

**IN THE SUPREME COURT OF FLORIDA**  
(Before a Referee)

THE FLORIDA BAR,  
  
Complainant,

Supreme Court Case  
No. SC08-1209

vs.

The Florida Bar File  
No. 2008-70,023(11I)

GISELLE FERRO,  
  
Respondent.

\_\_\_\_\_ /

**REPORT OF REFEREE**

**I. SUMMARY OF PROCEEDINGS:**

Pursuant to the undersigned being duly appointed as Referee for the Supreme Court of Florida to conduct disciplinary proceedings as provided for by Rule 3-7.6(a) of the Rules Regulating The Florida Bar, trial of this cause was undertaken. All of the pleadings, notices, motions, orders, and exhibits are forwarded with this report and the foregoing constitute the record in this case.

On September 5, 2008, a final hearing was held in this matter.

The following attorneys appeared as counsel for the parties:

On Behalf of The Florida Bar: Margarita I. Cimadevilla  
The Florida Bar  
444 Brickell Avenue  
Suite M-100  
Miami, Florida 33131

On Behalf of the Respondent: No appearance.

**II. FINDINGS OF FACT:**

A. Jurisdictional Statement:

Respondent is and was at all times material herein a member of The Florida Bar, albeit delinquent in fees, and subject to the jurisdiction and disciplinary rules of the Supreme Court of Florida.

B. Narrative Summary of Case:

Having heard and granted The Florida Bar's Motion for an Order Deeming Matters Admitted prior to the final hearing, all the matters recited in The Bar's Request for Admissions served on Respondent on June 24, 2008, are hereby adopted as the factual findings of this referee as follows:

1. On or about January 22, 2007, Respondent filed with the Clerk of the 17<sup>th</sup> Judicial Circuit a Civil Cover sheet, dated December 15, 2006, signed by Respondent as Attorney for Petitioner, and bearing Respondent's Florida bar number, along with a Verified Petition for Dissolution of Marriage on behalf of Nubia Mora.

2. Respondent directed that service of the summons be made on John Mora, the Respondent/Husband in the above referenced Petition.

3. On or about February 9, 2007, Respondent was served with the answer to the Petition.

4. On or about May 21<sup>st</sup> 2007, the court presiding over the above referenced Petition, copied Respondent on an order setting a case management conference for June 5, 2007.

5. On or about May 30<sup>th</sup>, 2007, the court copied Respondent on an order resetting the case management conference for June 25, 2007.

6. Respondent did not appear at said case management conference which was held on or about June 25, 2007.

7. As a result of Respondent's failure to appear at said conference on or about June 29<sup>th</sup>, 2007, Judge Birken issued an order in the matter discharging Respondent and referring the matter to The Florida Bar.

8. On or about September 5, 2007, The Florida Bar sent a letter to Respondent at her record Bar address, 2775 N.E. 163<sup>rd</sup> Street, Suite 100, Miami, Florida, 33160, requesting Respondent's position with respect to the alleged failures to adequately communicate or represent her client as stated in Judge Birken's order.

9. Respondent did not respond to said inquiry.

10. On September 5, 2007, Respondent was no longer employed, located, or otherwise able to receive mail at the above address, which nevertheless remained her record bar address.

11. On or about September 25, 2007, in a telephone conversation with The

Bar's investigator, Respondent was advised of the pending grievance and Respondent stated that her current mailing address was 8235 Lake Drive, Apt. D202, Miami, Florida, 33166.

12. During that same conversation Respondent was advised to update her record bar address.

13. As of the date of the service of the request for admissions Respondent had not done so.

14. On or about October 17, 2007, The Bar sent a letter via certified mail to the address provided by Respondent requesting a response to its earlier inquiry.

15. Respondent was notified by the United States Postal Service of the existence of said certified letter, but Respondent failed to claim such.

16. In December 2007, Respondent received at least two (2) telephone messages from the investigating member of the Grievance Committee regarding this matter, but did not return his calls.

17. On or about January 4, 2008, Respondent spoke to the investigating member of the Grievance Committee who indicated to Respondent he wished to speak to her regarding a disciplinary grievance, and that Respondent indicated to him she could not speak to him at that moment because she was at work, but indicated he could call her back at 5:30.

18. Respondent did not answer the telephone at exactly 5:30, when the investigating member telephoned her.

19. Respondent received at least two (2) more telephone messages from the investigating member of the Grievance Committee.

20. Respondent never returned his calls.

21. Respondent received notification that the Grievance Committee would be considering the matter at Respondent's place of employment, The Carnival Center, 1300 Biscayne Boulevard, Miami, Florida 33132.

22. In response to this notice Respondent did not attempt to communicate with The Bar or otherwise submit a statement to the Grievance Committee.

23. On or about March 5, 2008, Respondent received notice that the Grievance Committee had found probable cause at 4655 SW 133<sup>rd</sup> Court, Miami, Florida 33175, which is the address appearing on Respondent's record with the Department of Motor Vehicles, as well as at Respondent's place of employment.

### **III. RECOMMENDATION AS TO GUILT:**

Based on the above outlined findings of fact, as well as this Referee's ruling deeming all rule violations recited in the Bar's Request for Admissions admitted by Respondent, this Referee recommends that Respondent be found guilty of violating Rules 4-1.3 (diligence); 4-1.4 (communication), 4-3.2 (expediting litigation) and 4-

8.4(g) (failure to respond to disciplinary inquiry) of the Rules of Professional Conduct.

**IV. RECOMMENDATION AS TO DISCIPLINARY MEASURES TO BE APPLIED:**

Based on the foregoing, in addition to the continued failure by Respondent to participate in the disciplinary process including her failure to appear at either the status conference or the final hearing, despite being properly served with notice at her record bar address as well as her last known residence and place of employment, I recommend that the Respondent be suspended from the practice of law for a period of ninety-one (91) days. I based my recommendation on The Florida Bar v. Jones, 543 So.2d 751 (Fla. 1989) (neglect of legal matter and failure to cooperate with Bar proceeding warrant 91-day suspension) and The Florida Bar v. Summers, 728 So.2d 739 (Fla. 1999) (citing Jones for the same proposition and finding that similar conduct should require proof of rehabilitation), as well as on Standard 4.42(a) of the Standards for Imposing Lawyer Sanctions which states that “suspension is appropriate when a lawyer knowingly fails to perform services for a client and causes injury or potential injury to a client.”

**V. PERSONAL HISTORY, PAST DISCIPLINARY RECORD, AGGRAVATING FACTORS, AND MITIGATING FACTORS:**

Prior to recommending discipline pursuant to Rule 3-7.6(m)(1)(C) of the Rules

Regulating The Florida Bar, I considered the following:

A. Personal History of the Respondent:

Age: 29

Date Admitted to Bar: July 14, 2004

Prior disciplinary record: None

B. Aggravating Factors:

9.22(c) pattern of misconduct;

9.22(d) multiple offenses;

9.22(h) vulnerability of victim.

C. Mitigating Factors:

None.

**VI. STATEMENT OF COSTS AND RECOMMENDATION AS TO THE MANNER IN WHICH COSTS SHOULD BE TAXED:**

I find the following costs were reasonably incurred by The Florida Bar in these proceedings and should be assessed against the Respondent:

Administrative costs	
Rule 3-7.6(q)(1)(I) .....	\$ 1,250.00
Court Reporter's attendance at Final hearing held on September 5, 2008:	\$ 110.00
Bar Counsel Costs	\$ 11.00
Staff Investigator's Costs	<u>\$ 111.10</u>
<b>TOTAL:</b>	<b>\$1,482.10</b>

It is recommended that the foregoing costs be assessed against Respondent. Taxation of costs of this disciplinary proceeding should be assessed against Respondent, with execution to issue plus interest at the prevailing statutory rate to accrue on all costs not paid within thirty (30) days of entry of the Supreme Court's final order, unless the time for payment is extended by the Board of Governors.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

---

**SCOTT J. SILVERMAN, Referee**  
Dade County Courthouse  
73 West Flagler Street, Room 800  
Miami, Florida 33010

Copies to:

Margarita I. Cimadevilla, Bar Counsel

Giselle Ferro, Respondent, record bar address 2775 NE 163rd Street, Suite 100, Miami, Florida 33160

Giselle Ferro, Respondent, last known residence address 4655 SW 133rd Court, Miami, Florida 33175

Giselle Ferro, Respondent, last known business address The Carnival Center, 1300 Biscayne Blvd., Miami, Florida 33132

Kenneth L. Marvin, Staff Counsel