

NOV 28 2017

Timothy W. Fitzgerald  
SPOKANE COUNTY CLERK

SUPERIOR COURT FOR THE STATE OF WASHINGTON  
IN AND FOR SPOKANE COUNTY

STEPHEN KERR EUGSTER,

Plaintiff,

vs

PAULA C. LITTLEWOOD, Executive Director  
of the WASHINGTON STATE BAR  
ASSOCIATION in her official capacity, and  
the WASHINGTON STATE BAR  
ASSOCIATION,

Respondents.

No. 17204631-5

PETITION FOR DECLARATORY JUDGMENT AND  
WRIT OF MANDAMUS TO THE WSBA AND ITS  
EXECUTIVE DIRECTOR  
(CORRECTED)

Petitioner, Stephen Kerr Eugster (herein "Eugster") alleges:

**PARTIES**

1. Petitioner EUGSTER, is a citizen of the United States and a resident of the state of Washington residing in Spokane, Washington.

2. Respondent PAULA C. LITTLEWOOD is the Executive Director of the Washington State Bar Association (WSBA). Respondent Littlewood is currently implementing and enforcing the unconstitutional practices and policies complained of in this action. Respondent Littlewood is sued in her official capacity.

1 3. Respondent WSBA is an association doing business under its bylaws, as  
2 amended, effective January 1, 2017.

3 4. Respondent WSBA is headquartered in Seattle, Washington, and conducts its  
4 business and operations throughout the State of Washington including Spokane County.

5 5. Respondent WSBA is currently enforcing the unconstitutional practices and  
6 policies complained of in this action.  
7

#### 8 JURISDICTION AND VENUE

9 6. The action is a case of actual controversy and Eugster seeks a declaration of his  
10 rights under the Constitution of the United States. RCW Ch. 7.24 (Uniform declaratory  
11 judgments act) and RCW Ch. 7.16 (Certiorari, mandamus, and prohibition).

12 7. Venue is proper in this court under RCW 4.12.025 (1)

13 An action may be brought in any county in which the defendant  
14 resides, or, if there be more than one defendant, where some one  
15 of the defendants resides at the time of the commencement of  
16 the action. For the purpose of this section, the residence of a  
17 corporation defendant shall be deemed to be in any county where  
18 the corporation: (a) Transacts business; (b) has an office for the  
19 transaction of business; (c) transacted business at the time the  
20 cause of action arose; or (d) where any person resides upon  
21 whom process may be served upon the corporation.

#### 22 FACTUAL ALLEGATIONS

23 8. The WSBA is an integrated or mandatory association of lawyers, Limited Practice  
24 Officers, and Limited License Legal Technicians.

25 9. Eugster is compelled to be a member of, pay dues to, and be in good standing of the  
26 WSBA to practice law in Washington. RCW 2.48.170.

10 Eugster is subject to regulation and discipline by the WSBA. RCW 2.48.060.

1 11. The WSBA and its members are a state-created government monopoly over the  
2 practice of law in the State of Washington. RCW 2.48.170, RCW2.48.180.

3 12. Eugster is a member in good standing of the WSBA.

4 13. Eugster is forced to pay dues to the WSBA; if he does not pay dues he will be  
5 suspended or disbarred, and ousted from the right to practice law in the state of  
6 Washington.

7  
8 14. Eugster does not want to be a member of an association which forces him to be a  
9 member and to which he must pay dues.

10 15. Eugster does not want to be a member of an association which is a government  
11 monopoly of the practice of law in the state of Washington.

12 16. Over the past several years, Eugster has devoted a significant part of his energy to  
13 the circumstances of the Washington State Bar Association, especially members rights.

14 17. Eugster desires to look into whether lawyers in BOG District Five would be  
15 supportive of Eugster as member of the Board of Governors, as a governor from district five.  
16

17 18. In order to effectively communicate with lawyers in district five Eugster needs a  
18 database of certain member information.

19 **Letter to Paula C. Littlewood**

20 19. On November 12, 2017 Eugster wrote to Defendant Littlewood. In the letter  
21 Eugster said and asked as follows:

22 [1] I am a member of the Washington State Bar Association. Indeed, presently I  
23 am a member in good standing with the WSBA. As a member of the WSBA, I am  
24 tied to the Fifth Congressional District. I am considering the possibility of running  
25 for a position on the WSBA Board of Governors.

1 [2] The requests I make herein are made as a member of the WSBA. I am not  
2 writing to you as a member of the public. The public record laws do not apply to  
3 my request. As a member, I am entitled to your fulfillment of my request. See,  
4 e.g., *McClintock v. Young Republicans of Philadelphia*, 210 Pa. 115, 59 A. 691  
(1904).

5 [3] As Executive Director of the WSBA you have (under the WSBA Bylaws, Article  
6 III C 2) the following duties:

7 The Executive Director will keep records of all members of the  
8 Washington State Bar Association, including, but not limited to:

- 9 a. physical residence address furnished by the member;  
10 b. principal office address, telephone number, and email address  
11 furnished by the member;  
12 c. physical street address of any resident agent for the member;  
13 d. date of admittance;  
14 e. type and status of membership;  
15 f. date of transfer(s) from one status to another, if any;  
16 g. date and period(s) of administrative suspensions, if any;  
17 h. date and period of disciplinary actions or sanctions, if any  
18 including suspension and disbarment;  
19 i. such other data as the BOG or Washington Supreme Court may  
20 from time to time require of each member.

21 [4] From you, in your capacity as Executive Director, I request in electronic  
22 format, the following information regarding my fellow bar association members -  
23 names, addresses, email addresses, and Congressional Districts.

24 [5] Among the purposes for which I seek the records are the following:

- 25 (a) To communicate with my fellow members concerning the  
26 affairs of the WSBA Board of Governors, and especially  
those who members who seek to be elected to the WSBA  
Board of Governors from the Fifth District;  
(b) To institute measures and advocate policies which may  
tend to promote the objects for which the corporation was  
organized;

- 1 (c) To prevent the affairs and property of the corporation  
2 from being used to further the private political ambitions  
3 of any member or group of members;  
4 (d) To oppose the election or re-election of incompetent  
5 officials; and  
6 (e) To aid in the election of officers who will be faithful to the  
7 best interests of the members, and who will administer  
8 the affairs of the association and control its property in  
9 accordance with the purposes for which the association  
10 was created. RCW 2.48.010.

11 [5] The WSBA has a database which includes information about my fellow bar  
12 association members. It would be simple and non-time consuming for you to  
13 have the proper WSBA employee prepare an electronic data file of the  
14 information I can use on my Windows computer and in conjunction with  
15 WordPerfect Quattro or Microsoft Excel or some other Windows-based program.

16 [6] I will pay the reasonable costs of the creation of the data file I ask you to have  
17 created and provided to me.

18 [7] The records will only be use for the purposes above. I will not allow the  
19 records to be used for any commercial purposes. I will also make it possible for a  
20 member to opt out of any email mailings I might make to the member.

#### 21 Letter from Paula C. Littlewood

22 20. Defendant Littlewood, on November 17, 2017, responded as follows:

23 [1] I received your letter dated November 12, 2017, in which you requested  
24 WSBA membership records in electronic format. Access to Bar records is  
25 governed by Washington General Rule (GR) 12.4. Although you state in your  
26 letter that you are making your request as a member of the WSBA rather than as  
a member of the public, and suggest that the public record laws therefore do not  
apply to your request, GR 12.4 does not distinguish between requests from  
WSBA members and those from members of the public.

[2] The request in your November 12th letter is substantially the same as a  
records request you made previously, to which we responded. You appealed our  
decision to the Records Request Appeals Officer, and then to the Washington

1 Supreme Court, which denied your request for review. The request is therefore  
2 completed and closed.

3 [3] If you wish to make a different request for Bar records, please make your  
4 request in writing to [publicrecords@wsba.org](mailto:publicrecords@wsba.org).

5 21. Eugster has a common law right to the records requested and in the form  
6 requested.

7 22. The Public Records Act does not apply to Eugster's request of November 17, 2017.

8 **FIRST CLAIM FOR RELIEF**  
9 **Declaratory Judgment and Writ of Mandamus**

10 23. The previous paragraphs are restated here.

11 24. The parties do not agree with each other as to matters about the application of the  
12 law and understandings of certain facts.

13 25. The differences are real and may only be resolved by declaratory judgments as to  
14 the differences.

15 26. A true "case or controversy" exists between the parties as to these matters.

16 27. Eugster has no adequate legal remedy by which to prevent or minimize the  
17 continuing irreparable harm to his constitutional rights.

18 28. Eugster has no adequate legal remedy by which to prevent or minimize the  
19 continuing irreparable harm to his constitutional rights.

20 29. Declaratory relief will clarify the rights and obligations of the parties and is,  
21 therefore, appropriate to resolve this controversy.

22 30. Eugster will be irreparably harmed if an injunction does not issue enjoining  
23 Defendants from compelling Eugster to be a member of the WSBA and from compelling  
24

1 ~~Eugster to pay dues to the WSBA~~ mandamus is not issued directing the Respondents to do  
2 what they are supposed to do under the law and the rights of Petitioner.

3 31. Eugster has no plain, speedy, or adequate remedy at law.

4 32. Eugster is therefore entitled to declaratory and relief and mandamus.

5 **PRAYER FOR RELIEF**

6 WHEREFORE, Eugster, asks the Court for the following relief:

7 1. Declare that Eugster as a member of the WSBA has a common law right to records  
8 of the WSBA and in the hands of the Defendant Executive Director;

9 2. Declare that Eugster has a right to the records in the form set forth in his letter of  
10 November 17, 2017;

11 4. Issue a Writ of Mandamus to Defendants individually requiring Defendants to  
12 produce the records requested and in the form requested;

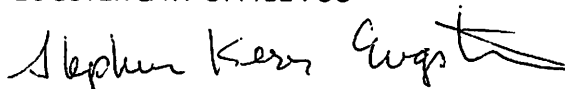
13 5. Award Eugster his costs, expenses, and attorneys' fees in accordance with law;

14 7. Award Eugster such other necessary relief to implement Eugster's rights and the  
15 purposes of those rights in this litigation; and,  
16

17 8. Award Eugster such further relief as just and equitable.

18 Dated this 27<sup>th</sup> day of November 2017.

19 Respectfully submitted,  
20 EUGSTER LAW OFFICE PSC

21 

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