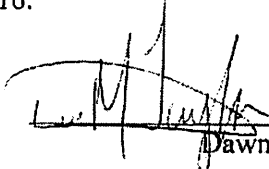
Stephen Kerr Eugster
Eugster Law Office PSC
2418 West Pacific Avenue
Spokane, WA 99201-6422
Phone: 509.624.5566
Fax: 866.565.2341
Email: eugster@eugsterlaw.com

- via facsimile
- via overnight courier
- via first-class U.S. mail
- via email service agreement
- via electronic court filing
- via hand delivery

Pro Se Plaintiff

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

DATED this 18th day of March, 2016.


Dawn M. Taylor