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SUPREME COURT
STATE OF WASHINGTON
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No. 98249-0

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

STEPHEN KERR EUGSTER,

Appellant/Cross-Respondent,

v.

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,

Respondents/Cross-Appellants.

**RESPONDENT WASHINGTON STATE BAR ASSOCIATION'S
ANSWER TO PETITION FOR REVIEW**

PACIFICA LAW GROUP LLP
Jessica A. Skelton, WSBA #36748
Taki V. Flevaris, WSBA #42555
1191 2nd Avenue, Suite 2000
Seattle, WA 98101
(206) 245-1700

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I. INTRODUCTION

In this case, Petitioner Stephen K. Eugster (“Eugster”) sued Respondent the Washington State Bar Association (“WSBA”) and its attorneys for statements made in legal briefing in a prior federal suit. The Court of Appeals correctly found these claims frivolous based on absolute privilege and because the Ninth Circuit already rejected Eugster’s assertions of wrongdoing. Eugster’s petition does not address, much less satisfy, this Court’s standards for discretionary review. Instead, he merely repeats the same arguments multiple courts have already rejected and continues his pattern of vexatious litigation against the WSBA. The Petition should thus be denied.

II. ARGUMENT

A. Eugster’s Request for Recusal Is Baseless.

Eugster’s Petition initially asks the members of this Court to recuse, without a valid basis. Recusal is appropriate when an issue presents a significant personal conflict for a panel member, such as a direct financial or interpersonal interest. *See, e.g., Yelle v. Kramer*, 83 Wn.2d 464, 465-66, 520 P.2d 927 (1974). Here, Eugster identifies no such interest or conflict. He made a similar baseless request last time he sought review in one of his cases against the WSBA, which was rejected, and the result here should be the same. *See* No. 94733-3, Order (Nov. 8, 2017).

B. Eugster’s Petition Fails to Satisfy the Grounds for Discretionary Review.

Eugster acknowledges this Court’s standards for discretionary review only in passing, *see* Pet. at 20 (citing RAP 13.4(b)), without presenting any argument or analysis to show they are met here. Instead, he devotes his Petition to arguing at length about perceived personal attacks against him, and alleged judicial errors concerning the particulars of his cases, none of which amounts to a conflict among decisions, a significant question of law, or an issue of substantial public interest warranting review. *See* RAP 13.4(b)(1)-(4).

In any event, the Court of Appeals was correct to find Eugster’s claims frivolous in this case. The claims were premised on prior statements in legal briefing, which are subject to absolute immunity under well settled law. *See McNeal v. Allen*, 95 Wn.2d 265, 267, 621 P.2d 1285 (1980); *Johnston v. Schlarb*, 7 Wn.2d 528, 536-40, 110 P.2d 190 (1941). Moreover, Eugster already complained about the statements in the very proceedings in which they were made, but the federal courts rejected his assertions as “without merit and unsupported by the record.” *Eugster v. Wash. State Bar Ass’n*, 716 F. App’x 645, 646 (9th Cir. 2018); *see also Caruso v. Wash. State Bar Ass’n*, No. C17-003 RSM, 2017 WL 2256782, at *3-5 (W.D. Wash. May 23, 2017).

Multiple courts have also already rejected the various tangential arguments Eugster raises throughout his Petition, and have done so repeatedly and consistently. This includes, for example, his objection that ad hominem attacks were made against him, *see, e.g., Caruso*, 2019 WL 5549608, at *1 (Oct. 28, 2019); *Caruso*, 2017 WL 2256782, at *3-5; and his argument that his lawsuits from *Caruso* onward were distinguishable from his multiple prior suits against the WSBA, *see, e.g., Caruso*, 2017 WL 1957077, at *2-3 (May 11, 2017); *Eugster v. Littlewood*, No. 2:17-CV-0392-TOR, 2018 WL 2187054, at *4-5 (E.D. Wash. May 11, 2018).

Ultimately, the federal courts recognized these repetitious arguments and frivolous claims as part of a pattern of vexatious and harassing litigation by Eugster against the WSBA, warranting a prefiling order against him. *See Caruso*, 2017 WL 2256782, at *4 (imposing sanctions against Eugster for filing a frivolous suit), *aff'd*, 716 F. App'x 645; *Caruso*, 2018 WL 3008876, at *4 (June 15, 2018) (imposing prefiling order on Eugster for “frivolous” litigation that was “meant to harass”), *rev'd in part and remanded on other grounds*, 765 F. App'x 149 (9th Cir. 2019). Granting the Petition would only invite further vexatious litigation.

III. CONCLUSION

Eugster's Petition is frivolous. He does not establish that any ground for discretionary review has been satisfied; other courts have already

rejected his arguments repeatedly; and the Petition is part of a continuing pattern of vexatious litigation against the WSBA. For these reasons, the WSBA respectfully requests that the Petition be denied.

RESPECTFULLY SUBMITTED this 3rd day of April, 2020.

PACIFICA LAW GROUP LLP

By: s/ Taki V. Flevaris

Jessica A. Skelton, WSBA #36748

Taki V. Flevaris, WSBA #42555

Attorneys for Respondent

Washington State Bar Association

CERTIFICATE OF SERVICE

I am and at all times hereinafter mentioned was a resident of the State of Washington, over the age of 21 years, and not a party to this action. On the 3rd day of April, 2020, I caused to be served, via the Washington State Supreme Court's Portal System, a true copy of the foregoing document upon all parties of record via electronic mail.

Dated this 3rd day of April, 2020.

s/ Thien Duc Tran
Thien Duc Tran, Legal Assistant
PACIFICA LAW GROUP LLP
1191 2nd Ave, Ste 2000
Seattle, WA 98101
Thien.Tran@pacificalawgroup.com

PACIFICA LAW GROUP

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- thien.tran@pacificalawgroup.com

Comments:

RESPONDENT WASHINGTON STATE BAR ASSOCIATION'S ANSWER TO PETITION FOR REVIEW

Sender Name: Thien Tran - Email: Thien.Tran@pacificalawgroup.com

Filing on Behalf of: Taki V. Flevaris - Email: taki.flevaris@pacificalawgroup.com (Alternate Email: thien.tran@pacificalawgroup.com)

Address:
1191 Second Avenue, Suite 2100
Seattle, WA, 98101
Phone: (206) 245-1700

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