

**VIRGINIA:**

**BEFORE THE DISCIPLINARY BOARD  
OF THE VIRGINIA STATE BAR**

**IN THE MATTER OF  
ELIZABETH ANN MACK CALLAWAY**

**VSB Docket No. 03-070-0212**

**ORDER  
(PUBLIC REPRIMAND WITH TERMS)**

On August 3, 2004, the Virginia State Bar, by Kathryn A. Ramey, Assistant Bar Counsel, and Respondent Elizabeth Ann Mack Callaway, Esquire, by counsel Frank B. Miller, III, Esquire, appeared before a duly convened panel of the Disciplinary Board consisting of Peter A. Dingman, Esquire, Chair presiding, Chester J. Cahoon, Jr., Lay Member, Robert E. Eicher, Esquire, Glen M. Hodge, Esquire and Joseph R. Lassiter, Jr., Esquire and, pursuant to Part Six, Section IV, Paragraph 13.B.5.c of the Rules of Court, presented an Agreed Disposition for a Public Reprimand with Terms for the Board's approval. Jennifer L. Hairfield, court reporter, Chandler and Halasz, P.O. Box 9349, Richmond, Virginia 23227, (804) 730-1222, after duly sworn, reported the hearing and transcribed the proceedings.

The Board, having reviewed the filings of the parties and considered the arguments of counsel, hereby accepts the Agreed Disposition and imposes upon Respondent Elizabeth Ann Mack Callaway, a Public Reprimand with Terms as follows:

**I. FINDINGS OF FACT**

The Board finds by clear and convincing evidence the following:

1. At all times relevant to this matter, Respondent was an attorney licensed to practice law in the Commonwealth of Virginia.

2. In September 2000, Complainants Samantha and Kathleen Williams retained Respondent for representation in a suit filed against them regarding the leasing of a horse.

3. Respondent failed to file a responsive pleading in a timely manner. The grounds of defense was filed two days late and the certificate of service was undated.

4. A hearing was scheduled on a motion for default judgment filed against Complainants. At the hearing, Respondent made no arguments on behalf of Complainants and signed the order for default judgment as “seen and not objected to.”

5. Respondent failed to advise the Complainants that she had not responded to the motion for judgment in a timely manner and failed to inform them of the entry of the order for default judgment.

6. Respondent then represented Complainants at trial, where the sole issue was damages. Complainants were not aware of default judgment during the trial, and Respondent did not inform them of it. The jury returned a verdict of \$87,000.00 in damages plus attorney’s fees against Complainants.

7. Respondent moved to set aside the damages award. The judge reduced the damages to \$1, but did not vacate the award of attorney’s fees, which totaled \$9,000.00. Complainants retained another attorney who unsuccessfully moved to set aside the default judgment.

## **II. RULES OF PROFESSIONAL CONDUCT**

The Board hereby finds by clear and convincing evidence violations of the following Rules of Professional Conduct:

### **RULE 1.3     Diligence**

- (a) A lawyer shall act with reasonable diligence and promptness in representing a client.

- (b) A lawyer shall not intentionally fail to carry out a contract of employment entered into with a client for professional services, but may withdraw as permitted under Rule 1.16.
- (c) A lawyer shall not intentionally prejudice or damage a client during the course of the professional relationship, except as required or permitted under Rule 1.6 and Rule 3.3.

**RULE 1.4 Communication**

- (a) A lawyer shall keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information.
- (b) A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.
- (c) A lawyer shall inform the client of facts pertinent to the matter and of communications from another party that may significantly affect settlement or resolution of the matter.

**III. IMPOSITION OF PUBLIC REPRIMAND WITH TERMS**

Accordingly, the Board hereby imposes upon Respondent a Public Reprimand with

Terms as follows:

By August 3, 2005, Respondent shall attend, in person, six (6) hours of MCLE-approved continuing legal education in the area of ethics and shall certify such attendance to Assistant Bar Counsel Kathryn A. Ramey, or her designee, at the Virginia State Bar, 707 E. Main St., Ste. 1500, Richmond, VA 23219. The six (6) hours of CLE shall not count toward Respondent's annual MCLE requirement and Respondent shall not submit these hours to the MCLE Department of the Virginia State Bar or any other Bar organization.

If Respondent fails to meet these terms within the time specified, the Board shall impose a thirty (30) day suspension as an alternative sanction. If there is disagreement as to whether the terms were fully and timely completed, the Board will conduct a hearing on the issue. At the hearing, the sole issue shall be whether Respondent fully completed the terms within the time specified above. The Respondent shall have the burden of proof by clear and convincing evidence at the hearing.

Pursuant to Part Six, Section IV, Paragraph 13.B.8.c. of the Rules of the Supreme Court of Virginia, the Clerk of the Disciplinary System shall assess all costs against the Respondent.

It is ORDERED that the Clerk of the Disciplinary System shall mail by certified mail, return receipt requested, an attested copy of this Order to Respondent Elizabeth Ann Mack Callaway, 15 Garrett Street, Warrenton, Virginia 20186, and regular mail to Frank B. Miller, III, Respondent Counsel, Sands, Anderson, Marks & Miller, 801 East Main Street, P.O. Box 1988, Suite 1800, Richmond, Virginia 23218, and to Kathryn A. Ramey, Assistant Bar Counsel, Virginia State Bar, 707 East Main Street, Suite 1500, Richmond, Virginia 23219.

Entered this \_\_\_\_ day of August, 2004

By: \_\_\_\_\_  
Peter A. Dingman, Second Vice Chair  
Virginia State Bar Disciplinary Board