

**SUPREME COURT OF WISCONSIN**  
**OFFICE OF LAWYER REGULATION**

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**Public Reprimand with Consent**

**Colleen J. Locke**  
**Attorney at Law**

**2013-OLR-3**

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Colleen J. Locke is a Wisconsin-licensed attorney, whose address of record is 125 S. Main St., Jefferson, Wisconsin, 53549-1631.

**Matter 1**

In August 2008, a woman hired Attorney Colleen J. Locke and another attorney (“co-counsel”) not in the same law firm and paid them \$500 to represent her in a bankruptcy matter. She later paid an additional \$100. The parties did not enter a written fee agreement. The arrangement was that Locke, whose office is in Jefferson, Wisconsin, would prepare all the paperwork in the matter, and co-counsel would appear in court as his office was in Milwaukee. The attorneys intended to charge whatever fee the court normally allowed in a Chapter 13 bankruptcy case, which they determined to be \$2,500, and the fee would belong to Locke.

Locke had seldom handled any bankruptcy matters, but in June 2008 she decided to develop a bankruptcy practice. Co-counsel had regularly appeared on behalf of a creditor in bankruptcy court, and had long ago been a trustee in bankruptcy, but had filed very few bankruptcy petitions for his own clients. When they began representing the client, co-counsel hired a paralegal who purportedly had experience in bankruptcy cases.

On September 15, 2008, the attorneys filed a petition for Chapter 13 bankruptcy protection on behalf of the client and paid the \$300 filing fee. The petition indicated that Locke was the attorney of record and that the attorney fee would be \$3,000, with \$500 already paid. That day, the deputy clerk for the bankruptcy court issued a notice of deficient filing.

On September 17, 2008, the attorneys filed a Chapter 13 bankruptcy plan that showed the attorney's fee would total \$5,000. According to co-counsel, the paralegal had drafted the bankruptcy plan and included the wrong sum for the attorney's fee. Upon discovering the paralegal's error, on September 18, 2008, co-counsel terminated the paralegal and paid him the remaining \$300 of the advanced fee for his work on the case. Thereafter, Locke prepared all of the documents for the client's case.

On October 22, 2008, one of the creditors filed an objection to the bankruptcy plan on the grounds that the amount proposed to be paid in the plan did not cover the total debt. On October 24, 2008, the attorneys filed an amended Chapter 13 bankruptcy plan providing that the total attorney fee was \$2,500, with \$500 already paid. After a hearing regarding the creditor's objection, the attorneys informed the court they would file another amended plan.

On December 3, 2008, the bankruptcy trustee reported to the court that documents from the bankruptcy plan were missing or needed to be amended, including Form B22C Statement of Current Monthly Income. On December 15, 2008, the attorneys filed another amended bankruptcy plan, as well as an amended Form B22C.

On December 23, 2008, the bankruptcy trustee filed a motion to dismiss the case because of delay that was prejudicial to the creditors. The motion provided that at the initial meeting of creditors on October 23, 2008, the trustee had expressed concerns about a missing B22C Form, inconsistent statements as to how much in attorney fees were to be paid through the plan, and problems with Schedule I, Current Income of Individual Debtor. The motion explained that the trustee adjourned the meeting to December 4, 2008 and then to December 18, 2008 for the debtor to correct the problems, but they had not been resolved, causing unreasonable and prejudicial delay to the creditors. In addition, though an amended Chapter 13 plan and B22C Form were filed on December 15, 2008, an amended Schedule I was not filed and the amended plan contained conflicting information as to the amount of attorney fees yet to be paid, either \$2,000 or \$2,500. The motion outlined five specific errors in the latest B22C Form, the result of which would be that the client would pay only 10% of the amount owed to creditors, when in fact had the form been filled out correctly, the client would be required to pay 100% of the amount owed, as the debtor failed to contribute all of her disposable income as required. Accordingly, the trustee requested the case be dismissed. The court gave the parties until January 16, 2009 to respond to the motion to dismiss. Locke and co-counsel did not respond to the motion by that date.

On December 30, 2008, the client sent Locke a letter expressing her concerns about the bankruptcy trustee's objection to the plan. In her grievance with OLR, the client noted that her son's student loan, on which the client was a co-signer, was mistakenly included in her bankruptcy petition, resulting in both the client and her son

making payments towards his student loan, and the client paying more than she should have if the bankruptcy petition had been filed properly.

On January 6, 2009, the attorneys filed an amended Form B22C and a Form 2016(b) Disclosure of Compensation of Attorney, which provided that her attorney fee was to be a total of \$3,000.00. On January 21, 2009, the attorneys filed an Amended Schedule I Current Income of Individual Debtor, and an amended Disclosure of Compensation of Attorney, which provided that her attorney fee was to be a total of \$3,000.00. On January 26, 2009, the attorneys filed another amended Form B22C.

On February 9, 2009, one day before the hearing, the attorneys filed a motion in opposition to the trustee's motion to dismiss. In her supporting affidavit, Locke acknowledged that the client was willing to pay up to 100% of the amount owed to creditors. That day, the attorneys also filed another amended Form B22C. On February 10, 2009, the attorneys filed yet another amended Form B22C. The court's February 10, 2009 minutes provide in part:

The trustee provided the Court with a history of the case that included several adjourned Section 341 hearings at which he had given counsel the opportunity to correct the B22C form and the plan. He explained that none of the adjourned hearings yielded a correct B22C form, and as a result, the plan did not propose to pay the correct amount to unsecured creditors. The trustee further indicated that his office had spoken with counsel for the debtor on several occasions, and had gone through the B22C form with counsel line by line to explain what needed to be done to correct it. The trustee indicated that these exercises still did not result in the B22C form being correctly completed. He noted that at the outset of today's hearing, counsel for the debtor had handed him yet another version of the B22C form, and that a quick glance revealed that the error on this latest version of the form was located on line 53, where counsel had incorrectly totaled the allowed deductions. The trustee also noted that on this version, counsel had added some \$35 of new expenses, and that the trustee did not know what those expenses were.

With regard to the B22C form, the trustee indicated that it appeared that, if counsel for the debtor were to complete the form correctly, the debtor would have over \$900 a month in disposable income to devote to unsecured creditors, and that the law would require that her plan be a 100% plan (rather than the 10% the debtor had proposed in the most recently-amended plan)...

The Court sustained the trustee's objection to confirmation of the Chapter 13 plan, and gave the debtor 30 days to file an amended plan and an amended B22C form.

Thereafter, the client dismissed Locke and co-counsel and hired successor counsel, paying an initial fee of \$500. Successor counsel was unable to use the paperwork completed by the attorneys and started over with all new forms. On March 4, 2009, successor counsel filed a third amended bankruptcy plan, which plan was agreed to by the bankruptcy trustee and confirmed by the court on April 7, 2009 without further incident. Locke later agreed to waive her fee in the matter.

By failing to correctly file a Chapter 13 bankruptcy petition and accompanying schedules on behalf of her client, despite numerous opportunities to do so and specific advice from the bankruptcy trustee, causing the client additional delay and expense, Locke violated SCR 20:1.1, which states, "A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation."

By failing to timely respond to the bankruptcy trustee's motion to dismiss her client's Chapter 13 bankruptcy matter, Locke violated SCR 20:1.3, which states, "A lawyer shall act with reasonable diligence and promptness in representing a client."

By accepting an advanced fee with the expectation that the total fee would be at least \$2,500 and by failing to enter into a written fee agreement with her client, Locke violated SCR 20:1.5(b)(1), which states, “The scope of the representation and the basis or rate of the fee and expenses for which the client will be responsible shall be communicated to the client in writing, except before or within a reasonable time after commencing the representation when the lawyer will charge a regularly represented client on the same basis or rate as in the past. If it is reasonably foreseeable that the total cost of representation to the client, including attorney's fees, will be \$1000 or less, the communication may be oral or in writing. Any changes in the basis or rate of the fee or expenses shall also be communicated in writing to the client; and SCR 20:1.5(b)(2), which states, “If the total cost of representation to the client, including attorney’s fees, is more than \$1000, the purpose and effect of any retainer or advance fee that is paid to the lawyer shall be communicated in writing.”

## **Matter 2**

On July 11, 2008, Attorney Colleen J. Locke and her second husband filed a joint petition for divorce. Neither party was represented by counsel. On July 15, 2008, the parties signed a marital settlement agreement dividing the couple’s property, including a provision requiring Locke to make a cash payment as full settlement of the parties’ respective interests in the homestead property. The couple was granted a judgment of divorce on August 21, 2008.

Thereafter, a dispute arose between the parties regarding the sale of the homestead and the settlement payment, as well as other financial issues. Locke’s ex-

husband hired counsel to represent him in post-judgment proceedings. The ex-husband's attorney filed a motion to have Locke held in contempt for failing to comply with the terms of the divorce judgment. Locke also hired counsel and filed responsive motions.

During an evidentiary hearing on the motions, Locke testified that in her prior divorce she had represented herself, without counsel. This testimony suggested to the court that Locke had not attempted to take advantage of her second husband in their divorce.

Locke later conceded that she had been represented by a lawyer in her first divorce.

During her own divorce proceedings, by falsely testifying that she was unrepresented by counsel in her previous divorce, Locke violated SCR 20:8.4(c), which states, "It is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit or misrepresentation."

Locke was publicly reprimanded on September 11, 2009 for violations of SCR 20:1.1, 20:1.2(a), 20:1.3, 20:1.4(a), 20:1.4(b), 20:3.3 and 20:8.4(c).

For the above misconduct, and in accordance with SCR 22.09(3), Attorney Colleen J. Locke is hereby publicly reprimanded.

Dated this 24th day of January, 2013.

SUPREME COURT OF WISCONSIN

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Referee Lisa Goldman