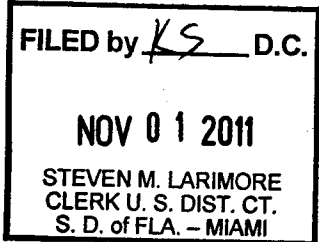


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

ADMINISTRATIVE ORDER 2011-96

IN RE: KELLY MARION FITZGERALD
Florida Bar #80365



ORDER OF SUSPENSION

The Supreme Court of Florida has entered an Order of Suspension dated March 16, 2011, suspending Kelly Marion Fitzgerald from the practice of law for ninety-one (91) days. *See The Florida Bar v. Fitzgerald*, 59 So. 3d 109 (Fla. 2011). The suspension was predicated on an uncontested report of the referee. The Clerk attempted to serve attorney Fitzgerald by certified mail with an Order to Show Cause why this Court should not impose the same discipline, accompanied by the Supreme Court of Florida's Order of Suspension. Service at Fitzgerald's court record address was signed for by "Jeff Adams" but without notation as to "agent." Subsequently, Fitzgerald was held in contempt and suspended for one year. *See The Florida Bar v. Fitzgerald*, No. SC11-1180, 2011 WL 3891826 (Fla. Sept. 1, 2011).

Rule 5(a) of the Rules Governing Attorney Discipline, Local Rules of the United States District Court for the Southern District of Florida, requires that "[a]n attorney admitted to practice before this Court shall, upon being subjected to suspension or disbarment . . . promptly inform the Clerk of the Court of such action." Rule 5(d) provides in pertinent part that after expiration of the time for submitting a response to an Order to Show Cause, "the Court may impose the identical discipline or may impose any other sanction the Court may deem appropriate." Even if service is contested, Administrative Order 2005-38 imposes upon the members of this Bar an obligation to provide in writing updated contact information to the Clerk within five business days of any change, and orders that "the failure of counsel . . . to provide such information to the Clerk . . . shall not constitute grounds for relief from deadlines imposed by Rule or by the Court." This obligation to maintain current contact information is reiterated in the Court's CM/ECF Administrative Procedures Manual,

section 3D, compliance with which is mandated by Local Rule 5.5. Given this background, pursuant to Rule 5(a) and (d), Administrative Order 2005-38, and the Court's inherent power to regulate membership in its bar for the protection of the public interest, *see Chambers v. NASCO, Inc.*, 501 U.S. 32, 43 (1991) (“[A] federal court has the power to control admission to its bar and to discipline attorneys who appear before it.”),

IT IS ORDERED that said attorney be suspended from practice in this Court, effective immediately. The Clerk of Court shall strike this attorney from the roll of attorneys eligible to practice in the United States District Court for the Southern District of Florida, and shall also immediately revoke the attorney's CM/ECF password.

IT IS FURTHER ORDERED by this Court that said attorney advise the Clerk of Court of all pending cases before this Court in which she is counsel or co-counsel of record.

IT IS FURTHER ORDERED by this Court that the Clerk of Court attempt to serve by certified mail a copy of this Order of Suspension upon the attorney at her court record address.

DONE AND ORDERED in Chambers at Miami, Miami-Dade County, Florida, this 10 day of November, 2011.


FEDERICO A. MORENO
CHIEF UNITED STATES DISTRICT JUDGE

- c: Honorable Joel F. Dubina, Chief Judge, Eleventh Circuit
All Miami Eleventh Circuit Court of Appeals Judges
All Southern District Judges
All Southern District Magistrate Judges
United States Attorney
Circuit Executive
Federal Public Defender
Clerk of Court
Clerk of Court, 11th Circuit
National Lawyer Regulatory Data Bank
Florida Bar
Attorney Admissions Clerk
Library
Kelly Marion Fitzgerald