

1 preemptive collateral attack in this Court. The Washington Supreme Court has recognized that
2 any claims concerning the operation and administration of the lawyer discipline system must be
3 raised within the disciplinary system and to the Washington Supreme Court – not the superior
4 courts – because the Washington Supreme Court has exclusive jurisdiction over such claims.
5 *State ex rel. Schwab v. WSBA*, 80 Wn.2d 266, 269, 493 P.2d 1237 (1972) (noting that matters of
6 lawyer discipline “exist under the aegis of one authority, the Supreme Court” (emphasis added)).
7 The Washington Supreme Court directly oversees the “rules,” “procedures,” “investigation[s],”
8 “prosecutions,” and “hearing of all cases involving discipline, disbarment, suspension, or
9 reinstatement” of lawyers. *Id.*; see also *In re Sherman*, 58 Wn.2d 1, 8, 363 P.2d 390 (1961)
10 (noting that lawyer discipline proceedings are “special proceeding[s] . . . incident to the inherent
11 power of the [Washington Supreme Court] to control its officers” and that “[d]ecisions in
12 disciplinary matters are not precedents of any other class of cases”). In conducting these special
13 proceedings, the Washington Supreme Court is merely “assisted” by the WSBA acting as its
14 “agent.” *Hahn v. Boeing Co.*, 95 Wn.2d 28, 34, 621 P.2d 1263 (1980). Accordingly,
15 disciplinary proceedings before the Washington Supreme Court are “not in the nature of an
16 appellate review, as that term is generally understood.” *Sherman*, 58 Wn.2d at 8.
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19 The Washington Supreme Court repeatedly has emphasized the limited jurisdiction of
20 superior courts in reviewing issues related to disciplinary proceedings. See *In re Sanai*, 177
21 Wn.2d 743, 767-68, 302 P.3d 864 (2013) (reasoning that superior court’s authority in relation to
22 lawyer discipline system is limited to powers expressly delegated in court rules); *Hahn*, 95
23 Wn.2d at 34 (noting “the Superior Court lacks authority to conduct disciplinary proceedings” and
24 “as to matters which do not affect [the] proceedings [otherwise before a superior court], the
25 disciplinary power rests exclusively in [the Washington Supreme Court]”); see also *In re*
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1 *Bannister*, 86 Wn.2d 176, 177, 186-88, 543 P.2d 237 (1975) (finding “petition for investigation
2 of [lawyer] misconduct” to Washington Supreme Court was appropriate only after concluding
3 petitioners had already taken “all steps reasonably available to them . . . pursuant to the rules”).
4 There are no rules allowing a lawyer to challenge his disciplinary proceedings by way of
5 complaint filed in superior court.
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7 Thus, Eugster is obligated to raise his challenges to the lawyer discipline system and to
8 the WSBA’s conduct within his disciplinary proceedings, but he has failed to do so. The
9 Washington Supreme Court’s Rules for the Enforcement of Lawyer Conduct broadly allow for
10 objections to be raised and motions to be brought during such proceedings. *See, e.g.*, ELC
11 10.1(a), (c), 10.8, 10.16. The WSBA and Washington Supreme Court thus regularly consider
12 constitutional and other challenges, like the claims in Eugster’s Complaint, within such
13 proceedings. *See, e.g., In re Blanchard*, 158 Wn.2d 317, 330-31, 144 P.3d 286 (2006)
14 (adjudication of due process claim); *In re Scannell*, 169 Wn.2d 723, 736-37 & n.8, 239 P.3d 332
15 (2010) (adjudication of retaliation claim). Thus, the claims raised here must be brought as part
16 of Eugster’s defense to any disciplinary action, not in this case.
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18 In sum, the lawyer discipline system offers ample and appropriate opportunity for
19 Eugster to assert his claims. Eugster cannot use this Court to bypass and undercut that system.
20 His Complaint should be dismissed for this reason alone.
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22 **B. Eugster’s claims are not justiciable.**

23 As the United States Court of Appeals for the Ninth Circuit previously recognized in a
24 similar case filed by Eugster, Eugster lacks standing to bring a general challenge to the lawyer
25 disciplinary system and any specific claims that he might have arising out of his discipline are
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