

SUPREME COURT OF WISCONSIN
OFFICE OF LAWYER REGULATION

Public Reprimand With Consent

Steven D. Johnson
Attorney at Law

2024-OLR-09

Attorney Steven D. Johnson was admitted to the practice of law in Wisconsin on July 18, 2005, State Bar No. 1048934. This reprimand addresses Johnson's misconduct in two client matters:

First Matter

In September 2021, Johnson began representing a client in his divorce. The client paid an advanced fee of \$8,500. Johnson's fee agreement provided for fees to be charged against the advance on an hourly basis, at a rate of \$425/hour. Throughout the representation, Johnson's paralegal handled all communication with the client and performed all the work in the client's case. Johnson charged the client his attorney rate of \$425 per hour for all work done by the paralegal. Monthly bills sent to the client did not specify the person performing the tasks. The client terminated the representation in December 2021. Johnson charged the client approximately \$13,000 over the three-month period of the representation. When the client's successor counsel challenged the amount and manner of billing, Johnson acknowledged that his paralegal had conducted all office meetings and phone calls with the client, but asserted his charging of the paralegal's time at the lawyer rate of \$425/hour was justified because the paralegal "had real time access to me at all times through our office chat." The client had no recollection of any contact with

Johnson in writing, over the phone, or in person at any time during the representation; instead his entire contact with the firm was via Johnson's paralegal.

By charging his client an hourly attorney rate of \$425 for work performed by nonlawyer staff, resulting in fees over \$13,000 for three months of a standard divorce representation that terminated before the divorce was concluded, Johnson charged an unreasonable fee in violation of SCR 20:1.5(a).

Second Matter

In February 2021, Johnson was hired to represent a client in defense of felony charges of 1st degree reckless injury and aggravated battery-intending great bodily harm. Throughout the representation Johnson's nonlawyer staff performed much of the legal work outside of court appearances, including plea negotiations and analysis of the evidence, and handled nearly all communication with the client. The client was reluctant to accept the prosecutor's offer to plead guilty to the two counts as charged, with each party free to argue as to sentence. After several conversations mostly with Johnson's staff, the client agreed to accept the prosecutor's offer. Prior to the plea hearing, Johnson's staff reviewed written plea questionnaires with the client. The questionnaire filed with the court contained errors in the description of the elements of one of the offenses to which the client agreed to plead guilty. The firm's records did not show that Johnson personally reviewed the questionnaire with the client.

Following sentencing, the client sought postconviction relief. The client's appellate counsel filed a motion to withdraw the plea based on ineffective assistance of counsel. Appellate counsel informed Johnson of the motion and that he would have the opportunity to testify at a *Machner* hearing. Johnson, without his client's or the court's permission,

filed a document opposing the motion. The document revealed information relating to his representation of the client, including discussions his firm had with the client, and argued that the court should deny the client's motion.

At the hearing on the client's motion, the court determined the plea questionnaire reviewed with the client and filed with the court misstated the elements of one count to which the client pled guilty. The State stipulated to the client's withdrawal of his plea because of the inaccurate information the client had been provided. The court vacated the conviction.

By presenting inaccurate plea questionnaires to his client via his nonlawyer staff, Johnson failed to explain the elements of the crimes to which his client was pleading and thereby violated both SCR 20:1.1, which states, "A lawyer shall provide competent representation to a client," and SCR 20:1.4(b), which states "A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation." Johnson is responsible for the conduct of his nonlawyer staff under SCR 20:5.3(c), which states, "a lawyer shall be responsible for conduct of such a person that would be a violation of the Rules of Professional Conduct if engaged in by a lawyer if: (1) the lawyer orders or, with the knowledge of the specific conduct, ratifies the conduct involved;."

By filing a document with the court in opposition to his former client's postconviction motion alleging ineffective assistance of counsel, Johnson violated SCR 20:1.6(a) by revealing information relating to the representation of a former client without the client's informed consent; Johnson's conduct also violated SCR 20:1.9(c)(1) in that he

used information relating to a former client to the disadvantage of such client and SCR 20:1.9(c)(2) in that he revealed information relating to the representation of a former client.

Johnson received a private reprimand in 2008 and a public reprimand in 2010. In November 2023, the court imposed a six-month suspension.

In accordance with SCR 22.09(3), Attorney Steven Johnson is hereby publicly reprimanded.

Dated this 4th day of November 2024

SUPREME COURT OF WISCONSIN



Referee Edward E. Leineweber