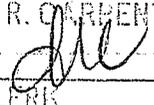


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SUPREME COURT
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2000 MAY 8 P 4:18

BY RONALD R. CARPENTER

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IN THE SUPREME COURT OF THE STATE OF WASHINGTON

In re
STEPHEN K. EUGSTER,
Lawyer (Bar No. 2003).

Supreme Court No. 200-~~568-3~~
200 566-7
ASSOCIATION'S MOTION TO
STRIKE

The Washington State Bar Association (Association) moves pursuant to Rule 17.1 of the Rules of Appellate Procedure (RAP) and RAP 17.4(b) to strike the argument section (pages 4-19) of Stephen Eugster's Answer to Petition for Suspension (Answer) and Appendix A (page 1-18) to the Answer. These arguments address the merits of the case pending on appeal. They do not address whether Eugster should be suspended under Rule 7.2(a)(2) of the Rules for Enforcement of Lawyer Conduct (ELC), which is the only issue relevant at this stage of the discipline process.

The Association filed a petition under ELC 7.2(a)(2), which provides for the interim suspension of a lawyer when the Disciplinary Board (Board) enters a decision recommending disbarment:

Board Recommendation for Disbarment. When the Board enters a decision recommending disbarment, disciplinary counsel must file a petition for the respondent's suspension

during the remainder of the proceedings. The respondent must be suspended absent an affirmative showing that the respondent's continued practice of law will not be detrimental to the integrity and standing of the bar and the administration of justice, or be contrary to the public interest. If the Board's decision is not appealed and becomes final, the petition need not be filed, or if filed may be withdrawn.

ELC 7.2(a)(2) (emphasis added). As set forth in the Association's Petition for Interim Suspension, the Hearing Officer and a unanimous Disciplinary Board (Board) recommended Eugster's disbarment.

The Association's Petition for Interim Suspension is scheduled to be heard by the Court on May 15, 2008. On May 7, 2008, the Association received Eugster's Answer.

The argument section in Eugster's Answer (pages 4-19) restates the argument contained in Eugster's appellate brief. Appendix A to Eugster's Answer contains the fact section from his appellate brief. The sole purpose of these materials is to contradict findings of fact that were affirmed by a unanimous Board. Findings of Fact, Conclusions of Law, and Hearing Officer's Recommendation at 26, 28-30; Disciplinary Board Order Adopting Hearing Officer's Decision with Amendments, Amended Finding of Fact (FOF) 2.26.1 at 1, 10.¹

¹ Copies of the Board's decision and Hearing Officer's decision are attached to the Association's Petition for Interim Suspension as Appendix A and Appendix B respectively.

When the Court reviews the full record with complete briefing, it will consider Eugster's arguments on the merits.² At this stage of the proceedings, the respondent "must be suspended" unless the lawyer makes the required affirmative showing that his or her "continued practice of law will not be detrimental to the integrity and standing of the bar and the administration of justice, or be contrary to the public interest." ELC 7.2(a)(2). The rule does not contemplate using the interim suspension proceeding to retry the underlying case or prematurely decide the issues on appeal.

Accordingly, the Association asks this Court to strike the argument section (page 4-19) from Eugster's Answer and Appendix A and rule on the motion prior to the hearing on May 15, 2008.

DATED THIS 8th day of May, 2008.

Respectfully submitted,

WASHINGTON STATE BAR ASSOCIATION

Jonathan Burke

Jonathan Burke, Bar No. 20910
Disciplinary Counsel
1325 4th Avenue, Suite 600
Seattle, WA 98101-2539
(206) 733-5916

**FILED AS ATTACHMENT
TO E-MAIL**

² The Association's Answer Brief, which addresses the merits of Eugster's contentions, was filed with the Court on May 2, 2008.

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In re

STEPHEN K. EUGSTER,

Lawyer (Bar No. 2003).

Supreme Court No. ~~200,568-3~~
CLERK 200566-7
AFFIDAVIT OF SERVICE (RAP.
17.4(b))

I, Jonathan Burke, being of full age, on his oath, deposes and says:

1. I am the disciplinary counsel handling the above matter. I submit this affidavit pursuant to Rule 17.4(b) of the Rules of Appellate Procedure.

2. I caused copies of the Association's Motion to Strike to be sent by facsimile and mail on May 8, 2008 at approximately 3:50 p.m. to the following lawyers who represent Stephen Eugster:

Shawn T. Newman
Attorney at Law
2507 Crestline Dr., N.W.
Olympia, WA 98502
Fax # (360) 866-2304

And to:

Kris J. Sundberg
Attorney at Law
P.O. Box 1577
Mercer Island, WA 98040
Fax # (206) 236-0525

Sworn to and subscribed before me this 8th day of May, 2008.

Jonathan Burke
Jonathan Burke
Disciplinary Counsel, Bar No. 20910
Washington State Bar Association
(206) 733-5916

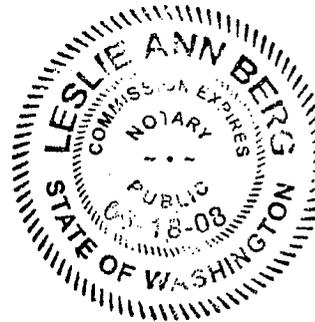
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STATE OF WASHINGTON }
COUNTY OF KING } SS:

I certify that I know or have satisfactory evidence that Jonathan Burke the person who appeared before me, and said person acknowledged that they signed this instrument and acknowledge it to be their free and voluntary act for the uses and purposes mentioned in this instrument.

Dated: 5/2/08 *Leslie Berg*

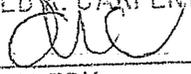
Notary Public in and for the State of WA
Residing at: King County
My appointment expires: 6/18/08



OFFICE RECEPTIONIST, CLERK

From: OFFICE RECEPTIONIST, CLERK
Sent: Thursday, May 08, 2008 4:22 PM
To: 'Sherry Smith'
Cc: Jonathan Burke
Subject: RE: Supreme Court No. 200,568-3 Filing

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Please note that any pleading filed as an attachment to e-mail will be treated as the original. Therefore, if a filing is by e-mail attachment, it is not necessary to mail to the court the original of the document.

From: Sherry Smith [mailto:sherrys@wsba.org]
Sent: Thursday, May 08, 2008 4:18 PM
To: OFFICE RECEPTIONIST, CLERK
Cc: Jonathan Burke
Subject: Supreme Court No. 200,568-3 Filing

Dear Clerk,

Attached for filing are the following documents in the case of In re Stephen K. Eugster, Supreme Court No. 200,568-3, Bar No. 2003:

1. The the Washington State Bar Association's Answering Motion to Strike
2. Affidavit of Service

Please send confirmation that these documents have been received. Thank you.

Sincerely,

Jonathan Burke, Bar No. 20910
Senior Disciplinary Counsel
Washington State Bar Association
1325 4th Ave, Ste 600
Seattle, WA 98101-2539
206-733-5916
jonb@wsba.org

**FILED AS ATTACHMENT
TO E-MAIL**