

IN THE SUPREME COURT OF FLORIDA

THE FLORIDA BAR,

Petitioner,

v.

KELLY ANNE MCCABE,

Respondent.

Supreme Court Case
No.

The Florida Bar File
No. 2022-90,016(OSC)

**THE FLORIDA BAR'S PETITION FOR CONTEMPT AND ORDER TO
SHOW CAUSE**

The Florida Bar (the bar) files this Petition for Contempt and Order to Show Cause and requests disbarment against respondent, Kelly Anne McCabe. To support this petition, the bar states:

1. In Florida Supreme Court Case No. SC20-620 [The Florida Bar File No. 2018-10,131(6A), et al.], by order dated June 17, 2021, respondent was suspended for three years, effective July 19, 2021.

2. In the order of suspension, respondent was ordered to comply with Rule 3-5.1(h), Rules Regulating The Florida Bar, by notifying her clients, opposing counsel and tribunals of her suspension and providing the bar within 30 days of her suspension a sworn affidavit listing the names and addresses of all persons and entities that were furnished a copy of the suspension order.

3. On June 21, 2021, the bar notified respondent of the conditions associated with her suspension to her record bar address and record bar email, specifically the requirement that she submit the sworn affidavit pursuant to Rule 3-5.1(h). See, June 21, 2021 letter and email from the bar to respondent attached hereto as “Composite Exhibit A.”

4. On July 20, 2021, the bar notified respondent of her noncompliance with the conditions of her suspension to her record bar address and record bar email, specifically her failure to submit the sworn affidavit pursuant to Rule 3-5.1(h). See, July 20, 2021 letter and email from the bar to respondent attached hereto as “Composite Exhibit B.”

5. Respondent has not submitted the required affidavit containing a list of persons/entities to which she gave notice of her suspension and provided a copy of the order of suspension.

6. Consequently, the bar is unaware whether respondent notified any clients, opposing counsel and tribunals of her suspension pursuant to Rule 3-5.1(h).

7. Respondent has also failed to remove all indicia of attorney status.

8. Due to respondent's noncompliance with this Court's order dated June 17, 2021, the bar was obligated to file this Petition for Contempt for noncompliance.

9. Implicit in any order of discipline is enhanced discipline if respondent fails to comply with the terms and conditions of this Court's order.

10. The other members of the bar should not have to pay for respondent's noncompliance with this Court's order and the instant proceeding. Therefore, the bar is requesting administrative costs of \$1,250.00 against respondent.

The bar respectfully requests this Court enter an order directing respondent, Kelly Anne McCabe, to show cause why she should not be held in contempt and be disbarred, to comply with the terms of this Court's order in SC20-620 prior to applying for readmission, and assess costs in the amount of \$1,250.00 to the bar.

Respectfully submitted,



Patricia Ann Toro Savitz, Bar Counsel
The Florida Bar
Headquarters
651 East Jefferson Street
Tallahassee, Florida 32399-2300
(850) 561-5839
Florida Bar No. 559547
psavitz@floridabar.org

CERTIFICATE OF SERVICE

I certify that this document has been E-filed with The Honorable John A. Tomasino, Clerk of the Supreme Court of Florida, using the E-Filing Portal; with a copy furnished by United States Mail via certified mail No. 7017 3380 0000 1082 6396, return receipt requested, to Respondent, Kelly Anne McCabe, at her record bar address of 535 Central Avenue, Suite 435, St. Petersburg, FL 33701-3703 and by email to kdoylemccabe@gmail.com; on this 29th day of September, 2021.



Patricia Ann Toro Savitz, Bar Counsel

NOTICE OF TRIAL COUNSEL AND DESIGNATION OF PRIMARY EMAIL ADDRESS

PLEASE TAKE NOTICE that the bar counsel and staff counsel in this matter is Patricia Ann Toro Savitz, whose address, telephone number and primary email address are The Florida Bar, Headquarters, 651 East Jefferson Street, Tallahassee, Florida 32399-2300, (850) 561-5839 and psavitz@floridabar.org. Respondent need not address pleadings, correspondence, etc. in this matter to anyone other than bar counsel and to staff counsel.



The Florida Bar

651 E Jefferson Street
Tallahassee, FL 32399-2300

Joshua E. Doyle
Executive Director

850/561-5600
www.floridabar.org

June 21, 2021

VIA US Mail and E-Mail to kdoylemccabe@gmail.com

Ms. Kelly Anne McCabe
535 Central Avenue, Suite 435
St Petersburg, FL 33701-3703

Re: The Florida Bar v. Kelly Anne McCabe; Supreme Court Case No.: SC20-620
The Florida Bar File Nos.: 2018-10,131(6A), et al.

Dear Ms. McCabe:

Pursuant to the order of the Supreme Court of Florida dated June 17, 2021, you were suspended from the practice of law for a period of 3 years. The effective date of the suspension is July 19, 2021. The filing of a motion for rehearing does not alter the effective date of the suspension. Because the suspension is for a period of time greater than 90 days, you must petition for reinstatement after the suspension has ended, if you wish to resume the practice of law in Florida. Rule 3-7.10 outlines the procedure and considerations for reinstatement. The court's order also assessed costs in the amount of \$2,735.25. Your costs are due in this office no later than August 2, 2021. A Failure to Pay Notice providing important information relating to cost assessments is enclosed. If you are interested in being on a payment plan, and you qualify under the Delinquent Costs paragraph in the attached Failure to Pay Notice, please contact our office immediately.

As a condition of reinstatement, you are required to undergo an evaluation by Florida Lawyers Assistance, Inc. (FLA, Inc.) to establish your fitness to resume the practice of law.

You must follow the provisions of Rule 3-5.1(h). A copy of the order must be immediately provided to clients, opposing counsel, and certain courts, and you must provide an affidavit to us verifying that this has been done. A form affidavit is enclosed. Please note, providing a copy of the order to the clerk's office does not satisfy this rule. You must provide a copy of the order to the presiding judge. The executed affidavit must be provided to this office within 30 days of the court order **to wit**: July 19, 2021. If you had no clients or pending matters at the time the order was served in this case, the affidavit should so state. Should you accept employment with a Florida lawyer or law firm, additional requirements apply. Please see Rule 3-6.1 in this respect.

Composite Exhibit A

Ms. Kelly Anne McCabe

June 21, 2021

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In order to avoid the appearance of being a lawyer in good standing, you must eliminate all indicia of attorney status (social media, telephone listings, stationery, checks, business cards, office signs, etc.).

Melissa Mara, Headquarters Paralegal, will be your contact person at The Florida Bar for issues relating to compliance with the court's order. Ms. Mara may be contacted via email at mmara@floridabar.org should there be any questions regarding this matter.

Sincerely,

A handwritten signature in black ink that reads "Lisa Chason". The signature is written in a cursive, slightly slanted style.

Lisa Chason, Compliance Coordinator
Lawyer Regulation Headquarters

Enclosures—Failure to Pay Notice, 3-5.1(h) affidavit

FAILURE TO PAY NOTICE

The Supreme Court of Florida has entered an order assessing costs, fees, imposing fee arbitration and/or restitution obligations. The requirements of this order create certain obligations of which you should be aware.

Making Payment

Please send checks or money orders made payable to "The Florida Bar" to the attention of Lisa F. Chason, The Florida Bar, 651 East Jefferson Street, Tallahassee, Florida 32399-2300. Please place The Florida Bar file number on the check so we may extend proper credit for the payment.

Credit card payments are accepted via phone call to Lisa F. Chason at (800) 342-8060, ext. 3186.

Delinquent Costs

Costs are deemed delinquent unless they are paid within 30 days after the recommendation becomes final. The time for payment may be extended by The Board of Governors (hereafter the Board) for good cause shown. In order for the Board to approve an extension of time a payment plan must be requested and certain financial information disclosed. Ordinarily payment plans are not approved unless extreme financial hardship is proven through financial affidavits that include a statement of assets and liabilities.

Delinquent Fee Arbitration Award(s)

Fee arbitration awards are deemed delinquent unless paid within 30 days after the award becomes final.

Delinquent Restitution

Restitution is deemed delinquent unless it is made within the time frame and in the manner provided by the recommendation or the agreement imposing the obligation.

Effect of Delinquency

If costs, restitution or fee arbitration awards become delinquent, you will be deemed a delinquent member of The Florida Bar and as such will not be entitled to practice law in Florida until such time as the delinquency is cured. Cure of the delinquency will include making payment of all required obligations, providing proof of payment, filing a petition for removal of delinquency status and payment of a \$150.00 reinstatement fee. Thereafter the petition will be reviewed and, if appropriate, the delinquency will be removed.

Lapse of Membership Status

Any member who remains delinquent for a period of five years or longer will lose bar membership. A member whose membership has lapsed may return to the practice of law in Florida only through application to the Florida Board of Bar Examiners, which will include taking and passing the bar examination and successful completion of the character and fitness evaluation.

Maintaining Contact

There may be important information that we need to communicate after the recommendation becomes final. For this reason, it is important to maintain an accurate mailing address, telephone number and other contact information. In fact, The Rules Regulating The Florida Bar mandate that all members of The Florida Bar keep current contact information on file.

If you have any questions about these issues please feel free to contact Lisa F. Chason by telephone at (800) 342-8060, ext. 3186.

STATE OF _____
COUNTY OF: _____

AFFIDAVIT

I, Kelly Anne McCabe, after being duly sworn, say:

This affidavit is submitted pursuant to Rule 3-5.1(h) of the Rules of Discipline in conjunction with the decision in The Florida Bar v. Kelly Anne McCabe, SC20-620; The Florida Bar File No. 2018-10,131 (6A).

1. _____ I had no client(s) or matter(s) pending when the court order was served on me.

OR

2a. _____ I have furnished a copy of the court order to all my clients with matters pending when the court order was served on me; and

2b. _____ To all opposing counsel and co-counsel in the matters listed in 2a. above; and

2c. _____ To all courts, tribunals, or adjudicative agencies before which I am counsel of record.

AND

3. _____ I have notified all state (other than The Florida Bar), federal and administrative bars of which I am a member.

4. _____ The names and addresses of all persons and entities that have been furnished with such notification are indicated on the attached list (Exhibit A), and such is a complete listing of all persons and entities notified pursuant to this rule.

FURTHER AFFIANT SAYETH NOT.

Kelly Anne McCabe

STATE OF _____
COUNTY OF _____

Sworn to and subscribed before me, by means of ___ physical presence or ___ online notarization, this _____ day of _____, 20____, by Kelly Anne McCabe, who ___ is personally known to me or ___ produced _____.

Notary Public

Print/type/stamp commission name of notary

Return to:
Melissa M. Mara, CP, FRP
Certified Paralegal
The Florida Bar
651 East Jefferson Street
Tallahassee, Florida 32399-2300

Received Mon 06/21/2021 9:20AM
From Chason, Lisa
Subject Initial Letter
To kdoylemccabe@gmail.com
cc
bcc

DUP1717-Initial Letter - Long Suspension.pdf

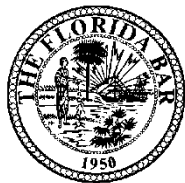
Ms. McCabe,

Attached please find an informational letter regarding the order of the Supreme Court dated June 17, 2021.

Please let me know if you need any further information.

Regards,

Lisa Chason, Compliance Coordinator
Lawyer Regulation
The Florida Bar
651 E Jefferson Street
Tallahassee, FL 32399-2300
Tel: (850) 561-3186
Fax: (850) 561-9403
lchason@floridabar.org



The Florida Bar

651 E Jefferson Street
Tallahassee, FL 32399-2300

Joshua E. Doyle
Executive Director

850/561-5600
www.floridabar.org

July 20, 2021

VIA US Mail and E-Mail to kdoylemccabe@gmail.com

Ms. Kelly Anne McCabe
535 Central Avenue, Suite 435
St Petersburg, FL 33701-3703

Re: The Florida Bar v. Kelly Anne McCabe; Supreme Court Case No. SC20-620
The Florida Bar File Nos. 2018-10,131(6A), et al.

Dear Ms. McCabe:

The Florida Bar has not received your affidavit in compliance with Rule 3-5.1(h) as ordered by The Florida Supreme Court. Therefore, you are not in compliance with the terms and conditions of the above-referenced court order.

You were previously notified of this rule by our Lawyer Regulation - Headquarters office on June 21, 2021. A second form affidavit is enclosed for your convenience in fulfilling the requirements of this rule that should be sent directly to my attention at the above address within ten (10) days from the date of this letter. *If you fail to comply with this request, The Florida Bar will file a Petition for Contempt and Order to Show Cause.*

YOUR PROMPT ATTENTION IS REQUIRED.

Sincerely,

Patricia Ann Toro Savitz, Staff Counsel
Lawyer Regulation Headquarters

PATS/mmm

Enclosure - 3-5.1(h) Affidavit

Composite Exhibit B

AFFIDAVIT

STATE OF _____
COUNTY OF _____

I, Kelly Anne McCabe, after being duly sworn, say:

This affidavit is submitted pursuant to Rule 3-5.1(h) of the Rules of Discipline in conjunction with the decision in The Florida Bar v. Kelly Anne McCabe, SC20-620; The Florida Bar File Nos. 2018-10,131(6A), et al.

1. _____ I had no client(s) or matter(s) pending when the court order was served on me.

OR

2a. _____ I have furnished a copy of the court order to all my clients with matters pending when the court order was served on me; and

2b. _____ To all opposing counsel and co-counsel in the matters listed in 2a. above; and

2c. _____ To all courts, tribunals, or adjudicative agencies before which I am counsel of record.

AND

3. _____ I have notified all state (other than The Florida Bar), federal and administrative bars of which I am a member.

4. _____ The names and addresses of all persons and entities that have been furnished with such notification are indicated on the attached list (Exhibit A), and such is a complete listing of all persons and entities notified pursuant to this rule.

FURTHER AFFIANT SAYETH NOT.

Kelly Anne McCabe

STATE OF _____
COUNTY OF _____

SWORN TO AND SUBSCRIBED before me, by means of ___ physical presence or ___ online notarization, this ___ day of _____, _____ who is personally known to me or produced _____ as identification.

(Print, type or stamp Commission Name of Notary Public

NOTARY PUBLIC
My commission expires:

Return to:
Melissa M. Mara, CP, FRP
Certified Paralegal
mmara@floridabar.org
The Florida Bar
651 East Jefferson Street
Tallahassee, Florida 32399-2300

Received Tue 07/20/2021 9:02AM
From Mara, Melissa M
Subject Supreme Court Case No. SC20-620
To kdoylemccabe@gmail.com
cc
bcc

7-20-21 McCabe.pdf

Dear Ms. McCabe:

Attached is a letter regarding your noncompliance with Rule 3-5.1(h) in the above referenced matter.

Please contact me should you have any questions regarding this correspondence.

Sincerely,

Melissa M. Mara, CP, FRP
Certified Paralegal
Lawyer Regulation Headquarters
The Florida Bar
651 East Jefferson Street
Tallahassee, FL 32399
Fax: (850) 561-9403
mmara@floridabar.org