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Hon. Thomas O. Rice

7 UNITED STATES DISTRICT COURT
8 EASTERN DISTRICT OF WASHINGTON

9 STEPHEN KERR EUGSTER,
10
11 Plaintiff,
12 vs

No. 2:17-cv-000392-TOR
AMENDED COMPLAINT FOR
DECLARATORY AND
INJUNCTIVE RELIEF

13 PAULA C. LITTLEWOOD, Executive
14 Director of the WASHINGTON STATE
15 BAR ASSOCIATION in her official
16 capacity; and JUSTICES OF THE
17 WASHINGTON SUPREME COURT,
18 namely: MARY FAIRHURST, Chief
19 Justice, in her official capacity;
20 CHARLES JOHNSON, Justice, in his
21 official capacity; SHERYL GORDON
22 McCLOUD, Justice, in her official
23 capacity; CHARLES WIGGINS, Justice,
24 in his official capacity; STEVEN
25 GONZÁLEZ, Justice, in his official
26 capacity; MARY YU, Justice, in her
27 official capacity; BARBARA
28 MADSEN, Justice, in her official
capacity; SUSAN OWENS, Justice, in
her official capacity; and, DEBRA
STEPHENS, Justice, in her official
capacity,

Fed. R. Civ. P. Rule 15(a)(1)(B)

Defendants.

1
2 Plaintiff, alleges:
3

4 **NATURE OF THE CLAIMS**

- 5 1. Plaintiff asserts that Washington State Bar Association (WSBA) and the
6 Supreme Court of the State of Washington (Supreme Court) interfere with
7 Plaintiff's fundamental constitutional rights and that such infringements fail
8 to meet strictly construed constitutional standards.
9
10 2. This action presents a case of first impression. The WSBA and Supreme
11 Court have made the WSBA an association of lawyers, limited practice
12 officers, and limited license legal technicians. This has been accomplished
13 by court rule and amendments to WSBA bylaws.
14
15 3. This action seeks injunctive and declaratory relief to redress and prevent the
16 deprivation of Plaintiff's rights against compelled association and compelled
17 speech protected by the First and Fourteenth Amendments to the United
18 States Constitution by practices and policies of Defendants acting under color
19 of state law.
20
21 4. This action seeks injunctive and declaratory relief to redress and prevent the
22 deprivation of Plaintiff's rights under the Fifth and Fourteenth Amendments
23 by being compelled to submit to a disciplinary system which could be better
24
25
26

1 provided outside of the WSBAw.

- 2
3 5. Each infringement of Plaintiff's fundamental rights is unconstitutional
4 because each fails to meet the test of constitutional scrutiny under the First,
5 Fifth, and Fourteenth Amendments to the United States Constitution.
6
7 6. Plaintiff, therefore, seeks declaratory and injunctive relief to abate and
8 correct Defendants' unconstitutional actions.

9 **JURISDICTION AND VENUE**

- 10
11 7. Plaintiff brings this civil rights lawsuit under the First, Fifth, and Fourteenth
12 Amendments to the United States Constitution. Because this action arises
13 under the Constitution and laws of the United States, this Court has
14 jurisdiction under 28 U.S.C. § 1331.
15
16 8. Also, this is an action under the Civil Rights Act of 1871, specifically, 42
17 U.S.C. § 1983, to redress the deprivation, under color of state law, of rights,
18 privileges, and immunities secured to Plaintiff by the Constitution of the
19 United States, particularly the First, Fifth, and Fourteenth Amendments to the
20 Constitution of the United States. The jurisdiction of this court, therefore, is
21 also invoked under 28 U.S.C. §§ 1343(a)(3), (4).
22
23
24 9. The action is a case of actual controversy and Plaintiff seeks a declaration of
25 his rights under the Constitution of the United States. Under 28 U.S.C. §§
26

1 2201 and 2202, this court may declare the rights of Plaintiff and grant further
2 necessary and proper relief, including injunctive relief, under Fed. R. Civ. P.
3
4 65.

- 5 10. Venue is proper in this court under 28 U.S.C. § 1391(b) because it is the
6 judicial district where Defendants reside, and "in which a substantial part of
7 the events or omissions giving rise to the claim occurred." 28 U.S.C. §
8 1391(b) and 28 U.S.C. § 128(a)(1).
9

10 **PARTIES**

- 11
12 11. Plaintiff, Stephen Kerr Eugster (Eugster) is a citizen of the United States and
13 a resident of the state of Washington residing in Spokane, Washington.
14
15 12. Defendant Paula C. Littlewood is the Executive Director of the Washington
16 State Bar Association. Defendant Littlewood is currently implementing and
17 enforcing the unconstitutional practices and policies complained of in this
18 action. Defendant Littlewood is sued in her official capacity.
19
20 13. Each of the Defendant Justices are justices of the Supreme Court created as
21 such by Wash. Const. Art. IV, Section 2. Each such Defendant Justice is
22 currently implementing and enforcing the unconstitutional practices and
23 policies complained of in this action. Each such Defendant Justice is sued in
24 his or her official capacity.
25
26

CONSTITUTIONAL STANDARDS

1
2
3 14. Under 42 U.S.C. § 1983, every person who, under color of state law, subjects
4 any citizen of the United States to the deprivation of "rights, privileges, or
5 immunities secured by the Constitution and laws," shall be liable to the
6 injured party.

7
8 15. Under First Amendment jurisprudence today infringements of a person's
9 fundamental rights may only be justified by regulations adopted to serve
10 compelling state interests that cannot be achieved through means
11 significantly less restrictive of associational freedoms. This is known as the
12 strict scrutiny test and it was recently was described in *Knox v. Service*
13 *Employees Intern. Union*, 132 S. Ct. 2277, 2289 (2012) ("mandatory
14 associations are permissible only when they serve a "compelling state
15 interes[t] . . . that cannot be achieved through means significantly less
16 restrictive of associational freedoms").

17
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19
20 16. The Nebraska Supreme Court in *In Re Petition for a Rule Change*, 286 Neb.
21 1018, 841 N.W.2d 167, 177 (Neb. 2013) discussed the *Knox* constitutional
22 scrutiny test follows:

23
24 We made it clear that compulsory subsidies for private speech
25 are subject to exacting First Amendment scrutiny and cannot
26 be sustained unless two criteria are met.

1 First, there must be a comprehensive regulatory scheme
2 involving a "mandated association" among those who are
3 required to pay the subsidy. Such situations are exceedingly
4 rare because, as we have stated elsewhere, mandatory
5 associations are permissible only when they serve a
6 "compelling state interest . . . that cannot be achieved through
7 means significantly less restrictive of associational
8 freedoms." . . .

7 Second, even in the rare case where a mandatory association
8 can be justified, compulsory fees can be levied only insofar as
9 they are a "necessary incident" of the "larger regulatory
10 purpose which justified the required association."

11 17. The *Knox* exacting or scrutiny test can be rephrased as follows:

- 12 i. There must be a "comprehensive regulatory scheme."
- 13 ii. The comprehensive scheme must involve a "mandated association"
14 among those required to pay the subsidy.
- 15 iii. The comprehensive scheme must serve a compelling state interest.
- 16 iv. The compelling state interest cannot be achieved through means
17 significantly less restrictive of associational freedoms.
- 18 v. The compulsory fees can only be levied if they are "necessary
19 incident" of the "larger regulatory purpose which justified the
20 required association."

21 18. The test described in the two preceding paragraphs is sometime referred to
22 herein as the "Constitutional Scrutiny Test."
23

24 **FACTS**

25 19. Plaintiff is a member in good standing of the WSBA.
26

1 20. Plaintiff is compelled to pay dues to the WSBA.

2 21. Plaintiff is compelled to pay dues to the WSBA for the purpose of financing
3
4 Defendants efforts in maintaining a monopoly of the practice of law in
5 Washington.

6 22. Plaintiff is compelled to pay dues to the WSBA for the purposes of financing
7
8 programs of the Supreme Court in conjunction with efforts in maintaining a
9 monopoly of the practice of law in Washington.

10 23. Plaintiff is compelled to pay dues to the WSBA for purposes which are not
11
12 germane to the practice of law.

13 24. The infringements of the discipline system to Plaintiff's fundamental rights
14
15 cannot be supported under the Constitutional Scrutiny Test.

16 25. Plaintiff's fundamental rights of procedural due process under the Fifth and
17
18 Fourteenth Amendments to the United States Constitution are also affected
19
20 by forcing Plaintiff to subject himself to the WSBA discipline system, and
21 thus violate the Constitutional Scrutiny Test. Lawyer discipline can be better
22 provided by a system independent of WSBA.

23 26. As of January 1, 2017, the WSBA and the Supreme Court commenced a new
24
25 relationship between the WSBA and the Supreme Court.

26 27. The WSBA and the Supreme Court implemented a "bar association" which is

1 no longer a bar association (that is an association limited to lawyers admitted
2 to the bar of the Supreme Court); rather, the "bar association" is an
3 association of lawyers, limited practice officers, and limited license legal
4 technicians and which is integrated requiring mandatory members, mandatory
5 dues, and submission to discipline by the association.
6

7
8 28. WSBA and the Supreme Court together, and with the approval of each other,
9 turned the WSBA into a mandatory and compelled association for the
10 expanding the monopoly over the practice of law once held by the
11 Washington state Bar Association.
12

13 29. In the process the court has dictated to the Bar Association new
14 responsibilities regarding professional legal services groupings such as
15 limited practice officers, limited license legal technicians, and other limited
16 license category categories to be added as time proceeded.
17
18

19 **History**

20 30. The Supreme Court adopted APR 12 (Limited Practice Rule for Limited
21 Practice Officers) on January 21, 1983.
22

23 31. The Supreme Court adopted APR 28 Limited Practice Rule for Limited
24 License Legal Technicians, on effective August 20, 2013.
25

26 32. On September 21, 2012 the WSBA Board of Governors approved the Charter
27

1 of Governance Task Force. It said:

2
3 The present form of governance of the Washington State Bar Association
4 (WSBA) was originally established in the Washington State Bar Act,
5 which was adopted in 1933. The WSBA BOG had begun a process of
6 program review in fiscal year 2010-2011 and that process was spurred with
7 the passage of the Referendum in 2012.

8
9 The WSBA BOG believes it is appropriate to undertake a review of how
10 the WSBA is operated in light of the fact that the times and circumstances
11 surrounding the operation of the organization have changed dramatically
12 since 1933. Therefore, the WSBA BOG authorizes and creates the
13 Governance Task Force to undertake an in-depth review of the governance
14 of the WSBA, including but not limited to the following aspects of WSBA
15 governance.

16 33. On June 24, 2014 Washington State Bar Association Governance Task Force
17 submitted its report dated June 24, 2014.

18 34. Report and Recommendations included this statement about the power of the
19 Supreme Court over the WSBA:

20
21 But the Supreme Court has made it clear, based on separation of powers,
22 that it holds ultimate authority over the regulation of the Bar, the
23 practice of law, and the WSBA itself notwithstanding conflicting
24 statutes. *State ex rel. Schwab v. Wash. State Bar Ass'n*, 80 Wn.2d 266,
25 272, 493 P.2d 1237 (1972); *Graham v. State Bar Association*, 86 Wn.2d
26 624 (1976); *WSBA v. State of Washington*, 125 Wn.2d 901 (1995).

27 35. The programs or costs for APR 12 and APR 28 are financed by the member
28 dues paid to the WSBA. GR 12.3 Washington State Bar Association
Administration of Supreme Court-Created Boards and Committees

1 36. The motivating factor concerning the actions of the WSBA and Supreme
2 Court was the creation of a monopoly over the practice of law in the state of
3 Washington. The transformed Washington state is still an integrated
4 association meeting that one that the integration spans lawyers, limited
5 practice officers, limited license legal technicians, and as time goes on other
6 limited practice professional services.
7

8
9 37. The court is the entity which acts as lead on what these legal professional
10 categories can be. Once the court makes up its mind to create a category it
11 will then or has adopted rules which require the Bar Association to undertake
12 the staff.
13

14 38. Once the court makes up its mind to create a category it will then adopt rules
15 which require the WSBA to staff programs and efforts for the category . That
16 is what happened when the bylaws of the Bar Association were amended in
17 September 29-30, 2016 which bylaws became effective on January 1, 2017.
18

19 39. The WSBA and Supreme Court acknowledge the power of the court
20 explained above at paragraph 34, when GR 12 (Regulation of the Practice of
21 Law) was adopted. GR 12 provides:
22

23
24 The Washington Supreme Court has inherent and plenary authority to
25 regulate the practice of law in Washington. The legal profession serves
26 clients, courts, and the public, and has special responsibilities for the

1 quality of justice administered in our legal system. The Court ensures the
2 integrity of the legal profession and protects the public by adopting rules
3 for the regulation of the practice of law and actively supervising persons
4 and entities acting under the Supreme Court's authority. [Adopted effective
September 1, 2017.]

5 40. WSBA operates and discipline system for lawyers, Limited Practice Officers,
6 and Limited License Legal Technicians.

7
8 41. This system of the WSBA is unnecessary. There is no compelling state
9 interest in having the WSBA operate the system.

10
11 **Eugster Cases**

12 42. Plaintiff has been involved in a number of cases concerning the WSBA. This
13 will be explained and the essential facts of the cases understood.

14
15 43. **Case I:** *Disciplinary Proceeding of Stephen K. Eugster*, 166 Wash.2d 293,
16 209 P. 3d 435 (2009). At the time of the case, the WSBA was an integrated
17 association of lawyers only.

18
19 44. **Case II:** *Eugster v. Washington State Bar Association*, No. CV
20 09-357-SMM (Dist. Court, ED Wash. 2019) *affirmed*, 9th Circuit 2012. At
21 the time of the case, the WSBA was an integrated association of lawyers
22 only. The case was dismissed on the basis of lack of standing.

23
24 45. **Case III:** *Eugster v. Washington State Bar Association*, Case No.
25 C15-0375JLR (Dist. Court, WD Wash. 2015). At the time of the case, the
26

1 WSBA was an integrated association of lawyers only. The case was
2 dismissed for the reason that the court would not overrule *Lathrop v.*
3 *Donohue*, 367 US 820 (19610. The case was appealed to the 9th Circuit. The
4 court held that since *Lathrop v. Donohue* was a decision of the United
5 States Supreme Court, only the Supreme Court could overrule the case.
6 Plaintiff filed a Petition for Writ of Certiorari to the United States Supreme
7 Court within the 90 day period from the date of the 9th Circuit's
8 Memorandum Decision. The petition was denied on June 25, 2017. The
9 holding in the case was that *Lathrop v. Donohue* was not overruled.

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13 46. **Case IV:** *Eugster v. WSBA*, No. 15-2-04614-9, Superior Court of the State of
14 Washington for Spokane County. Again, as before, the WSBA was an
15 integrated association of lawyers only. The trial court dismissed the case on
16 jurisdictional grounds. The dismissal was not a dismissal on the merits.
17 Because it was not on the merits the case under Washington law did not have
18 res judicata effect.
19

20
21 47. **Case V:** *Eugster v. Paula Littlewood* [WSBA Executive Director], District
22 Court Eastern District of Washington. The case was dismissed on the basis
23 of the trial court dismissal in Case IV, which as indicated, did not have res
24 judicata effect. The case is on appeal to the 9th Circuit.
25
26

1 48. **Case IX:** *Caruso and Ferguson v. WSBA*, WAWD, No.
2 2:17-cv-00003-RSM. The issues in the case were whether the WSBA Issues
3 does WSBA 2017 have authority to discipline lawyers, does WSBA 2017
4 violate a lawyer's First Amendment freedom not to associate does WSBA
5 2017 discipline system violate a lawyer's right to procedural due process of
6 law under the Fifth Amendment? This case is on appeal to the 9th Circuit.
7 There is also an appeal in the case by Stephen Kerr Eugster pro se concerning
8 and attorney's fee award.
9
10
11

12 **FIRST CLAIM FOR RELIEF**
13 **Declaratory Judgments**
14 **28 U.S. Code §§ 2201, 2202**

15 49. Plaintiff re-alleges and incorporates by reference every allegation set forth
16 above.

17 50. The district court has the power under 13 U.S. C. § 2201 upon the “filing of
18 an appropriate pleading, may declare the rights and other legal relations of
19 any interested party seeking such declaration, whether or not further relief is
20 or could be sought. Any such declaration shall have the force and effect of a
21 final judgment or decree and shall be reviewable as such.”
22
23

24 51. Defendants currently maintain and actively enforce a set of laws, customs,
25 practices, and policies under color of state law that deprive Plaintiff of his
26

1 rights, privileges and/or immunities secured by the First, Fifth, and
2 Fourteenth Amendments to the United States Constitution, and, therefore,
3 Defendants are liable to Plaintiff under 42 U.S.C. § 1983.
4

5 52. The parties do not agree with each other as to matters about the application of
6 the law and understandings of certain facts.
7

8 53. The differences are real and may only be resolved by declaratory judgments
9 as to the differences.
10

11 54. A true "case or controversy" exists between the parties as to these matters.

12 55. Plaintiff has no adequate legal remedy by which to prevent or minimize the
13 continuing irreparable harm to his constitutional rights.
14

15 56. Declaratory relief will clarify the rights and obligations of the parties and is,
16 therefore, appropriate to resolve this controversy.
17

18 57. Plaintiff will be irreparably harmed if an injunction does not issue enjoining
19 Defendants from compelling Plaintiff to be a member of the WSBA and from
20 compelling Plaintiff to pay dues to the WSBA.
21

22 58. Plaintiff has no plain, speedy, or adequate remedy at law.

23 59. If not enjoined by this Court, Plaintiff alleges on information and belief that
24 Defendants will continue to violate the law as described herein.
25

26 60. Plaintiff is therefore entitled to declaratory and permanent injunctive relief.
27

1 28 U.S.C. §§ 2201, 2202, concerning these matters and as set forth in the
2 claims which follow.
3

4 **SECOND CLAIM FOR RELIEF**
5 **Compelled Membership in Monopoly of**
6 **The Practice of Law in Washington**

7 61. Plaintiff re-alleges and incorporates by reference every allegation set forth
8 above.

9 62. The WSBA and the Supreme Court is state-created government monopoly
10 over the practice of law in the State of Washington. *See, e.g.*, RCW 2.48.170,
11 RCW 2.48.180.
12

13 63. Plaintiff does not want to be a member of an association which is a
14 government monopoly of the practice of law in the state of Washington.
15

16 64. Nor does Plaintiff want to be a member with other members -- lawyers,
17 limited practice officers, and limited license legal technicians – of an
18 association which is a government monopoly of the practice of law in the
19 state of Washington.
20

21 65. RCW 19.86.040 (Monopolies and attempted monopolies declared unlawful)
22 provides:
23

24 It shall be unlawful for any person to monopolize or attempt to monopolize
25 or combine or conspire with any other person or persons to monopolize any
26 part of trade or commerce.

1 66. The Sherman Act has three sections.

2 a. 15 U.S. C. § 1

3
4 Every contract, combination in the form of trust or otherwise, or
5 conspiracy, in restraint of trade or commerce among the several States,
6 or with foreign nations, is declared to be illegal.

7 b. 15 U.S. C. § 2

8 Every person who shall monopolize, or attempt to monopolize, or
9 combine or conspire with any other person or persons, to monopolize
10 any part of the trade or commerce among the several States, or with
11 foreign nations, shall be deemed guilty of a felony [. . .]

12 67. GR 24 defines the practice of law. It provides:

13 (a) General Definition: The practice of law is the application of legal
14 principles and judgment with regard to the circumstances or objectives of
15 another entity or person(s) which require the knowledge and skill of a
16 person trained in the law. This includes but is not limited to:

17 (1) Giving advice or counsel to others as to their legal rights or the legal
18 rights or responsibilities of others for fees or other consideration.

19 (2) Selection, drafting, or completion of legal documents or agreements
20 which affect the legal rights of an entity or person(s).

21 (3) Representation of another entity or person(s) in a court, or in a formal
22 administrative adjudicative proceeding or other formal dispute resolution
23 process or in an administrative adjudicative proceeding in which legal
24 pleadings are filed or a record is established as the basis for judicial
25 review.

26 (4) Negotiation of legal rights or responsibilities on behalf of another
27 entity or person(s).

28 (b) Exceptions and Exclusions: Whether or not they constitute the
practice of law, the following are permitted:

(1) Practicing law authorized by a limited license to practice pursuant to
Admission to Practice Rules 8 (special admission for: a particular purpose
or action; indigent representation; educational purposes; emeritus

1 membership; house counsel), 9 (legal interns), 12 (limited practice for
2 closing officers), or 14 (limited practice for foreign law consultants).

3 68. Under color of state law, Defendants compel membership in the Defendants'
4 monopoly over the practice of law and have collected and continue to collect
5 mandatory member dues from Plaintiff which are used for the purposes of
6 maintaining and administering a monopoly over the practice of law in
7 Washington.

8
9
10 69. As a result of this monopoly, Plaintiff is required to be a member of the
11 monopoly along with other lawyers, limited practice officers, and limited
12 license legal technicians.

13
14 70. Plaintiff does not wish to associate with other lawyers for this monopolistic
15 purpose.

16
17 71. Plaintiff does not wish to associate with limited practice officers for this
18 monopolistic purpose.

19
20 72. Plaintiff does not wish to associate with a limited license legal technicians for
21 this monopolistic purpose.

22 73. Plaintiff is compelled to pay dues to the WS BA which dues can be set by
23 the Supreme Court. Such dues are used in part for the maintenance,
24 administration, and promotion of the limitation of the right to practice law in
25

1 the hands of the monopoly, that is the WS BA and the Supreme Court.

2 Plaintiff does not want his dues to be used for such purposes, such expression
3 and support of programs of the two entities.
4

5 74. Accordingly, Defendants currently maintain and actively enforce a set of
6 laws, customs, practices, and policies under color of state law that deprive
7 Plaintiff of rights, privileges and/or immunities secured by the First, Fifth,
8 and Fourteenth Amendments, and, therefore, Defendants are liable to
9 Plaintiff under 42 U.S.C. § 1983.
10

11
12 75. Plaintiff has no adequate legal remedy by which to prevent or minimize the
13 continuing irreparable harm to his constitutional rights.
14

15 76. Plaintiff is therefore entitled to declaratory and permanent injunctive relief.
16 28 U.S.C. §§ 2201, 2202.
17

18 **THIRD CLAIM FOR RELIEF**
19 **(Compelled Membership)**
20 **(First and Fourteenth Amendments)**

21 77. Plaintiff re-alleges and incorporates by reference every allegation set forth
22 above.
23

24 78. Ever since *NAACP v. Alabama*, 357 U.S. 449 (1958), freedom of association
25 has been a fundamental right deserving of First Amendment protection.
26

27 Correspondingly, “[f]reedom of association . . . plainly presupposes a
28

1 freedom not to associate.” *Roberts v. United States Jaycees*, 468 U.S. 609,
2 623 (1984).

3
4 79. The fundamental First Amendment right of association or non-association is
5 not absolute: “Infringements on that right may be justified by regulations
6 adopted to serve compelling state interests . . . that cannot be achieved
7 through means significantly less restrictive of associational freedoms.” *Id.*
8 (Footnote omitted.)
9

10 80. The infringements of the discipline system to Plaintiff’s fundamental rights
11 cannot be supported under the Constitutional Scrutiny Test. (Above at
12 paragraph 18.)
13

14 81. Plaintiff’s fundamental rights of procedural due process under the Fifth and
15 Fourteenth Amendments to the United States Constitution are also affected
16 by forcing Plaintiff to subject himself to the WSBA discipline system, it
17 violates the Constitutional Scrutiny Test.
18
19

20 82. Lawyer discipline can be better provided by a system independent of WSBA.

21 83. Defendants must be enjoined from compelling Eugster to be a member of the
22 WSBA, pay due to the WSBA, and be subjected to the WSBA discipline
23 system.
24

25 84. Plaintiff has no adequate legal remedy by which to prevent or minimize the
26

1 continuing irreparable harm to his constitutional rights.

2 85. Plaintiff is therefore entitled to declaratory and permanent injunctive relief.

3
4 28 U.S.C. §§ 2201, 2202.

5 **FOURTH CLAIM FOR RELIEF**
6 **(Compelled Speech and Association)**
7 **(First and Fourteenth Amendments)**

8 86. Plaintiff re-alleges and incorporates by reference each and every allegation
9 set forth above.

10 87. Under color of state law, Defendants have collected and continue to collect
11 mandatory member dues from Plaintiff which are used in part for political,
12 ideological, and other non-chargeable activities contrary to their views.

13
14 88. Accordingly, Defendants currently maintain and actively enforce a set of
15 laws, customs, practices, and policies under color of state law that deprive
16 Plaintiff of rights, privileges and/or immunities secured by the First, Fifth and
17 Fourteenth Amendments, and, therefore, Defendants are liable to Plaintiff
18 under 42 U.S.C. § 1983.

19
20 89. The infringements on Plaintiff's fundamental rights violate the Strict Scrutiny
21 Test.
22

23
24 90. Plaintiff has no adequate legal remedy by which to prevent or minimize the
25 continuing irreparable harm to his constitutional rights.
26

1 91. Plaintiff is therefore entitled to declaratory and permanent injunctive relief.
2
3 28 U.S.C. §§ 2201, 2202.

4 **FIFTH CLAIM FOR RELIEF**
5 **(Compelled Dues)**
6 **(First and Fourteenth Amendments)**

7 92. Plaintiff re-alleges and incorporates by reference every allegation set forth
8 above.

9 93. Defendants must be enjoined from compelling Eugster to be a member of the
10 WSBA, pay dues to the WSBA, and be subjected to the WSBA discipline
11 system.
12

13 94.

14 95. Accordingly, Defendants currently maintain and actively enforce a set of
15 laws, customs, practices, and policies under color of state law that deprive
16 Plaintiff of rights, privileges and/or immunities secured by the First, Fifth and
17 Fourteenth Amendments, and, therefore, Defendants are liable to Plaintiff
18 under 42 U.S.C. § 1983.
19

20 96. The infringements on Plaintiff's fundamental rights violate the Strict Scrutiny
21 Test.
22

23 97. Plaintiff has no adequate legal remedy by which to prevent or minimize the
24 continuing irreparable harm to his constitutional rights.
25
26

1 98. Plaintiff is therefore entitled to declaratory and permanent injunctive relief.

2 28 U.S.C. §§ 2201, 2202.

3
4 **PRAYER FOR RELIEF:**

5 WHEREFORE, Plaintiff, respectfully asks the court for the following relief:

6
7 1. Declaratory Judgments:

8 a. Declare that Plaintiff cannot be compelled to be a member of the
9 WSBA because such membership violates Eugster's right not to associate under
10 the First and Fourteenth Amendments to the United States Constitution;

11
12 b. Declare that Plaintiff cannot be compelled to pay dues to the WSBA
13 because being forced to do so violates Plaintiff's rights of freedom of speech and
14 non-speech under the First and Fourteenth Amendments to the United States
15 Constitution;

16
17 c. Declare that Plaintiff cannot be compelled to pay dues to the WSBA for
18 the Operations of the Government Monopoly and for Operations of the Supreme
19 Court because being forced to do so violates Plaintiff's rights of freedom of
20 speech and non-speech under the First and Fourteenth Amendments to the
21 United States Constitution;

22
23
24 d. Award Plaintiff such other necessary relief to implement Plaintiff's
25 rights and the purposes of those rights in this litigation; and,

26
27 AMENDED COMPLAINT FOR DECLARATORY

28 AND INJUNCTIVE RELIEF - 22

No. 2:17-cv-00392-TOR

1 e. Entry of permanent injunctions against Defendants to effect the
2 foregoing determinations;
3

4 2. Award Plaintiff his costs, expenses, and attorneys' fees in accordance with
5 law, including 42 U.S.C. § 1988;
6

7 3. Award Plaintiff such further relief as just and equitable.

8 Dated this 7th day of February 2018.
9
10
11

12 Respectfully submitted,

13 EUGSTER LAW OFFICE PSC
14

15 s/ Stephen Kerr Eugster

16 Stephen Kerr Eugster

17 2418 West Pacific Avenue

18 Spokane, Washington 99201-6422

19 (509) 624-5566

20 eugster@eugsterlaw.com
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1 VERIFICATION

2 Stephen Kerr Eugster declares under penalty of perjury under the laws of the
3 state of Washington he is of legal age, competent to be a witness in these
4 proceedings, that he makes the statements herein on his own personal knowledge
5 and that the statements in the above complaint are true and correct.
6
7

8 Signed at Spokane, Washington on February 7, 2018.

9 s/Stephen Kerr Eugster

10 Stephen Kerr Eugster
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CERTIFICATE OF SERVICE

I certify on February 7, 2018, by previous agreement of counsel, I emailed the preceding pleading to the attorneys for Defendants to their email addresses as set forth below.

Jessica Anne Skelton
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s/ Stephen Kerr Eugster
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