



**BOARD OF PROFESSIONAL RESPONSIBILITY  
OF THE  
SUPREME COURT OF TENNESSEE**

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**RELEASE OF INFORMATION**  
**RE: KAY JEFFREY LUETHKE, BPR #015534**  
**CONTACT: ALAN D. JOHNSON**  
**BOARD OF PROFESSIONAL RESPONSIBILITY**  
**615-361-7500**

May 10, 2019

**SULLIVAN COUNTY LAWYER CENSURED**

On May 10, 2019, Kay Jeffrey Luethke, an attorney licensed to practice law in Tennessee and Virginia, was publicly censured by Order of the Tennessee Supreme Court. On January 25, 2019, Mr. Luethke was publicly reprimanded without terms by the Tenth District Subcommittee of Virginia for misconduct violating Virginia Rules of Professional Conduct 1.3 (diligence) and 1.6 (declining or terminating representation).

On March 22, 2019, the Supreme Court of Tennessee entered a Notice of Reciprocal Discipline directing Mr. Luethke to demonstrate why the discipline imposed by the Disciplinary Board of the Tenth District Subcommittee of Virginia should not be similarly imposed by this Court. Mr. Luethke filed a response on April 22, 2019, but failed to demonstrate reciprocal discipline was unwarranted.

A public censure is a rebuke and warning to the attorney, but it does not affect the attorney's ability to practice law.

Luethke 2980-1 rel.doc

IN THE SUPREME COURT OF TENNESSEE  
AT NASHVILLE



**IN RE: KAY JEFFREY LUETHKE, BPR #015534**  
An Attorney Licensed to Practice Law in Tennessee  
(Sullivan County)

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**No. M2019-00513-SC-BAR-BP**  
BOPR No. 2019-2980-1-AJ-25

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**ORDER OF RECIPROCAL DISCIPLINE**

This matter is before the Court pursuant to Tenn. Sup. Ct. R. 9, § 25, upon a Notice of Submission filed by the Board of Professional Responsibility (“Board”) consisting of a certified copy of a Subcommittee Determination from the Tenth District Subcommittee of the Virginia State Bar entered January 25, 2019, publically reprimanding Kay Jeffrey Luethke.

On March 22, 2019, this Court entered a Notice of Reciprocal Discipline directing Mr. Luethke to inform this Court, within thirty (30) days of receipt of the Notice, why reciprocal discipline should not be imposed in Tennessee pursuant to Tenn. Sup. Ct. R. 9, § 25.4 or, in the absence of a response demonstrating the grounds set forth in Tenn. Sup. Ct. R. 9, § 25.4, the Supreme Court of Tennessee will impose a discipline with identical terms and conditions based upon the Subcommittee Determination of the Tenth District Subcommittee of the Virginia State Bar. Mr. Luethke filed a response on April 22, 2019, and the Board filed a reply on May 3, 2019.

After careful consideration of the record in this matter, the Court finds, based upon the particular facts of this case, that none of the elements in Tenn. Sup. Ct. R. 9, § 25.4 exist, and it is appropriate to enter an Order of Reciprocal Discipline.

IT IS, THEREFORE, CONSIDERED, ORDERED, ADJUDGED AND DECREED  
BY THE COURT THAT:

- (1) Kay Jeffrey Luethke shall be publicly censured pursuant to Tenn. Sup. Ct. R. 9, § 12.4 consistent with the discipline entered by the Tenth District Subcommittee of the Virginia State Bar, attached to this Order as Exhibit A.
- (2) Pursuant to Tenn. Sup. Ct. R. 9, § 31.3, Mr. Luethke shall pay to the Board of Professional Responsibility the expenses and costs of this matter in the amount of \$50.00 and shall pay to the Clerk of this Court the costs incurred herein,

4. By Opinion and Order entered April 21, 2016 (the "April 21 Dismissal Order"), the Federal Court dismissed the Lawsuit but granted the plaintiffs leave to file an amended complaint within 21 days of the entry of the April 21 Dismissal Order.
5. Respondent did not notify his Clients of the dismissal of the Lawsuit within 21 days of the April 21 Dismissal Order and did not file an amended complaint on behalf of his Clients within 21 days of the April 21 Dismissal Order.
6. By Order entered May 26, 2016 (the "May 26 Dismissal Order"), the Federal Court dismissed the Lawsuit because no amended complaint had been filed within 21 days of the April 21 Dismissal Order.
7. Respondent told the Virginia State Bar investigator that he believes he became aware of both the April 21 Dismissal Order and the May 26 Dismissal Order between 30 and 60 days after entry of the May 26 Dismissal Order.
8. Respondent also told the Virginia State Bar investigator that he notified Mrs. Lewis of the dismissal of the Lawsuit in person sometime in June or July of 2016.
9. Mrs. Lewis told the Virginia State Bar investigator that she did not learn of the dismissal until after she and her husband hired another attorney to assist them.
10. By certified letter dated July 14, 2017, Mrs. Lewis requested that Respondent provide her with a copy of her entire client file.
11. Respondent did not provide his Clients with a copy of their file until on or about August 6, 2018.

#### NATURE OF MISCONDUCT

Such conduct by Respondent constitutes misconduct in violation of the following provisions of the Rules of Professional Conduct:

#### RULE 1.3     Diligence

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

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.

RULE 1.16      Declining Or Terminating Representation

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(d) Upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests, such as giving reasonable notice to the client, allowing time for employment of other counsel, refunding any advance payment of fee that has not been earned and handling records as indicated in paragraph (e).

(e) All original, client-furnished documents and any originals of legal instruments or official documents which are in the lawyer's possession (wills, corporate minutes, etc.) are the property of the client and, therefore, upon termination of the representation, those items shall be returned within a reasonable time to the client or the client's new counsel upon request, whether or not the client has paid the fees and costs owed the lawyer. If the lawyer wants to keep a copy of such original documents, the lawyer must incur the cost of duplication. Also upon termination, the client, upon request, must also be provided within a reasonable time copies of the following documents from the lawyer's file, whether or not the client has paid the fees and costs owed the lawyer: lawyer/client and lawyer/third-party communications; the lawyer's copies of client-furnished documents (unless the originals have been returned to the client pursuant to this paragraph); transcripts, pleadings and discovery responses; working and final drafts of legal instruments, official documents, investigative reports, legal memoranda, and other attorney work product documents prepared or collected for the client in the course of the representation; research materials; and bills previously submitted to the client. Although the lawyer may bill and seek to collect from the client the costs associated with making a copy of these materials, the lawyer may not use the client's refusal to pay for such materials as a basis to refuse the client's request. The lawyer, however, is not required under this Rule to provide the client copies of billing records and documents intended only for internal use, such as memoranda prepared by the lawyer discussing conflicts of interest, staffing considerations, or difficulties arising from the lawyer-client relationship. The lawyer has met his or her obligation under this paragraph by furnishing these items one time at client request upon termination; provision of multiple copies is not required. The lawyer has not met his or her obligation under this paragraph by the mere provision of copies of documents on an item-by-item basis during the course of the representation.

PUBLIC REPRIMAND WITHOUT TERMS

Accordingly, having approved the Agreed Disposition, it is the decision of the Subcommittee to impose a Public Reprimand without Terms and Kay Jeffrey Luethke is hereby so reprimanded. Pursuant to Part 6, § IV, ¶ 13-9.E of the Rules of the Supreme Court of Virginia, the Clerk of the Disciplinary System shall assess costs.

TENTH DISTRICT SUBCOMMITTEE  
OF THE VIRGINIA STATE BAR

By: Roy M. Jessee  
Roy Mark Jessee  
Subcommittee Chair

CERTIFICATE OF MAILING

I certify that on January 25, 2019, a true and complete copy of the Subcommittee Determination (Public Reprimand without Terms) was sent by certified mail to Kay Jeffrey Luethke, Respondent, at 121 W. Market Street, Kingsport, TN, 37660, Respondent's last address of record with the Virginia State Bar, and by first class mail, postage prepaid to Jeffrey Hamilton Geiger, counsel for Respondent, at Sands Anderson, PC, Bank of America Plaza, 1111 E. Main Street, Ste. 2400, P. O. Box 1998, Richmond, VA 23218-1998.

Edward James Dillon, Jr.

Edward James Dillon, Jr.  
Senior Assistant Bar Counsel

A COPY TESTE:  
David M. Davis  
DAVIDA M. DAVIS  
CLERK OF THE DISCIPLINARY SYSTEM