

The Florida Bar
March 30, 2007
Renaissance Hotel
Tampa, Florida

Pursuant to notice, the regular meeting of the Board of Governors of The Florida Bar was called to order at 9:00 A.M. on Friday, March 30, 2007, in Tampa, Florida, with President Henry M. Coxe presiding.

1. Roll Call

Henry M. Coxe, III, President
Francisco R. Angones, President-elect
Steve Echsner, First Judicial Circuit
Lawrence E. Sellers, Jr., Second Judicial Circuit
Dominic M. Caparello, Second Judicial Circuit
S. Grier Wells, Fourth Judicial Circuit
John J. Schickel, Fourth Judicial Circuit
Denise A. Lyn, Fifth Judicial Circuit
Andrew B. Sasso, Sixth Judicial Circuit
Murray B. Silverstein, Sixth Judicial Circuit
Charles Chobee Ebbets, Seventh Judicial Circuit
Daniel L. DeCubellis, Ninth Judicial Circuit
Warren W. Lindsey, Ninth Judicial Circuit
Robert M. Brush, Tenth Judicial Circuit
Ramon Abadin, Eleventh Judicial Circuit
David Rothman, Eleventh Judicial Circuit
Ervin A. Gonzalez, Eleventh Judicial Circuit
Jennifer Coberly, Eleventh Judicial Circuit
Dennis Kainen, Eleventh Judicial Circuit
Sharon L. Langer, Eleventh Judicial Circuit
Benedict P. Kuehne, Eleventh Judicial Circuit
Steven Chaykin, Eleventh Judicial Circuit
Timon V. Sullivan, Thirteenth Judicial Circuit
William Kalish, Thirteenth Judicial Circuit
Gwynne Alice Young, Thirteenth Judicial Circuit
John G. White, III, Fifteenth Judicial Circuit
Gregory Coleman, Fifteenth Judicial Circuit
Scott G. Hawkins, Fifteenth Judicial Circuit
Lisa S. Small, Fifteenth Judicial Circuit
Edwin Scales, Sixteenth Judicial Circuit
Allison Bethel, Seventeenth Judicial Circuit
Eugene K. Pettis, Seventeenth Judicial Circuit
Jesse H. Diner, Seventeenth Judicial Circuit
Frank C. Walker, II, Seventeenth Judicial Circuit
Clifton A. McClelland, Jr., Eighteenth Judicial Circuit
Laird A. Lile, Twentieth Judicial Circuit
A. Lawrence (Larry) Ringers, Twentieth Judicial Circuit
Richard Arthur Tanner, Out-of-State
Gary J. Leppla, Out-of-State
Brian D. Burgoon, Out-of-State
John M. Stewart, YLD President
Scott Atwood, YLD President-elect
Solomon L. Badger, III, Public Member
J. Blair Culpepper, Public Member

Board members absent:

Gregory S. Parker, Third Judicial Circuit
Carl B. Schwait, Eighth Judicial Circuit
Mayanne Downs, Ninth Judicial Circuit
Kimberly A. Bald, Twelfth Judicial Circuit
Clifford W. Sanborn, Fourteenth Judicial Circuit
Nancy W. Gregoire, Seventeenth Judicial Circuit
Harold G. Melville, Nineteenth Judicial Circuit
Ian M. Comisky, Out-of-State

Staff attending the meeting:

John F. Harkness, Jr., Executive Director
Tina Ruffin, Assistant to the President
Dana Watson, Secretary to the Board of Governors
Elizabeth Tarbert, Director of Ethics and Advertising
Gary Blankenship, Senior Editor, Florida Bar News
Allen Martin, Director Finance and Accounting
John Berry, Director of Legal Division
Tony Boggs, Director of Clients' Security Fund
Mary Ellen Bateman, Director, Ethics, Advertising and Special Projects Division
Lori Holcomb, Director of Unlicensed Practice of Law
Francine Walker, Director of Public Information
Ken Marvin, Director of Lawyer Regulation

2. Guests

Jimmy Cunningham, President, Virgil Hawkins Florida Chapter of the National Bar Association
Jane Curran, Executive Director Florida Bar Foundation
Marlene Quintana, President-elect designate of Cuban American Bar Association
Wendy Loquasto, President of Florida Association of Women Lawyers
Chris Knopik, Chair of the Board of Legal Specialization and Education
Susan Fox, Chair of the Appellate Practice Section
Mayor Pam Iorio, Tampa Mayor
Bill McCollum, Florida Attorney General
Rebecca Frank, Citizens Forum
Barry Crown, Citizens Forum
Arnell Bryant-Willis, Citizens Forum
Alvin V. Alsobrook, Citizens Forum
J. Preston Jones, Citizens Forum
Yvonne Loggins-Coleman, Citizens Forum
Susan V Bloemendaal, Chief Branch Discipline Counsel – Tampa
Troy Matthew Lovell, Bar Counsel - Tampa
Joy Ann Demas, Bar Counsel - Tampa
Jodi Anderson Thompson, Bar Counsel - Tampa
Henry Lee Paul, Bar Counsel - Tampa
Karan Boroughs Lopez, Bar Counsel – Tampa
Phyllis Charlene Chew, Bar Counsel – Orlando
Karen France, Clearwater Bar Association, Executive Director

3. Invocation and Pledge of Allegiance

The Invocation and Pledge of Allegiance were led by Gwynne Young.

4. Non-roll call Grievance Agenda Items

Co-chair David Rothman reported that the only non-roll call grievance agenda item was number 20. He also reported that the Client Security Fund items were numbers 1, 2, 3, 4, and 7.

5. Approval of Minutes- Approved

- a. Regular Minutes, January 26, 2007 meeting
- b. Grievance Minutes, January 26, 2007 meeting
- c. Summary of Executive Action taken
 - 1) February 20, 2007 - Section legislative positions/investment policy
 - 2) January 31, 2007 - response of RJA Committee to Comments
 - 3) February 28, 2007 - response of CPRC/leg positions
 - 4) March 21, 2007 - 18th circuit JNC/leg positions

6. Consent Calendar - Approved except as noted

- a. UPL committee nominations
 - 1) Circuit Committee nominations
March 2007
Suzette C. Johnson, Public Member, Sixth Judicial Circuit
H. Vernon Myers, Public Member, Seventh Judicial Circuit
Allan J. Sullivan, Attorney Member, Eleventh Judicial Circuit
Timothy A. Knowles, Attorney Member, Twelfth Judicial Circuit
John Forney Rudy, III, Attorney Member, Thirteenth Judicial Circuit
 - 2) Standing Committee on UPL nominations
Dr. Rudolph J. Frei, Public Member, (2008)
- b. Rules, Bylaws & Policies
 - 1) Rule 3-7.4 Grievance Committee Procedures
Within subdivision (l), adds provision authorizing the return of a matter to the grievance committee for further action if, before filing of any charges, bar counsel, staff counsel and the designated reviewer agree there are appropriate reasons for not filing a formal complaint.
 - 2) SBP 3.10 CSF Funding
Within subdivision (c), clarifies that for the purpose of counting members to determine funding for the Clients' Security Fund, the count will include members eligible to practice and members who have paid the annual membership fees for inactive members.
 - 3) SBP 15.42 Guidelines for Grievance Committee Hearings
SBP 15.42 is a new policy, to create consistent standards for grievance committee hearings re committee and chair authority, notices, presence of the complainant and respondent, and considerations for setting hearings.
 - 4) SBP 15.56 Case Processing Goals
SBP 15.56 is a new policy, to formalize current case processing goals and provide guidance re staff and grievance committee investigations and the filing of complaints and referee reports; extends the time for filing complaints after a finding of probable cause, from 30 to 45 days.
 - 5) SBP 15.90 Policy on Judicial Referrals and Complaints- **Removed from Consent**
- c. Legislation Committee review
 - 1) Legislative Objections - Biennium (Positions #2-8)
 - 2) New section and division legislative position requests for the 2006-2008 biennium.
 - a) Out of State Division - **Removed from Consent**
 - i) Non-resident personal representatives
 - b) Real Property, Probate & Trust Law Section
 - i) Oppose HB 1437/SB1460, which would require a foreclosing creditor to notify the debtor that fining a bankruptcy petition before the foreclosure sale may permit the debtor to retain the property and reorganize the indebtedness.
- d. Proposed Chapter 9 Plan Changes - Florida Police Benevolent Association, Inc. (Central Florida Chapter)

- e. Legal Services of North Florida's Board of Directors nominations:
Mark Bednar – Escambia-Santa Rosa Bar Association
C. LeDon Anchors, Jr. – Okaloosa-Walton Bar Association
Mechele McBride – Tallahassee Barristers

7. Communications Committee Report

Chair-elect Richard Tanner reported that the communications committee followed the recommendation of a subcommittee to evaluate seven nominees for four openings on the Citizens Forum. The committee recommends that the President-elect appoint: Ricardo Gonzalez; Charles Kalapp; Margaret Perry; and Arsenio Milian. Marilyn Baldwin was designated as an alternate choice.

Tanner told the board that Florida Bar members have until October 7, 2007 to submit the last four digits of their social security number along with a valid email to receive their Florida Bar website passwords by email. Members can continue to receive a password by standard mail if they do not wish to provide this information.

Next, Tanner gave the board a PowerPoint presentation on how the committee recommends that Bar include members' 10-year disciplinary record on the Web site's Find a Lawyer pages. This approach was determined after SCLR Recommendation 11 - Access to Discipline Records - was referred to the committee at the beginning of the current Bar year. Mr. Tanner moved that the board accept the committee's recommendation as presented. The motion passed.

8. Website Advertising Committee Report

Special Committee on Website Advertising Rules Chair and Board of Governors member Charles Chobee Ebbets delivered the report of the special committee to the board. After much study, the special committee recommended that the board adopt changes to Rule 4-7.6 which would apply the general lawyer advertising regulations to lawyer and law firm websites, with the exception of the filing requirement. Mr. Ebbets reported that under current regulations, all of the general lawyer advertising regulations already apply to websites with 3 exceptions: 1) the prohibition against statements characterizing the quality of legal services; 2) the prohibition against references to past results; and 3) the filing requirement. He reported that the board approved an alternative proposal at its January 2007 meeting that would require that the homepage of a website comply with the general lawyer advertising regulations set forth in Rule 4-7.2; the remainder of the website would be required to comply with the general lawyer advertising regulations set forth in Rule 4-7.2 with the exceptions of the prohibitions against listing past results, testimonials, and statements characterizing the quality of legal services. The alternative proposal approved by the board also would require specific disclaimers if the website contains information regarding past results or testimonials. He reported that board members DeCubellis and Burgoon had further refinements to the alternative proposal approved by the board in a hand-carry that addressed some bar members' concerns about the proposed disclaimer language. The hand-carry alternative proposal with the additional refinements was approved by the Rules Committee.

A motion was made, seconded, and passed to approve the hand-carry version of the board's alternative proposal with the refinements to the disclaimer language proposed by board members DeCubellis and Burgoon.

9. Budget Committee Report

Chair Jesse Diner reported that the Bar 2007-2008 budget was a balanced budget. He said that the Bar expected to have approximately \$36.9 million in projected revenue and \$36.3 million in expenses, leaving a \$598,000 surplus. He noted that there was not an increase in Bar fees. The budget committee recommended that the board adopt the 2007-2008 budget. The board concurred and approved the budget.

Next, Diner told the board that the committee reviewed and recommended the approval of the following budget amendments to the 2006-2007 budget. The board concurred and approved the following amendments:

- Include SSN Mailer with annual fee statement \$25,000 from Operating reserve

- Office supplies and storage unit rental \$6,850 from Operating reserves

The committee had 1 item on **first reading**

- 1) CLE Policy 3.09 - Policies Governing CLE Committee - Exhibits and Displays at Courses

A policy to allow for and regulate the practice of sponsors funding various aspects of CLE courses co-sponsored with the Sections.

10. Investment Committee Report

Jay White reported that through March 23, 2007, the Bar's third quarter investment revenues are up \$423,000 and our total portfolio is \$29.8 million.

11. Legislation Committee Report

Chair Warren Lindsey reported that the committee met earlier in the week by phone and approved one legislative position for the Out of State Division (OOSD) and one for the Real Property, Probate and Trust Law Section (RPPTL).

The positions were on the consent calendar; however the Out of State Division position was removed from the consent calendar at the request of a board member. The OOSD position is as follows:

- Supports amendment to §§733.302 and/or 733.304, Florida Statutes, to expand the class of nonresidents who may be appointed to serve as a personal representative of a Florida domestic probate estate to include nonresident Florida Bar members.

Following a brief discussion the board allowed the position.

The RPPTL position is as follows:

- Oppose HB 1437/SB1460, which would require a foreclosing creditor to notify the debtor that fining a bankruptcy petition before the foreclosure sale may permit the debtor to retain the property and reorganize the indebtedness.

The RPPTLs also submitted three other legislative positions which were not on the consent calendar due to their late arrival. The legislation committee recommended the board allowed the adoption of the following positions:

- Supports proposed amendments to Florida Statutes Chapter 718, the Condominium Act. The proposed changes are intended to clarify that changes to a developer prospectus' estimated operating budgets prepared in good-faith that are beyond the control of the developer do not trigger rescission rights under Section 718.503(1), Florida Statutes.
- Supports legislation to permit condominium unit owners to further subdivide or partition their interest in the condominium and common elements appurtenant thereto pursuant to a sub-declaration of condominium, which subdivided units shall remain subject and subordinate to the existing declaration of condominium, provided such existing declaration of condominium allows for the subdivision.
- Oppose the creation of "pilot" court divisions without funding, evaluation criteria, rules of procedure, and competency criteria for magistrates without consideration for current alternate dispute resolution processes.

The board voted unanimously to allow all of the RPPTL positions.

The Consumer Protection Law committee presented a written procedure for issuing a technical assistance memorandum. They want to be able to respond to legislative requests to provide technical assistance if a bill comes up in the consumer protection area. The board approved the proposal.

Lindsey reported that President Coxe had dinner with Senator Villalobos in Tallahassee. The Senator told Coxe about his bill to ensure that anyone testifying in the legislature be placed under oath. Lindsey told the board that the Bar would not be taking a position on the bill because it

concerns the procedures in the Legislative branch. Lindsey gave the board a brief budget update. He said that Civil Legal Assistance was included in the Senate budget for \$2.6 million, which is \$600,000 more than it received last year. However, it is not in the House budget, so it will be a conference item. Lindsey told the board that the prospect of new judges was not good. While the Senate has SB 588 by Senator Crist, including all of the judges from the Supreme Court's judicial certification, the Senate budget does not include funds for the new judges. No one in the House has filed a bill to fill the certification. Lindsey reported that both the House and Senate include budgetary increases for the employee's pay parity. There is approximately \$13 million in both budgets to increase the pay for the court employees. Finally, Lindsey pointed out to the board that they had been given 2 copies of the "2007 Summary of Legislative Issues" which were to be used to prepare for their legislator visits.

12. Tampa Mayor Pam Iorio

Gwynne Young introduced Tampa Mayor Pam Iorio. Mayor Iorio welcomed the board to Tampa and thanked them for choosing Tampa to hold the meeting.

13. Attorney General Bill McCollum

Allison Bethel introduced Attorney General Bill McCollum. McCollum spoke to the board and shared some of the initiatives that the AG office is working on. McCollum told the board about its Cybercrime unit. McCollum also told the board about Florida's gang problem.

14. Unlicensed Practice of Law Report

Lori Holcomb, Director of Unlicensed Practice of Law reported that the UPL committee recommended a positive vote on the following two items on second reading:

- 1) SBP 16.21 Waiver of Disqualification as Attorney for Respondents – UPL
Consistent with rule 10-5.2 – and similar to separate policy re representation of disciplinary respondents – establishes a procedure for attorneys to follow when seeking a waiver of disqualification from representing a UPL respondent.
- 2) Rule 4-5.5 Unlicensed Practice of Law; Multijurisdictional Practice of Law
Within subdivision (b), revises title to read "Prohibited Conduct" and adds new (b)(3) to clarify that a non-Florida lawyer cannot appear in court or before an administrative agency in Florida without following applicable rules; within subdivisions (c)(2) & (d)(2), deletes "or a person the lawyer is assisting" as confusing and contrary to intent of rule; within comment, adds language to clarify that if a court or other rule requires permission to appear before making an appearance, the non-Florida lawyer must seek such permission; also includes other non-substantive edits and an updated rule number referenced within commentary.

The board concurred with the committee recommendation and **approved** the amendments.

15. Disciplinary Procedures Committee Report

Chair Andy Sasso reported that the committee recommends that the board approve the following proposed amendment on **second reading**:

- 1) Rule 4-8.4 Misconduct
Within subdivision (i) and commentary, substantially revises existing restrictions on sexual conduct between attorney and client or client's representative to now state that any such conduct which commences after the attorney/client relationship started creates a presumption – rebuttable by the lawyer by a preponderance of the evidence – that it exploits or adversely affects the client's interests or attorney-client relations.

The board concurred with the committee recommendation and approved the amendment.

The committee looked at the items on **first reading** and will bring them to the board at a future date.

- 1) Rule 3-6.1 Employment of Certain Attorneys or Former Attorneys; Generally
Extends the prohibitions re direct client contact and the handling of trust funds and property to all entities providing legal services when hiring an individual otherwise subject to this rule; clarifies that the employment restrictions and reporting requirements apply to law firms and other agencies through which legal services are provided

2) Rule 4-6.1 Pro Bono Public Service; Reporting Requirement

The rule as currently approved requires the pro bono reporting statement to be located on the annual membership fee statement. The proposed amendment eliminates that restriction and will allow other venues for the statement, such as the bar's website.

3) Rule 5-1.1 Trust Accounts (overdraft protection)

Adds new subdivision (k) to prohibit an attorney from authorizing overdraft protection for any account that contains trust funds.

4) Rule 4-7.10 Lawyer Referral Services (companion rule to 8-6.1)

Consistent with proposed rule 8-6.1, clarifies rule and commentary that it is a violation of the Rules Regulating The Florida Bar for a member of the bar to accept referrals from a private, for-profit lawyer referral service that does not comply with the requirements of rule 4-7.10; within subdivision (b), adds that it is a further violation if a lawyer fails to meet such responsibility when the lawyer knows or should have known any referral service is not in compliance with applicable rules or if the lawyer failed to seek such information to determine compliance.

5) Rule 8-6.1 Misconduct of Attorneys Related to Lawyer Referral (companion to 4-7.10)

Consistent with proposed changes in rule 4-7.10, new rule which clarifies that all attorneys who accept referrals under the lawyer referral rules must comply with the Rules Regulating The Florida Bar in addition to the terms and conditions of the referral; confirms that lawyer misconduct rule specifically applies to such matters. DPC recommended against endorsing this proposed amendment. It will not come back before the board.

6) SBP 15.55 Deferral of Disciplinary Investigation During Civil or Criminal Proceedings
Amends policy to additionally apply to intake processes and analysis of disciplinary complaints.

7) SBP 15.75 Policy on Review of Continuing Complaints

This amends policy to additionally apply to intake process.

8) SBP 15.91 Policy on Administration of Public Reprimands

States that all public reprimands should be administered by personal appearance of the respondent before the board.

16. Special Commission on Lawyer Regulation

Chair Andy Sasso reported that the committee recommends that the board approve the following proposed amendment on **second reading**:

- 1) Rule 3-5.1(c) Types of Discipline; Probation (increasing maximum term to five years)
Within subdivision (c), increases the maximum stated period of time for which probation may be imposed, from 3 years to 5 years.

The board concurred and unanimously approved the amendment.

The committee looked at the following proposed amendments on **first reading** and will bring them to the board for approval at a future date.

- 1) Standing Board Policy 15.77 Access to Designated Reviewer

This is a new policy, to formalize the manner in which access to a designated reviewer may be obtained and to clarify the role of bar counsel in such contact.

17. Board of Legal Specialization and Education Report

The board received a report from Chris Knopik, Chair of the Board of Legal Specialization and Education.

18. Civil Procedures Rules Committee Report

Chair Keith Parks told the board that the rules committee recommended the following new rule and amendments:

- 1) Rule 1.191 – In order to fully implement the Supreme Court's intent in protecting privacy and preventing potential identity theft, the Committee proposes a redaction requirement. Limiting the filing of discovery in a case may not fully resolve the privacy and identity theft problems identified by the Supreme Court's Committee on Privacy and Court Records, in that some information that is obtained outside of discovery is often filed in court records

in support of motions before the court. Many federal courts have already imposed a redaction requirement in their local rules. A proposed new Federal Rule 5.2, titled "Privacy Protection for Filing Made with the Court," has been proposed, has been subject to public comment, and may become effective as of December 1, 2008.

- 2) Rule 1.280 (f) - A new subdivision, titled "Court Filing of Documents and Discovery," is added to rule 1.280, tracking the function of Fed. R. Civ. P. 5(d). It would prevent the filing of information obtained during discovery unless and until it is filed for good cause.
- 3) Rule 1.310 (f) – To harmonize rule 1.310(f), regarding filing copies of depositions, with the proposed changes to rule 1.280, a reference is added to filing a deposition "in compliance with rule 1.280(f)."
- 4) Rule 1.340 (e) – To harmonize rule 1.340(e), regarding service and filing of interrogatories to parties, with the proposed changes to rule 1.280, a reference is added to filing a deposition "in compliance with rule 1.280(f)."
- 5) Rule 1.350 (d) – To harmonize rule 1.350(d), regarding filing of documents, with the proposed changes to rule 1.280, a reference is added to filing a deposition "in compliance with rule 1.280(f)."
- 6) Rule 1.988 – A change is made to require only the last four digits of the judgment debtor's social security number, if known, rather than the entire number.
- 7) Rule 1.990 – A change is made to require only the last four digits of the judgment debtor's social security number, if known, rather than the entire number.
- 8) Rule 1.991 - A change is made to require only the last four digits of the judgment debtor's social security number, if known, rather than the entire number.
- 9) Rule 1.993 - A change is made to require only the last four digits of the judgment debtor's social security number, if known, rather than the entire number. Also a typographical error in the original opinion adopting the note (see *Amendments to the Florida Rules of Civil Procedure*, 773, So.2d 1098 (Fla. 2000)) is corrected by changing "Florida statutes" to "Florida Statutes" to conform to the Supreme Court style guidelines and other judgment forms.
- 10) Rule 1.994 – A change is made to require only the last four digits of the judgment debtor's social security number, if known, rather than the entire number. Also a typographical error in the original opinion adopting the note (see *Amendments to the Florida Rules of Civil Procedure*, 773, So.2d 1098 (Fla. 2000)) is corrected by changing "Florida statutes" to "Florida Statutes" to conform to the Supreme Court style guidelines and other judgment forms.
- 11) Rule 1.995 - A change is made to require only the last four digits of the judgment debtor's social security number, if known, rather than the entire number.
- 12) Rule 1.996 - A change is made to require only the last four digits of the judgment debtor's social security number, if known, rather than the entire number. Also a typographical error in the original opinion adopting the note (see *Amendments to the Florida Rules of Civil Procedure*, 773, So.2d 1098 (Fla. 2000)) is corrected by changing "Florida statutes" to "Florida Statutes" to conform to the Supreme Court style guidelines and other judgment forms.

The board approved the changes 37-0.

19. Florida Appellate Court Rules Committee Report

Chair Bob Biasotti told the board that the rules committee recommended the following rule changes:

- 1) Provides that, to protect a person's privacy, the filing of personal information that is not necessary for adjudication or case management in appellate briefs, petitions, replies, motions, notices, responses and attachments to these documents, may be omitted from these documents.

The board approved the changes 34-0.

20. Appellate Practice Section Report

The board received a report from Susan Fox, Chair of the Appellate Practice Section.

21. Small Claims Rules Committee Report

Board liaison Scott Atwood told the board that the rules committee recommended the following rule changes:

- 1) Rule 7.140 – This rule, titled "Trial," includes a subdivision (e) regarding the court assisting parties not represented by an attorney. The rule provides for assistance on courtroom decorum and the order of presentation of material evidence. The Committee suggests adding a provision that the court will assist unrepresented parties in the handling of private information that could be published in the court file. One Committee member felt this change would not solve the problem of unnecessary information getting into the court file because it would not be effective to put the responsibility of "policing" the public record on judges; judges are too busy to watch the file to ensure that unnecessary, private information is not filed. That Committee member pointed out that while pro se litigants file documents with the judge at trial, they also file them with the clerk through the mail and at the clerk's office, and judges cannot screen all of those documents.
- 2) Rule 7.300 – This is the general rule that discusses the small claims forms. The Committee recommends adding language to this rule that would alert litigants to not include personal information on documents except when necessary. Although only the Final Judgment form (7.340) and the Fact Information Sheet (7.343) ask for specific personal information such as social security numbers, frequently small claims litigants put such information on documents. Often companies put in credit card numbers and driver's license numbers as well in collection and garnishment documents. The Committee is aware that section 55.01, Florida Statutes, requires in part: "(2) Each final judgment shall contain thereon the address and the social security number, if known to the prevailing party, of each person against whom judgment is rendered." In fact, one Committee member voted against the proposed change because he believed this is a matter for the legislature and not this Committee. Therefore, the Committee does not believe this requirement can be deleted from the forms, but suggests that a solution would be that the documents show only the last four digits of the defendant's social security number. The Committee would suggest adding the following sentence to Rule 7.300: "Unless specifically required by a particular form, by the court, or by law, a party shall not include personal information such as a social security number, driver's license number, or bank account number on any form filed with the clerk of the court." The Committee acknowledges that a party has a right to obtain personal information regarding an individual or business when appropriate; however, the Committee feels that action must be taken to attempt to limit the unnecessary inclusion of personal information on pleadings or documents filed with the clerk's office.
- 3) Form 7.340 – Form 7.340 is problematic in that it requires the defendant's social security number, if known to the prevailing party. The Committee recommends modifying the form to specify that only the last four digits of the defendant's social security number should be provided. The Committee is concerned that inclusion of the defendant's entire social security number in the final judgment, which is recorded in the public records, may increase the potential misuse of the defendant's personal information. The Committee is aware that section 55.10, Florida Statutes, currently requires that the defendant's social security number if known, be listed on the final judgment. However, the statute also specifies that the failure to include the defendant's social security number does not affect the validity or finality of the final judgment. The Committee also recommends that a notice be added to the optional enforcement paragraph that the Fact Information Sheet (7.343) should not be filed with the court.
- 4) Form 7.343 – The divulging of personal information in the Fact Information Sheets does not present a problem if the forms are not filed in the clerk's office. Present form 7.343, however, instructs the defendant to file the completed fact information sheet with the court. The Committee recommends an addition to the form eliminating this instruction and altering it to indicate that the defendant is not to file it with the court. The procedure for what to do with form 7.343 is spelled out in detail to assist the pro se litigant.

The board approved the changes 26-0.

22. Florida Probate Rules Committee Report

Board liaison Gwynne Young told the board that the Florida Probate Rules Committee (FRPC) determined that rules 5.200(b), 5.21(b), and 5.260(b) should be amended to require that the decedent's social security number be redacted to include only the last four digits. The FRPC finds it necessary that 5.200(b), 5.210(b) and 5.260(b) require that the last four digits of a decedent's social security number be contained in the petitions or caveat to better identify the decedent, given the decedents with common names. Aside from these three changes, the FRPC has determined that no further revisions to the Florida Probate Rules are required based upon either the Privacy Report or applicable Florida Statutes.

The board approved the changes 27-0.

23. Rules of Judicial Administration Committee Report

Board liaison Tim Sullivan reported that the rules committee recommended the following rule changes:

- 1) Proposed Amendment to Florida Rules of Judicial Administration 2.215 – Amendments to Rule 2.215 are intended primarily to clarify the time requirements for taking the Refresher Course to maintain qualification to preside over capital cases.
- 2) In regard to recommendation seven and ten of the Report and Recommendations of the Committee on Privacy and court Records, the committee determined that there were no rule changes required.

The board approved the changes 30-0.

24. Criminal Procedure Rules Committee Report

Board liaison David Rothman told the board that the Supreme Court had requested that the committee review Rule 3.191, the speedy trial rule, to determine whether it should be amended to allow for dismissals without prejudice in certain cases. A subcommittee recommended that no change should be made to the rule. The committee agreed with the subcommittee and is suggesting that there be no changes made to Rule 3.191. The board concurred with the committee recommendation to leave the rule as is by a 34-0 vote.

25. Family Law Rules Committee

Board member and Family Law Rules committee member Sharon Langer reported that the Family Law Rules committee was submitting rule changes for the following rules:

- 1) Rule 12.105, Simplified Dissolution Procedure
- 2) Rule 12.130, Documents Supporting Action or Defense
- 3) Rule 12.280, General Provisions Governing Discovery
- 4) Rule 12.285, Mandatory Disclosure
- 5) Rule 12.287, Financial Affidavits in Enforcement and Contempt Proceedings
- 6) Rule 12.340, Interrogatories to Parties
- 7) Rule 12.363, Evaluations of Minor Child
- 8) Rule 12.370, Requests for Admissions
- 10) Rule 12.410 Setting Action for Trial
- 11) Rule 12.540, Relief from Judgment, Decrees or Orders
- 12) Rule 12.560 Discovery in Aid of Execution
- 13) Rule 12.620, Receivers
- 14) Form 12.901 (a), Petition for Simplified Dissolution of Marriage
- 15) Form 12.902 (b), Family Law Financial Affidavit (Short Form)
- 16) Form 2.902 (c), Family Law Financial Affidavit
- 17) Form 12.902 (e), Child Support Guidelines Worksheet
- 18) Form 12.930 (b), Interrogatories for Original or Enforcement Proceedings
- 19) Form 12.930 (d), Notice of Service of Standard Family Law Interrogatories
- 20) Form 12.932, Certificate of Compliance with Mandatory Disclosure
- 21) Form 12.980 (h), Request for Confidential Filing of Address

Langer told the board that in regard to Recommendations 7, 9, and 10 from the

Recommendations of the committee on Privacy and Court Records, the committee had the following rule changes:

- 1) Recommendation 7 – Requested a review of all rules and forms to avoid filing of personal information not necessary for adjudication or case management.
- 2) Recommendation 9 –
 - (a) Recommended that Rule 12.285 be amended to state that parties are not required to file a financial affidavit if (1) they have no minor children, no support issues, and have filed a marital settlement agreement or (2) the court lacks jurisdiction to determine financial issues.
 - (b) Recommended that Rule 12.285 be amended to state at the beginning that parties shall not file mandatory disclosure documents but shall file a certificate of compliance with mandatory disclosure.
- 3) Recommendation 10 – Recommended creation of a rule to require attorneys and litigants to refrain from filing discovery with the court except for good cause and to allow sanctions against attorneys or litigants for violations.

The board approved all of the changes 32-0.

26. Program Evaluation Committee

Chair Gwynne Young reported that the committee met and discussed the following items:

- a. Review of Call-A-Law Program
Young told the board that the committee looked at the Call-A-Law program and determined that the utility of that program has essentially been replaced by the internet, and the calls have dropped down to less than 100 a months. Therefore, the recommendation of the committee was to terminate the program. The board concurred with the committee recommendation.
- b. Discussion on Practice Management & Development Section Merger Into the General Practice Solo & Small Firm Section
Young reported that the members of the Practice Management and Development section were pleased with the pending merger. They hope to bring this merger back to the board for approval in May.
- c. Review of Request to Change Name of Annual Meeting Committee
Young reported that the PEC reviewed a recommendation to change the name of the Annual Meeting Committee to the Annual Convention Committee. This includes a name change for the Annual Meeting to also be officially known as the Annual Convention. The board concurred with the committee recommendation.
- d. Review of Consumer Protection Law Committee Suggestion Regarding the Consumer Pamphlet Series
Young reported that the committee looked at the Florida Bar consumer pamphlet series, the Bar puts out pamphlets on different areas of the law. The committee recommended that the Bar continue to put out the consumer pamphlets. The board concurred with the committee recommendation.
- e. Discussion on Member Outreach Committee/Equal Opportunities in the Law Section Mission Statements
Young reported that the section and the committee leadership have been meeting both in person and by conference call over the past two months. There is currently division within the EOLS as to whether they want to remain a section or revert back to a committee. PEC agreed that overlap is good as both groups play a key role and can benefit from each other; however, there are some communication issues that need to be resolved. The PEC decided not to conduct a program evaluation in this area, as it does not want to take an active role in telling sections what to do. Instead, President Cox will send a letter to the chairs of both the section and the committee emphasizing the positives of each group and the various tasks that each group has, such as the annual diversity symposium, the responsibility for diversity related CLE, trying to decrease member apathy and get more attorneys involved in Bar activities, programs and services, etc.
- f. Update on Proposal for a Joint Legislative/Judicial Committee to Consider and

Recommend for Enactment all Future Florida Statutes Chapter 90 Legislative Proposals
Young said that the final item relates to the Code and Rules of Evidence committee to look at setting up or approving a joint committee of the Legislature and Judiciary to consider and recommend all future changes to Chapter 90, Florida Statutes, which is the evidence code. The PEC was told that a letter had been sent to Barry Richard requesting he give an opinion on whether or not the Bar can lobby for the committee. The Bar is awaiting Richard's response.

g. BLSE Amendments – under consideration

Young reported that the committee began to review the following rule and policy amendments. The PEC tabled Policy Amendment 2.03 – New Area Requests.

- 1) Rule Amendments 6-8.1 thru 6-8.6
 - Rule 6-8.1 - Adds new language to incorporate criteria of 'character, ethics and reputation for professionalism.
 - Rule 6-8.2 - Within subdivision (c), adjusts language to allow for more than 2 criminal appellate lawyers to serve on Criminal Law Certification Committee; adds new subdivision (d) re trials, to address specific proceedings that may satisfy the trial requirement; also adds new subdivision (e) re protracted litigation, moved from rule 6-8.3(a)(2).
 - Rule 6-8.3 - Within subdivision (a), adds "competence" to subdivision title and minimum standards; within subdivision (b), adds new language prohibiting relatives or current associates or partners from acting as references, and adds new language that peer review received on behalf of an applicant must demonstrate competence in the practice of criminal trial law as well as ethics and professionalism; within subdivision (c) re education, revises and streamlines language consistent with committee and BLSE policies; within subdivision (d), adds new language requiring the criminal law certification exam also test an applicant's skills in practicing criminal trial law; includes other edits consistent with controlling editorial protocols without substantive effect.
 - Rule 6-8.4 - Within subdivision (a), eliminates "continuous" as to substantial involvement and integrates actual language of rule 6-8.3(a)(4) into text instead of mere cite to that provision; within subdivision (b) re trials, adds language to allow consideration of other criteria deemed appropriate by the committee; within subdivision (c) re education, streamlines language to allow reliance upon initial certification criteria; within subdivision (d), adds new language to prohibit relatives or current associates or partners from acting as references, and states peer review received on behalf of an applicant must demonstrate competence in criminal trial law, as well as ethics and professionalism; within subdivision (e), adds provisions for waiver of the trial criteria for applicants certified 14 years or more, to include satisfaction of peer review, education, and substantial involvement; includes other edits consistent with controlling editorial protocols without substantive effect.
 - Rule 6-8.5 - Within subdivision (a), adds "competence" to subdivision title and minimum standards; specifies "criminal" as to appellate actions; adds provision allowing attorneys who are or have been judicial clerks/staff attorneys, if restricted by rules of court, to submit a letter from their employer judge stating the number of appellate actions in which the applicant participated; adds new subdivision (a)(3) requiring submission of pleadings in 2 recent criminal appellate proceedings; within subdivision (b), adds new language prohibiting relatives or current associates or partners from acting as references, and adds new language that peer review received on behalf of an applicant must demonstrate competence in the practice of criminal appellate law as well as ethics and professionalism; within subdivision (c) re education, revises and streamlines language consistent with other areas; within subdivision (d), new language requires that the criminal law certification exam also test an applicant's skills in criminal appellate law; includes other edits consistent with controlling editorial protocols without substantive effect.

Rule 6-8.6 - Within subdivision (a), specifies 5-year time frame preceding application for satisfaction of recertification requirements; eliminates "continuous" as to substantial involvement and integrates actual language of rule 6-8.5(a)(3) into text instead of mere cite to that provision; within subdivision (b) clarifies appellate actions as "criminal" and adds provision allowing attorneys who are or have been judicial clerks/staff attorneys, if restricted by rules of court, to submit a letter from their employer judge stating the number of appellate actions in which the applicant participated; within subdivision (c) re education, streamlines language to allow reliance upon initial certification criteria; within subdivision (d), adds new language prohibiting relatives or current associates or partners from acting as references, and states peer review received on behalf of an applicant must demonstrate competence in criminal appellate law, as well as ethics and professionalism; within subdivision (e), adds provisions for waiver of the appellate action criteria for applicants certified 14 years or more, to include satisfaction of peer review, education, and substantial involvement; includes other edits consistent with controlling editorial protocols without substantive effect.

2) Rule Amendments 6-13.1 thru 6-13.5

Rule 6-13.1 - Adds new language to incorporate criteria of "character, ethics and reputation for professionalism."

Rule 6-13.2 - Adds new subdivision (b), to define "appellate action" and updates other subdivision entries.

Rule 6-13.3 - Within subdivision (a), refines verbiage and adds waiver language for up to 2 of the 3 years' substantial involvement for appellate judges, clerks, career attorneys, or staff attorneys in an appellate court; within former subdivision (a)(2) – new (b) – adds language to specify the 5-year time frame, clarifies primary responsibility in appellate actions, and describes applicant obligations re demonstrating case participation as substantial and direct; within former subdivision (a)(3) – new (c) – adds language to clarify primary responsibility in oral arguments and describes applicant obligations to demonstrate case participation as substantial and direct; deletes current subdivision (a)(4); within new subdivision (d), adds language to provide that authorization for education accreditation be within the purview of the certification committee or BLSE; within former subdivision (b) – new (e) – adds language to exclude relatives or current associates from providing reference statements on an applicant's behalf; revises other subdivision entries to accommodate proposed changes.

Rule 6-13.4 - Amplifies preamble to include 5-year reference; within subdivision (a), streamlines verbiage; within subdivision (b), eliminates "Requirement" from subdivision title consistent with titles as styled in other area standards; adds language to clarify primary responsibility in appellate actions and describe applicant obligations to demonstrate their case participation as substantial and direct; within subdivision (c), adds language to clarify primary responsibility in oral arguments and describe applicant obligations to demonstrate participation as substantial and direct; further allows committee to waive requirement; within subdivision (d), amends subdivision title consistent with styling in other area standards; revises verbiage to allow 30 hours of judicial education to satisfy the standard 50 CLE hours required for recertification; within subdivision (e), adds new language to prohibit relatives or current associates or partners from acting as references; and, within new subdivision (f), specifies expanded requirements for judges re recertification in accordance with their responsibilities either in an appellate capacity or otherwise, previously within rule 6-13.5, now stricken.

Rule 6-13.5 - Deleted in view of expanded new provisions, now within rule 6-13.4 as new subdivision (f).

3) Policy Amendment 5.05(f)

New subsection (f), Justice Teaching Classroom Presentations, allows for

participants in the Justice Teaching Program to receive 1 credit hour per presentation at an elementary, middle, or high school classroom. Language sets a cap at 5 credit hours in a 3-year CLER reporting cycle for this activity.

- 4) Rule Amendment to SBP 1.60(c)
Within subdivision (c), adds review of proposed rule or policy amendments by the budget committee and the program evaluation committee to evaluate and determine the effect of the amendment, if any, on the bar's budget and strategic plan; requires these committees to report their findings to the board.

27. Young Lawyers Division

President John Stewart told the board that the YLD held a charitable projects meeting, and have partnered with the Florida Bar Foundation, they provided funding that they have matched which helps on the charitable works. Stewart announced that President-elect designate is Jewel White Cole.

Stewart went on to mention that the YLD promotes diversity award, and is presenting it at the diversity symposium in April. YLD gives one award to a firm and one to an individual.

28. Special Appointments and Nominations

The board made the following appointments and nominations:

- a. Supreme Court's Bar Admissions Committee
David Jack Mesnekoff of Miami will serve a 2-year term commencing July 1, 2007.
- b. Florida Patient's Compensation Fund
Jerry L. Newman of Tampa will serve a 4-year term commencing July 1, 2007.
- c. JNC Statewide Nomination Commission for Judges of Compensation Claims
The board appointed:
Laura L. Farrante of Jacksonville for the 1st DCA.
Elliot B. Kula of Miami for the 3rd DCA
Silvia M. Hoeg of Orlando for the 5th DCA
- d. Judicial Nominating Commissions
The board nominated the following applicants to serve 4-year terms:

Supreme Court

Howard C. Coker	Jacksonville
Philip Freidin	Miami
Cynthia Johnson-Stacks	Miami

Fifth DCA

O. John Alpizar	Melbourne Beach
Shannon McLin Carlyle	Leesburg
Kirk N. Kirkconnell	Altomonte Springs

First DCA

Hugh Cotney	Jacksonville
Katherine Eastmoore Giddings	Crawfordville
M. Stephen Turner	Tallahassee

1st Circuit

Roy M. Kinsey, Jr.	Pensacola
Stephen A. Pitre	Gulf Breeze
David Lee Sellers	Pensacola

Second DCA

W. Reynolds Allen	Tampa
Susan W. Fox	Tampa
Celene Harrell Humphries	Riverview

2nd Circuit

William Howard Davis	Tallahassee
Clark R. Jennings	Tallahassee
Dean R. LeBoeuf	Tallahassee

Third DCA

Matias Rafael Dorta	Miami
Katherine W. Ezell	Coral Gables
Gerald B. Wald	Miami

3rd Circuit

Thomas W. Brown	Lake City
Kimberly G. Shelley Sedor	Jasper
Ernest A. Sellers	Live Oak

Fourth DCA

F. Gregory Barnhart	Palm Beach
Gerald F. Richman	Palm Beach Gardens
Rafael J. Roca	Jupiter

4th Circuit

Richard Robert Alexander	Jacksonville
Lynn Drysdale	Atlantic Beach
David M. Wells	Orange Park

5th Circuit

Timothy S. Babiarz Ocala
 Raul Carreras, Jr. Ocala
 Donald M. McCathran, Jr. Citrus Springs

13th Circuit

Clifton C. Curry, Jr. Valrico
 Edward W. Gerecke Tampa
 William J. Schifino, Jr. Tampa

6th Circuit

Robert C. Decker Redington Beach
 Robert H. Dillinger St. Petersburg
 Craig A. Laporte New Port Richey

14th Circuit

Ashley Stone Benedik Panama City
 William Charles Henry Panama City Beach
 Robert S. Sombathy Panama City

7th Circuit

Barbara Curtis Davis Ponce Inlet
 Stephen John Guardiano Port Orange
 Mary G. Jolley New Smyrna Beach

15th Circuit

Mariano Garcia West Palm Beach
 Michael J. Gelfand West Palm Beach
 JoAnn B. Kotzen West Palm Beach

8th Circuit

Marcia Davis High Springs
 Cynthia Stump Swanson Gainesville
 Elizabeth A. W. Zettler Williston

16th Circuit

William E. Anderson Key West
 Robert Tischenkel Key West
 Val Ellsworth Winter Key West

9th Circuit

Scott Ramsey McMillen Orlando
 Michael James Snure Maitland
 Melvin B. Wright Windemere

17th Circuit

Jay Cohen Hollywood
 Barry Ives Finkel Plantation
 Richard J. Zaden Lighthouse Point

10th Circuit

Mitchell Dean Franks Lakeland
 Spencer L. Pastorin Davenport
 L. Alexander Pujol Lakeland

18th Circuit

Stephen George Charpentier Merritt Island
 David W. Dyer Indian Harbour Beach
 Robert M. Moletteire Indiatlantic

11th Circuit

Antonio C. Castro Coral Gables
 John W. Kozyak Miami
 Jason M. Murray Miami

19th Circuit

James L. S. Bowdish Jensen Beach
 David M. Carter Vero Beach
 Robert J. Gorman Fort Pierce

12th Circuit

Bertrom "Dan" Dannheisser Sarasota
 Henry Roger Lutz Holmes Beach
 Michael E. Siegel Sarasota

20th Circuit

Sharon Margaret Hanlon Naples
 Randall Bryce McGruther Alva
 Christopher T. Vernon Naples

- e. The Florida Bar Board of Governors Public Member Nominations
 The board nominated the following applicants:
 Carmen A. Brown of Miami
 Arnell Bryant-Willis of Tallahassee
 David Paulus of Gainesville

29. Time and Place of Next Meeting

The next meeting will be held May 30-June 3, 2007 at the Weston Resort & Marina in Key West, FL.

There being no further business, the board adjourned at 4:00 PM.

Respectfully submitted,

Dana M. Watson

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