

FEB 12 2018

Timothy W. Fitzgerald
SPOKANE COUNTY CLERK

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

STEPHEN KERR EUGSTER,

Plaintiff,

vs.

WASHINGTON STATE BAR
ASSOCIATION, a legislatively created
Washington association (WSBA); PAULA
LITTLEWOOD, WSBA Executive
Director; PACIFICA LAW GROUP LLP, a
Washington limited liability partnership,
PAUL J. LAWRENCE; JESSICA A.
SKELTON; and TAKI V. FLEVARIS,

Defendants.

Case No.: 18200542-1

COMPLAINT FOR DAMAGES

Plaintiff alleges:

JURISDICTION

1. The Superior of the State of Washington in and for Spokane County has original jurisdiction over this action under Wash. Const. Art. IV, Section 6.

VENUE

2. Venue in Spokane County is proper under RCW 4.12.020 (3) ("For the recovery of damages for injuries to the person or for injury to personal property, the plaintiff shall have the option of suing either in the county in which the cause of action or some part thereof arose.").

PARTIES

3. Plaintiff, Stephen Kerr Eugster, (Eugster) is a resident of Spokane, Spokane County, Washington; he became admitted to the bar of the Supreme Court of Washington on January 30, 1970 and has practiced law in the state of Washington ever since.
4. Washington State Bar Association (WSBA) has offices in King County, Washington; it does business throughout Washington including especially Spokane County.
5. Defendant Paula Charis Littlewood (Littlewood), is a resident of King County, Washington. Defendant Littlewood is and has been implementing and enforcing the unconstitutional practices and policies complained of in this action. Defendant Littlewood is sued in her official capacity.
6. Defendant, Paul J. Lawrence (Lawrence), is a resident of King County, Washington, and a lawyer representing WSBA defendants. Defendant Lawrence is and has been implementing and enforcing the unconstitutional practices and policies complained of in this action. Defendant Lawrence is sued in his official capacity.
7. Defendant, Jessica Anne Skelton (Skelton), is a resident of King County, Washington, and a lawyer representing WSBA defendants. Defendant Skelton is has been implementing and enforcing the unconstitutional practices and policies complained of in this action. Defendant Skelton is sued in her official capacity.
8. Defendant, Taki V. Flevaris (Flevaris), is a resident of King County, Washington, and a lawyer representing WSBA defendants. Defendant Flevaris is and has been implementing and enforcing the unconstitutional practices and policies complained of in this action. Defendant Flevaris is sued in his official capacity.
9. Defendant Pacifica Law Group LLP is a Washington limited liability partnership of which defendants Lawrence, Skelton, and Flevaris are partners.

COMMON FACTS

10. In late 2016 early 2017, Plaintiff was retained by Robert E. Caruso and Sandra L. Ferguson to represent them in action against the Washington State Bar Association and others.
11. Action on their behalf was filed by Plaintiff, as the lawyer for Mr. Caruso and Ms. Ferguson.
12. Defendant Washington State Bar Association, when the action was commenced, was, despite its name an association of legal services providers which consisted of lawyers admitted to the bar of the Supreme Court of Washington, limited practice officers, and limited license legal technicians.

13. Mr. Caruso and Ms. Ferguson claims were made under the Civil Rights Act for violation of their rights of freedom of association and non-association under the First and Fourteenth Amendments to the United States Constitution.
14. Mr. Caruso and Ms. Ferguson also made claims under the Civil Rights Act for violation of their rights of rights of procedural due process of law under the under the Fifth and Fourteenth Amendments to the United States Constitution.
15. Defendants to the action were the Executive Director of the WSBA, Paula C. Littlewood and others.
16. Ms. Littlewood, and the other Defendants were represented by Paul J. Lawrence, Jessica A. Skelton, and Taki V. Flevaris, partners in Pacifica Law Group LLC.
17. On February 23, 2017, Plaintiff, as the lawyer for Mr. Caruso and Ms. Ferguson, conferred by telephone to discuss the case with the attorneys for Ms. Littlewood and the to the others.
18. During the conference call, Plaintiff explained the case, which had then been amended, to Mr. Lawrence, Ms. Skelton, and Mr. Flevaris and made it a point to emphasize that the WSBA of the case was an association of lawyers, limited practice officers, and limited license legal technicians.
19. In response, Mr. Lawrence told Plaintiff, in the presence of Ms. Skelton, and Mr. Flevaris, that if he proceeded with the action they would seek fees from personally from him.
20. The lawyers in a day or two of the telephone conference agreed to a schedule for dispositive motions in the case.
21. Motions for Mr. Caruso and Ms. Ferguson were filed first as agreed. They consisted of a motion for summary judgment and a motion for preliminary injunction.
22. On behalf of the WSBA, Ms. Littlewood and others, attorneys Lawrence, Skelton, and Flevaris filed a "Motion to Dismiss and Opposition to Plaintiffs' Motions for Summary Judgment and Preliminary Injunction (herein "Motion to Dismiss and Opposition to Motions.").
23. At the beginning ("Introduction") of the Motion to Dismiss and Opposition to Motions the WSBA attorneys, Mr. Lawrence, Ms, Skelton, and Mr. Flevaris said this:

In this lawsuit, a disgruntled lawyer who has been disciplined on multiple occasions for professional misconduct continues his meritless crusade against Washington's bar system. Within the past two years alone, Plaintiffs' counsel Stephen K. Eugster ("Eugster") has filed four prior pro se lawsuits against Defendant the Washington State Bar Association ("WSBA") and its officials; each such lawsuit was meritless and dismissed at the pleadings stage.1 This lawsuit is no different, even though this time Eugster has enlisted two other

disciplined lawyers as named plaintiffs, in the effort to obtain yet another round of judicial review of his frivolous arguments. Many of the arguments Plaintiffs make here are exactly the same arguments that this Court already rejected as meritless when Eugster brought them on his own behalf.² These arguments have no more merit when brought on behalf of others. This Court should reject Eugster's attempt to file another lawsuit alleging the same baseless claims. [Footnotes omitted.] Motion to Dismiss and Opposition to Motions at 1.

24. In the Conclusion of the Motion to Dismiss and Opposition to Motions, the WSBA lawyers said this:

This case is one in a long line of frivolous attempts by Plaintiffs' counsel to upend Washington's bar system, including the Washington Supreme Court's disciplinary system. Enlisting other lawyers to serve as named plaintiffs does not change the outcome. As with counsel's prior suits, the claims presented are meritless and should be dismissed with prejudice. Motion to Dismiss and Opposition to Motions at 24

25. Plaintiff, as the lawyer for Mr. Caruso and Ms. Ferguson, filed their Response to Defendants' Motion to Dismiss.
26. About 21 days after the Response to Defendants' Motion to Dismiss, the WSBA and its attorneys filed a motion seeking fees from Plaintiff Stephen Kerr Eugster.
27. The results of the preceding motions by the WSBA and their attorneys were a dismissal of the claims of Mr. Caruso and Ms. Ferguson and an award of fees more than \$28,000.00 against Stephen Kerr Eugster, personally.
28. Plaintiff attorney for Mr. Caruso and Ms. Ferguson filed a notice of appeal to the 9th Circuit Court of Appeals. The appeal is pending.
29. Ms. Ferguson withdrew from the appeal at the outset.
30. Mr. Caruso proceeds with the appeal. Plaintiff is his attorney.
31. Stephen Kerr Eugster, pro se, filed an appeal regarding the fees order against him. The appeal is pending. This appeal is separate from the Caruso appeal.

FRAUD ON THE COURT

32. The Order of Dismissal of Mr. Caruso's case and the Order for Fees against Stephen Kerr Eugster were procured by Executive Director Littlewood and her attorneys, Lawrence, Skelton, and Flevaris on what they said in the Motion to Dismiss and Opposition to Motions.
33. The statements included much of what was false.
34. If the statements were not false, they were misleading.

35. The statements did not include further statements to explain matters which were subject to interpretation.
36. Littlewood and her lawyers failed to disclose facts which were directly contrary to the facts needed to support their statements or failures to make statements.

WSBA Lawyers View of Eugster Cases

37. After the "Introduction" described above in paragraph 23, the WSBA lawyers included a section entitled "Prior Lawsuits Involving Eugster." The section begins with this:

This case is the latest in a number of proceedings involving both Eugster and the WSBA. The prior disputes provide context for Plaintiffs' arguments and issues presented in this case. This Court may take judicial notice of the public filings in these prior relevant cases. *See MGIC Indem. Corp. v. Weisman*, 803 F.2d 500, 504 (9th Cir. 1986) ("On a motion to dismiss, we may take judicial notice of matters of public record outside the pleadings."). The Court also may consider the decisions made in each case as persuasive authority.

Defendants' Motion to Dismiss Plaintiffs' Claims and Opposition to Plaintiffs' Motions for Summary Judgment and Preliminary Injunction 2-3

38. This section or something like it is a significant part of each of the motions for dismissal filed by the WSBA lawyers in the other cases in which the WSBA lawyers are representing the WSBA and other defendants against Plaintiff.
39. Despite what the WSBA lawyers say they are going to provide -- "context" for "arguments and issues presented in this case" -- the essence of what the lawyers said consisted of on-going ad hominem toward Plaintiff.
40. This on-going ad hominem toward Plaintiff is found in each one of the motions made by the lawyers for the WSBA in previous cases.
41. This on-going ad hominem toward Plaintiff is found in a motion by the WSBA lawyers in a recent subsequent case.
42. This section was part of a plan of the lawyers for the WSBA to gain decisions in their favor.

CAUSES OF ACTION

FIRST CAUSE OF ACTION

Intentional Defamation by Libel and Libel Per Se

43. Plaintiff hereby incorporates all preceding paragraphs as though fully incorporated.
44. Defendants have intentionally defamed Plaintiff.

45. Going to what the Defendants said in the “Introduction” quoted above at paragraph 23.

- a. Plaintiff is not “disgruntled lawyer.
- b. ” Plaintiff is not “on a meritless crusade” against Washington’s bar system. The lawyers say “[w]ithin the past two years alone, Stephen K. Eugster (“Eugster”) has not “filed four prior pro se lawsuits against Defendant the Washington State Bar Association (“WSBA”) and its officials: each such lawsuit was meritless and dismissed at the pleadings stage.” This is false.
- c. “This lawsuit is no different, even though this time Eugster has enlisted two other disciplined lawyers as named plaintiffs, in the effort to obtain yet another round of judicial review of his frivolous arguments.” These are lies; Plaintiff did not enlist Mr. Caruso and Ms. Ferguson, they retained Plaintiff; Mr. Caruso and Ms. Ferguson were not nominal plaintiffs for Plaintiff.
- d. They say “[m]any of the arguments [Mr. Caruso and Ms. Ferguson] make here are exactly the same arguments that this Court already rejected as meritless when Eugster brought them on his own behalf.” This is statement is untrue and decidedly so. The arguments were not the same, the facts cases brought by Plaintiff on his own behalf were completely different in a basic and decisive way – the WSBA at the time those suits were brought was a typical integrated bar association made up of lawyers only.

46. Going to what the Defendants said in the “Conclusion” quoted above at paragraph 24.

- a. They say: “This case is one in a long line of frivolous attempts by Plaintiffs’ counsel to upend Washington’s bar system, including the Washington Supreme Court’s disciplinary system.” Not one of Eugster’s cases was frivolous.
- b. They say: “Enlisting other lawyers to serve as named plaintiffs does not change the outcome.” Plaintiff did not enlist other lawyers to serve as nominal plaintiffs for him.
- c. They say: “As with counsel’s prior suits, the claims presented are meritless and should be dismissed with prejudice.” The prior suits and claims were not meritless. Also, the prior suits were based on facts concerning the WSBA which were decidedly different than the facts in the case before the court.

47. Not only were the statements false they were purposefully misleading because Ms. Littlewood and her lawyers failed to disclose that the WSBA of the action brought by Mr. Caruso and Ms. Ferguson was against a WSBA which was (and is still) an association of lawyers, limited practice officers, and limited license legal technicians.

48. The statements were purposely misleading in that because Ms. Littlewood and her lawyers whenever they said things like “each such lawsuit was meritless and

dismissed at the pleadings stage” gave the impression that they were saying each lawsuit was meritless.”

49. Each lawsuit was not dismissed because the lawsuit was meritless, that was a false impression, but one they did not want to disclose to the trial judge.
50. Defendants engaged in, instigated, and directed a course of extreme and outrageous conduct with the intention of causing, or reckless disregard of the probability of causing, emotional distress to Plaintiff.
51. As a proximate result of the acts alleged herein, Plaintiff suffered severe or extreme emotional distress, entitling him to damages in an amount to be proven at trial.

**SECOND CAUSE OF ACTION
False Light Invasion of Privacy**

52. Plaintiff hereby incorporates all preceding paragraphs as though fully incorporated.
53. Defendants publicized matters which place Plaintiff in a false light.
54. The false light is highly offensive reasonable persons.
55. The Defendants knew of or recklessly disregarded the falsity of the publications and the false light in which Plaintiff would be placed.
56. As a proximate result of the acts alleged herein, Plaintiff suffered general damages in an amount to be determined at trial.

**THIRD CAUSE OF ACTION
Intentional Abuse of Process: False Statements**

57. Plaintiff hereby incorporates all preceding paragraphs as though fully incorporated.
58. Defendants’ purpose with regard to the ad hominem and false statements about Plaintiff had the ulterior purpose of causing the trial judges in the cases involving Eugster to take sides with the lawyers for the defendants in the cases to accomplish something they were not entitled – animosity toward Plaintiff by the judges of the courts and use of orders which were not on the merits as res judicata.
59. Defendants not only lied, failed to tell the whole truth of matters, failed to disclose facts which they were aware of which were not in their interest but were necessary for the trial judge to make a correct decision.
60. Defendants’ actions or nonactions were intentional.
61. Defendants were also intentional violations of the Washington Rules of Professional Conduct

62. The lawyers have intentionally violated several Washington Rules of Professional Conduct:

RPC 3.3(a)(1). Candor Toward the Tribunal.

A lawyer shall not knowingly: (1) make a false statement of fact or law to a tribunal or fail to correct a false statement of material fact or law previously made to the tribunal by the lawyer.

RPC 3.4. Fairness to Opposing Party

A lawyer shall not:

(e) in trial, allude to any matter that the lawyer does not reasonably believe is relevant or that will not be supported by admissible evidence, assert personal knowledge of facts in issue except when testifying as a witness, or state personal opinion as to the justness of a cause, the credibility of a witness, the culpability of a civil litigant or the guilt or innocence of an accused.

RPC 3.5 Impartiality of the Tribunal.

A lawyer shall not:

(a) seek to influence a judge, juror, prospective juror or other official by means prohibited by law;

(d) engage in conduct intended to disrupt a tribunal.

RPC 8.4 Misconduct

RPC 8.4 "Misconduct" in applicable part, provides:

It is professional misconduct for a lawyer to:

(a) violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another;

(c) engage in conduct involving dishonesty, fraud, deceit or misrepresentation;

(f) knowingly (1) assist a judge or judicial officer in conduct that is a violation of applicable rules of judicial conduct or other law,

(n) engage in conduct demonstrating unfitness to practice law.

63. As a proximate result of the acts alleged herein, Plaintiff suffered damages in an amount to be proven at trial.

FOURTH CAUSE OF ACTION Civil Conspiracy

64. Plaintiff restates and re-alleges the preceding paragraphs as if a part of this Count.

65. Defendants combined to accomplish an unlawful purpose,

66. Defendants combined to accomplish a lawful purpose by unlawful means;
67. The Defendants agreed to accomplish the conspiracy
68. As a result of the preceding conduct of the Defendants, Plaintiff has suffered injury.
69. As a proximate result of Plaintiff injury, he is entitled to damages in an amount to be proven at trial.

**FIFTH CAUSE OF ACTION
Civil Rights Damages**

70. Plaintiff restates and re-alleges the preceding paragraphs as if a part of this Count.
71. The Civil Rights Act, 42 U.S.C. § 1983 provides:

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress, . . .

72. Plaintiff has the right, guaranteed by the First Amendment to the United States Constitution, which specifically prohibits Defendants from abridging "the right of the people ... to petition the Government for a redress of grievances."
73. Because of Defendants' conduct, Plaintiff has been denied or thwarted in his constitutional right of petition under the First Amendment to the United States Constitution.
74. At the time of Defendants' conduct, each was acting their official capacity under color of the law of the state of Washington
75. As the result of Defendants conduct, Plaintiff has been injured.
76. As a proximate result of the acts alleged herein by Defendants, Plaintiff has suffered damages in an amount to be proven at trial.

PRAYER FOR RELIEF

WHEREFORE Plaintiff prays for judgment against Defendants, and each of them, jointly and severally, as follows:

1. General damages in an amount to be proven at trial;

2. For other and further general and special damages in a sum according to proof at the time of trial;

3. For attorneys' fees under 42 U.S.C. § 1988;

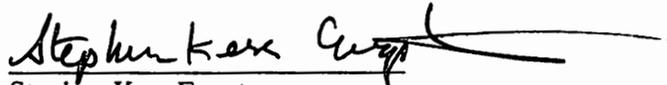
4. For costs of suit incurred herein; and

5. For such other and further relief as this Court deems just and proper.

February 12, 2018.

Respectfully,

EUGSTER LAW OFFICE PSC

A handwritten signature in black ink, reading "Stephen Kerr Eugster", with a long horizontal flourish extending to the right.

Stephen Kerr Eugster
WSBA # 2003
2418 W Pacific Ave.
Spokane, WA 99201

VERIFICATION

I, Stephen Kerr Eugster, declare under penalty of perjury under the law of the state of Washington that he is over the age of 18, competent to be a witness in proceedings such as this, and that the statements made above are true and correct.

Signed at Spokane, Washington on February 12, 2018.


Stephen Kerr Eugster