

FILED

Jan 09 2019

Disciplinary  
Board

Docket # 022

BEFORE THE  
DISCIPLINARY BOARD  
OF THE  
WASHINGTON SUPREME COURT

In re

**MARLENE K. WENGER,**

Lawyer (Bar No. 35478).

Proceeding No. 17#00047

ODC File No. 16-00251

Resignation Form of Marlene K. Wenger  
(ELC 9.3(b))

I, Marlene K. Wenger, declare as follows:

1. I am over the age of 18 years and am competent. I make the statements in this declaration from personal knowledge.

2. I was admitted to practice law in the State of Washington on November 8, 2004.

3. I was served with a Formal Complaint and Notice to Answer in this matter on July 7, 2018.

4. I have voluntarily decided to resign from the Washington State Bar Association (the Association) in Lieu of Discipline under Rule 9.3 of the Washington Supreme Court's Rules for Enforcement of Lawyer Conduct (ELC).

5. Attached hereto as Exhibit A is Disciplinary Counsel's statement of alleged

1 misconduct for purposes of ELC 9.3(b). I am aware of the alleged misconduct stated in  
2 Disciplinary Counsel's statement, but I have retired, and rather than defend against the  
3 allegations, I wish to permanently resign from membership in the Association.

4 6. I consent to entry of an order under ELC 13.9(e) assessing expenses of \$1,500 in  
5 this matter.

6 7. I agree to pay any additional costs or restitution that may be ordered by a Review  
7 Committee under ELC 9.3(g).

8 8. I understand that my resignation is permanent and that any future application by  
9 me for reinstatement as a member of the Association is currently barred. If the Washington  
10 Supreme Court changes this rule or an application is otherwise permitted in the future, it will be  
11 treated as an application by one who has been disbarred for ethical misconduct. If I file an  
12 application, I will not be entitled to a reconsideration or reexamination of the facts, complaints,  
13 allegations, or instances of alleged misconduct on which this resignation was based.

14 9. I agree to (a) notify all other states and jurisdictions in which I am admitted of this  
15 resignation in lieu of discipline; (b) seek to resign permanently from the practice of law in all  
16 other states and jurisdictions; and (c) provide Disciplinary Counsel with copies of this  
17 notification and any response(s). I acknowledge that this resignation could be treated as a  
18 disbarment by all other jurisdictions.

19 10. I agree to (a) notify all other professional licensing agencies in any jurisdiction  
20 from which I have a professional license that is predicated on my admission to practice law of  
21 this resignation in lieu of discipline; (b) seek to resign permanently from any such license; and  
22 (c) provide disciplinary counsel with copies of any of these notifications and any responses.

23 11. I agree that when applying for any employment, I will disclose the resignation in

1 lieu of discipline in response to any question regarding disciplinary action or the status of my  
2 license to practice law.

3 12. I understand that my resignation becomes effective on Disciplinary Counsel's  
4 endorsement and filing of this document with the Clerk, and that under ELC 9.3(c) Disciplinary  
5 Counsel must do so promptly following receipt of this document.

6 13. When my resignation becomes effective, I agree to be subject to all restrictions that  
7 apply to a disbarred lawyer.

8 14. Upon filing of my resignation, I agree to comply with the same duties as a  
9 disbarred lawyer under ELC 14.1 through ELC 14.4.

10 15. I understand that, after my resignation becomes effective, it is permanent. I will  
11 never be eligible to apply and will not be considered for admission or reinstatement to the  
12 practice of law nor will I be eligible for admission for any limited practice of law.

13 16. I certify under penalty of perjury under the laws of the State of Washington that  
14 the foregoing is true and correct.

15 1/4/19 Wenatchee  
16 Date and Place Washington

Marlene K. Wenger  
Marlene K. Wenger, Bar No. 35478

17 ENDORSED BY:

18 Emily B. Krueger  
19 Emily B. Krueger, Disciplinary Counsel  
Bar No. 53186

# **EXHIBIT A**

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STATEMENT OF ALLEGED  
MISCONDUCT UNDER ELC 9.3(b)(1)

The following constitutes Disciplinary Counsel's Statement of Alleged Misconduct under Rule 9.3(b)(1) of the Washington Supreme Court's Rules for Enforcement of Lawyer Conduct (ELC).

**I. ADMISSION TO PRACTICE**

1. Respondent Marlene K. Wenger was admitted to the practice of law in the State of Washington on November 8, 2004.

**II. ALLEGED FACTS**

2. In April 2013, Julia Zucati filed for dissolution of her marriage to Aaron Zucati in Lewis County Superior Court under case number 13-3-00156-1.

3. On March 7, 2014, the court entered a Decree of Dissolution, Findings of Fact and Conclusions of Law, and a Final Order of Child Support.

1 4. Respondent did not represent Ms. Zucati in the underlying dissolution proceedings.

2 5. In October 2014, Respondent filed a notice of appearance on behalf of Ms. Zucati  
3 in the same matter in Lewis County Superior Court.

4 6. On November 14, 2014, Respondent filed an Amended Petition for Modification  
5 of Child Support (Amended Petition).

6 7. In January 2015, Respondent filed a Memorandum re Modification of Child  
7 Support (Memorandum).

8 8. On January 23, 2015, the court conducted a hearing, orally denied Respondent's  
9 Amended Petition, and imposed CR 11 sanctions against Respondent.

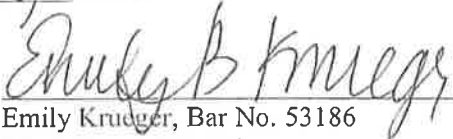
10 9. On February 13, 2015, the court issued an Order on Modification of Child Support  
11 and Findings of Fact and Conclusions of Law. The court found that Respondent's Amended  
12 Petition and Memorandum were filed without a basis in law or fact, and without a good faith  
13 argument for an extension, modification or reversal of existing law.

14 10. On February 9, 2016, the court's order imposing CR 11 sanctions was affirmed by  
15 the Court of Appeals.

16 **III. ALLEGED MISCONDUCT.**

17 11. By filing the Amended Petition and Memorandum without a basis in law or fact for  
18 doing so that was not frivolous, and without a good faith argument for an extension,  
19 modification or reversal of existing law, Respondent violated RPC 3.1 and RPC 8.4(d).

20  
21 DATED this 4<sup>th</sup> day of January, 2019.

22   
23 Emily Krueger, Bar No. 53186  
Disciplinary Counsel