

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

ADMINISTRATIVE ORDER 2015-58

In re: **DAVID JOSEPH BERGER**
Florida Bar # 83345

FILED by <u>ks</u> D.C. ELECTRONIC
August 24, 2015
STEVEN M. LARIMORE CLERK U.S. DIST. CT. S. D. OF FLA. - MIAMI

ORDER OF SUSPENSION

The Supreme Court of Florida has entered Order of Suspension dated April 8, 2015, suspending David Joseph Berger from the practice of law until further order of the Court. *See The Florida Bar v. Berger*, No. SC14-2468, 2015 WL 1605703 (Fla. Apr. 8, 2015). The suspension was predicated on The Florida Bar's Petition for Contempt and Order to Show Cause and the attorney's failure to file a response to the Supreme Court of Florida's Order to Show Cause. The Clerk attempted to serve attorney Berger 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 Berger's Florida Bar address was returned "Return to Sender - Insufficient Address - Unable to Forward."

This Court further acknowledges that subsequent to the Florida Supreme Court's April 8, 2015 Suspension Order, that court issued an additional suspension of attorney Berger on July 6, 2015 based upon a Petition for Emergency Suspension. *See The Florida Bar v. Berger*, No. SC15-1197, 2015 WL 4077830 (Fla. July 6, 2015).

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

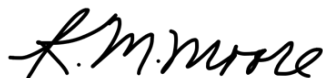
discipline or may impose any other sanction the Court may deem appropriate.” Even if service is contested, Local Rule 11.1(g) imposes upon the members of this Bar an obligation to provide updated contact information to the Clerk within seven days of any change, and that “the failure to comply shall not 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 5.1. Given this background, pursuant to Rule 5(a) and (d), Local Rule 11.1(g) 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 attorney may not resume the practice of law before this Court until reinstated by order of this Court. *See* Rule 9(a). 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 he 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 his Florida Bar address.

DONE AND ORDERED in Chambers at Miami, Miami-Dade County, Florida, this 24th day of August, 2015.



K. MICHAEL MOORE
CHIEF UNITED STATES DISTRICT JUDGE

c: All South Florida Eleventh Circuit Court of Appeals Judges
All Southern District Judges
All Southern District Bankruptcy Judges
All Southern District Magistrate Judges
United States Attorney
Circuit Executive
Federal Public Defender
Clerks of Court – District, Bankruptcy and 11th Circuit
Florida Bar and National Lawyer Regulatory Data Bank
Library
David Joseph Berger