

The Florida Bar Board of Governors
May 27, 2011
Westin Resort
Key West, Florida

1. Roll Call

Mayanne Downs, President
Scott G. Hawkins, President-elect
Stephen H. Echsner, 1st Circuit
Lawrence E. Sellers, Jr., 2nd Circuit
William H. Davis, 2nd Circuit
Clay A. Schnitker, 3rd Circuit
S. Grier Wells, 4th Circuit
John J. Schickel, 4th Circuit
Andrew B. Sasso, 6th Circuit
Murray B. Silverstein, 6th Circuit
Sandra C. Upchurch, 7th Circuit
Carl B. Schwait, 8th Circuit
Mary Ann Morgan, 9th Circuit
Daniel L. DeCubellis, 9th Circuit
Scott M. McMillen, 9th Circuit
C. Richard Nail, 10th Circuit
Ramon A. Abadin, 11th Circuit
David Rothman, 11th Circuit
Leslie Jean Lott, 11th Circuit
Michael J. Higer, 11th Circuit
Dennis G. Kainen, 11th Circuit
Juliet Roulhac, 11th Circuit
John H. Hickey, 11th Circuit
Dori Foster-Morales, 11th Circuit
L. Norman Vaughan-Birch, 12th Circuit
William J. Schifino, Jr., 13th Circuit
Lansing C. Scriven, 13th Circuit
Gwynne Alice Young, 13th Circuit
Michael S. Hooker, 13th Circuit
John W. Manuel, 14th Circuit
David C. Prather, 15th Circuit
Gregory Coleman, 15th Circuit
Michelle R. Suskauer, 15th Circuit
Edwin A. Scales, 16th Circuit
Walter G. Campbell, Jr., 17th Circuit
Eugene K. Pettis, 17th Circuit
Jay Cohen, 17th Circuit
Timothy A. Bailey, 17th Circuit
Clifton A. McClelland, Jr., 18th Circuit
John M. Stewart, 19th Circuit

Laird Lile, 20th Circuit
Scott W. Weinstein, 20th Circuit
Richard Arthur Tanner, Out of State
Ian M. Comisky, Out of State
Eric L. Meeks, Out of State
Brian D. Burgoon, Out of State
Renée Thompson, Young Lawyers Division President
Sean T. Desmond, Young Lawyers Division President-Elect
Arnell Bryant-Willis, Public Member
Alvin V. Alsobrook, Public Member

Members Absent

Denise A. Dymond Lyn, 5th Circuit
Lisa S. Small, 15th Circuit
Nancy W. Gregoire, 17th Circuit

2. Guests

Gigi Rollini, Florida Association for Women Lawyers

3. Staff in Attendance

John F. Harkness, Jr., Executive Director
Allen Martin, Director, Finance and Accounting
Mary Ellen Bateman, Division Director, Ethics and Advertising, UPL, and Special Projects
Elizabeth Clark Tarbert, Ethics Counsel
Lori Holcomb, Unlicensed Practice of Law Counsel
Francine Walker, Director, Public Information and Bar Services
Rosalyn Scott, Assistant to the President
Gary Blankenship, Senior Editor, Florida Bar *News*

4. Invocation and Pledge of Allegiance

Board member Ed Scales delivered the invocation and led the board in the Pledge of Allegiance.

5. Approval of Minutes

The minutes from the board's March 25, 2011, were approved. That approval included ratification of the following actions:

- The Executive Committee's approval on April 1, 2011, of the following legislative position for The Florida Bar: Supports a merit-based process for selecting Florida judges that is devoid of any legislative confirmation unless undue delays in final appointments and other adverse impacts on the administration of justice caused by lengthy judicial vacancies can be reasonably addressed.
- The April 7, 2011, decision by President Mayanne Downs to approve in an emergency action the following legislative position for the Business Law Section: Opposes SB 1294 & HB 1273 (2011) or similar legislation regarding the choice of foreign laws, legal codes, or systems that declare certain court decisions rendered under

such laws, codes, or systems are void, that certain choice of venue or forum provisions in contracts are void, or that claims of *forum non conveniens* or related claims must be denied under certain circumstances.

- The Executive Committee's decision on April 15, 2011, allowing the Appellate Court Rules Committee to file a comment on proposed amendments to Rule 9.140(f) endorsing an amendment proposed by the Miami-Dade County Clerk of Court. The committee also approved a series of members' objections to official Bar legislative positions 14, 15, and revised position 4, as noticed in the February 15, 2011, edition of the *Bar News*.

- The April 27, 2011, emergency action by President Mayanne Downs, President-elect Scott Hawkins, and Legislation Committee Chair Ed Scales to approve the following as a legislative position of The Florida Bar: In furtherance of the Board of Governors resolution of March 25, 2011, The Florida Bar does not support any court reform proposals in the 2011 Legislative Session until the significant issues raised in those measures are more deliberately studied by a responsibly configured review commission, consistent with the heritage of all other major revisions to Article V of the Florida Constitution and related statutes within the recent past.

- The Executive Committee, meeting May 10, 2011, approved as recommended by the Board of Governors' six screening committees candidates for the state's 26 judicial nominating commissions. Those nominations were forwarded to the full board.

6. Consent Agenda

The board approved the consent agenda as presented without change. The vote includes:

- Reappointing A. Renee Pobjecky as an attorney member and Rudolph Frei and Lawrence Gordon as public members to the Standing Committee on the Unlicensed Practice of Law. Appointed as new attorney members were Sharre Antoinette Brooks, Barbara P. Burke, Jeffrey Michael Kilokoff, Marsha G. Rydberg, and William James Banks. Appointed as new public members were Stanley M. Gainnet, Monte S. Gordon, David Lanaux, Gino Martone, and Nancy A. Murphy. All were appointed for terms that expire in 2014. Gil Rogelio Brito was removed as a public member.

- Appointing John Kinney as a non-lawyer member of Grievance Committee 11A.
- Appointing Sherri Lynn Johnson as an attorney member to Grievance Committee 12.

- Appointing Adam Scott Tanenbaum and Raheela Ahmed as attorney members to Grievance Committee 13B.

- On advertising appeal 11-02007, the Board Review Committee on Professional Ethics voted 7-0 to recommend that the Board of Governors affirm the Standing Committee on Advertising decision on the direct mail advertisement in file 11-02007 that the direct mail advertisement does not comply with the lawyer advertising rules because it does not contain the red "advertisement" mark on the envelope, in violation of Rule 4-7.4(b)(2)(B). The Board of Governors voted to affirm the SCA decision on consent.

- On advertising appeals 11-02292, 11-02293, 11-02294, and 11-02295 the Board Review Committee on Professional Ethics voted 5-2 to recommend that the Board of Governors affirm the Standing Committee on Advertising decision on television advertisements in files 11-02292, 11-02293, 11-02294, and 11-02295 that the language below is misleading in violation of Rule 4-7.2(c)(1), but that the language below would

comply if the onscreen text was revised to state “You may be entitled to up to \$10,000 in medical benefits and lost wage benefits”:

- “Injured...can’t work...you may be entitled to *thousands of dollars* in injury and lost wage benefits” [File Numbers 11-02292 and 11-02295].

- “You may be entitled to *thousands of dollars* in injury and lost wage benefits” [File Numbers 11-02293 & 11-02294].

The Board of Governors voted to affirm the SCA on consent.

- On advertising appeals 11-01928, 11-01996, 11-01997, 11-01998, and 11-01999, the Board Review Committee on Professional Ethics voted 7-0 to recommend that the Board of Governors affirm the Standing Committee on Advertising decision on the Internet advertisements in files 11-01928, 11-01996, 11-01997, 11-01998, and 11-01999 that the lawyer advertising rules apply to Internet advertisements that appear in response to a search where the lawyer has paid the search engine to cause the advertisements to appear when specific key words are used in the search engine. Thus, each advertisement must contain the name of the lawyer responsible for the advertisement’s content under Rules 4-7.6(d) and 4-7.2(a)(1) and the geographic location by city or town under Rules 4-7.6(d) and 4-7.2(a)(2). Additionally, each separate advertisement must be filed for review with a \$250 late fee under Rule 4-7.7(a)(2) and (b)(7). The advertisements in files 11-01996, 11-01997, 11-01998 and 11-01999 are not exempt from the filing requirement and are different advertisements from each other because they contain information beyond the permissible content set forth in Rule 4-7.2(b)(1) **that is different from each other**. The Board of Governors voted to affirm the SCA decision on consent.

- Approval of Rule 3-7.1 Procedures; Confidentiality: Adds new subdivision (l)(3) to authorize release of confidential information on pending investigations upon receipt of a signed waiver by respondents who are applying for board certification to the Board of Legal Specialization and its committees; renumbers subdivision (l)(3) to (l)(4).

- Approval of Rule 3-7.10 Reinstatement and Readmission Procedures – (f)(3)(G) and Comment: Within subdivision (f)(3), clarifies that ordinary life activities do not constitute rehabilitation. Within subdivision (f)(3)(G) defines community and civic service. Within the comment, provides discussion and case law discussing community and civic service required for reinstatement.

- Approval of Rule 20-3.1 Requirements for Registration: Deletes subdivision (c), Grandfathering because the provision sunset March 1, 2011.

- Approval of SBP 15.90 Review and Approval of Disciplinary Cost Payment Plans: Within subdivision (a), adds "due to the Bar" to the title. Deletes subdivision (a)(2), restitution. Within subdivision (a)(3), renumbers and lowers from 90 to 30 the number of days after which diversion fees are delinquent. Deletes subdivision (a)(4), fee arbitration awards. Adds new subdivision (b) stating that restitution or arbitration awards awarded by courts or arbitration panels not paid within 30 days after the award or court order is final are payment delinquencies. Within subdivision (e) [proposed subdivision (f)] and (h) [proposed subdivision (i)] adds that review of payment plans of duration longer than one year must be reviewed by the Disciplinary Review Committee subject to final approval by the board of governors. Renumbers subsequent subdivisions accordingly. Other editorial and style changes made.

7. Report of the Equal Opportunities Law Section

Chair Larry Smith said the section has been reassessing diversity efforts in the wake of the Bar switching its focus from an annual diversity symposium to diversity grants, overseen by the Special Committee on Diversity and Inclusion. Like most sections, Smith said EOLS has lost membership because of the bad economy, but is working to reverse that. Section members experienced in grant writing are assisting small voluntary bars in preparing grant applications for the Bar's new diversity grant program.

8. Introduction of New Board Members

President Downs recognized newly elected board members who will be sworn in at the June convention: Scott Kibler from the Fifth Circuit, Margaret Matthews from the Sixth Circuit, Adele Stone from 17th Circuit, and Young Lawyers Division President-elect Designate Paige Greenlee.

9. Welcome by Monroe County Judge Wayne Miller

Judge Miller welcomed the board to Key West. He also, as chair of the Conference of County Court Judges and a member of the Trial Court Budget Commission, briefly discussed the legislative session, including the court system nearly running out of money, efforts to cut judicial salaries, and the importance of a good pension plan for attracting good lawyers to the bench. He also cautioned it was important to remember that even when disagreeing with some lawmakers about important issues those lawmakers had honestly held opinions.

10. Report of the Tax Section

Chair Guy Whitesman said section members have been involved in several legislative issues, including the state's limited liability corporation statutes, homestead exemptions, reporting issues and general administration of tax law. The section always tries to have CLE courses in conjunction with its business meetings which helps boost attendance for both. The section is also building up its financial reserves, which had declined recently.

11. Budget Committee Report

Chair Dan DeCubellis presented three changes for the 2010-11 Bar budget. Those were \$109,491 for expenses with the Bar's president-elect election and runoff, \$74,213 of Family Law Section budget changes, transferring \$1 million from the Bar's general fund into the building reserve fund and adding an extra \$350,500 for the Clients' Security Fund for claims paid from an unexpected court-ordered payment. DeCubellis said transfer to the building reserve fund was possible because of a bigger than expected surplus for the year. The board approved the budget amendments. For the 2011-12 budget, DeCubellis said one objection had been made by Executive Director John F. Harkness, Jr. That objection was to spend \$220,000 from the building reserve fund to renovate four bathrooms and the basement kitchen in the Bar's main Tallahassee headquarters to bring them into compliance with the ADA. The board approved that change to the budget.

12. Appearance by Past President Jesse Diner

President Downs presented immediate past President Jesse Diner with scrapbooks commemorating his year leading the Bar.

13. Investment Committee Report

Chair Ian Comisky reported the Bar had a highly successful year with its investments, earning money in every quarter and more than recouping the temporary losses from the financial meltdown in 2008. He noted while the Bar is at an all-time high in its long term fund, the Standard & Poors 500 index is still down 18 percent from its all-time high. He reported the Bar's investment managers have shifted money between some of its mutual funds, in keeping with investment goals for those funds.

14. Rules Committee Report

Vice chair Steve Echsner said the committee reviewed an amendment to rule 3-6.1 on employing disbarred or suspended attorneys, bylaws for the Tax Section and the Real Property, Probate and Trust Law Section, and the proposed rewrite of the Bar's advertising rules, all of which would be presented to the board by other committees. He presented two action items. For the first, the board waived second reading and approved deleting Standing Board Policy 11.21 on presenting resolutions at the Bar's Annual Meeting. On the second, he presented, on second reading, an amendment to Rule 20-4.1, Generally: Within subdivision (a), codifies application requirement of supplying an attestation from the current employer; Deletes subdivision (a)(3) relating to grandfathering provision that is being sunsetted; Within subdivision (e) adds introductory language, changes registration fee to renewal fee and allows an FRP to file for an extension of time in which to pay the annual renewal fee – extends time to December 31; adds new subdivision (f) allowing FRPs employed by the government to pay their annual renewal in installments; adds new subdivision (g) exempting FRPs who are activated reserve members of the military from the payment of annual renewal. The board approved the amendment.

15. Government Lawyer Section Report

Immediate past Chair Keith Rizzardi said it is a particularly hard time for government lawyers, especially those working for the state. On top of not having raises for several years, state lawyers as well as all state employees will have to pay 3 percent of their salaries to the state pension system, although that amount is less than it could have been. Several agencies have had dramatic budget and staff reductions, which will likely affect lawyers working for those agencies. Rizzardi said low pay, lack of raises, and job uncertainty will make it hard for the state to attract and retain lawyers in the coming years. He noted the section has requested a designated seat for government lawyers on the Board of Governors and also that the section will be celebrating its 20th anniversary in June.

16. Family Law Section Report

Chair Diane Kirigin noted the section had filed a brief in the gay adoption case decided by the Third District Court of Appeal. The section has redesigned its logo and overhauled its website to make it easier to use. The section also has focused in the past year on

making its publications better and more informative for members. The section budgeted \$10,000 to be divided among sending to section members to a trial advocacy seminar, two to a leadership conference, and the remainder for a program to have supervised time sharing for children. The section was active in the Legislature, including supporting the Bar's legislative goals, and had an active CLE schedule.

17. Legislation Committee Report

The board heard reports on the spring state legislative session from Chief Legislative Counsel Steve Metz, President Downs, and Legislation Committee Chair Ed Scales. President Downs said the Bar has already begun preparing for the 2012 session, including improving legislation communications with board members and Bar members.

18. Board Review Committee on Professional Ethics Report

Chair Carl Schwait reported the committee's final recommendations on the lawyer advertising rules after working intensively this entire fiscal year. He recounted the history of the Supreme Court requesting that the Bar "undertake an additional and contemporary study of lawyer advertising, which shall include public evaluation and comments about lawyer advertising" in December 2007. He reported the committee had taken extensive public input, sought advice by the Bar's Citizens Forum, consulted regularly on constitutional issues with Bar Outside Counsel Barry Richard and made extensive changes in its preliminary proposals based on that input. As part of the study, the Board of Governors approved a contemporary study of public attitude toward lawyer advertising via a telephone survey conducted by the Florida Survey Research Center at the University of Florida. Additionally, the BRC engaged the services of an expert on marketing, to provide a report on the differences between advertising and marketing.

The BRC recommended extensive changes to the lawyer advertising rules, deleting all of the existing rules and substituting a complete re-write of the rules. The rules are restructured so that a framework of constitutional law principles is used. The proposed rules generally are less restrictive than existing lawyer advertising rules, in accordance with U.S. Supreme Court cases on commercial speech.

The proposed lawyer advertising rules focus on those areas in which the U.S. Supreme Court has determined that regulation is appropriate and permissible: inherently misleading or deceptive advertising, potentially misleading advertising, and unduly intrusive or manipulative advertising. Each rule which prohibits content sets forth a general prohibition followed by a non-exhaustive list of specific examples of conduct prohibited by the general prohibition. Comments to the rules set forth only information that explains how a rule will be interpreted, including specific examples of both permissible and impermissible advertising. Because of the BRC's focus on prohibiting only that which is misleading or unduly intrusive or manipulative, all advertising media are subject to the same substantive rules, with the exception of direct mail, a permissible form of direct solicitation. The requirements for direct mail remain substantially the same.

Some of the changes likely to be the most controversial include permitting testimonials, with restrictions, and permitting past results and characterizations of skills, experience, reputation, or record if the results or characterizations are objectively verifiable.

Although these proposals are significantly less restrictive than the current rule, the BRC believes the changes are necessary to encourage the free flow of truthful information to the public that is necessary for the selection of a lawyer. Additionally, both the Bar-commissioned survey and the Bar's Citizens Forum indicated that client endorsements and past results are information that the public wants in selecting a lawyer.

Another change that may be controversial is the BRC recommendation that those advertisements that are required to be filed with the Bar for review be filed in advance of their use. The BRC views this prior filing requirement as better protection for the public against misleading advertising.

Another potentially controversial change is that websites be subject to the same regulations as other advertising media, with the exception of the filing requirement. The Supreme Court of Florida has made clear that the court views websites as a form of advertising that should be regulated the same as other media. The Bar-commissioned survey indicates that public views websites as a form of advertising (81percent of those responding said a lawyer website is an advertisement). Because of the focus of the proposed rules on prohibiting only that which is misleading or unduly intrusive or manipulative, the BRC can find no justification for treating websites differently than other media. Similarly, there is no justification for treating media differently merely because of the recipient (another lawyer, a current or former client, a prospective client who has requested information). Therefore, the rules generally treat communications offering to provide legal services the same regardless of who the intended recipient may be.

Chair Schwait, on behalf of the BRC, made a motion to adopt the proposed advertising rules as recommended in the final report. Additionally, the BRC requested that the Board of Governors waive any rules amendment requirements set in the Standing Board policies and Rule 1-12.1 that the board has or may be unable to meet because of the time constraints posed by the filing date of July 5, 2011 dictated by the Supreme Court of Florida. The Board of Governors voted unanimously to approve the BRC recommendation, including waiving any requirements in the Standing Board Policies and Rule 1-12.1.

19. Board of Legal Education and Specialization Report

Chair Rich McCrea noted that next year will be the 30th anniversary of the Bar's certification program, and it offers more certification areas than any other state. He reported that a recent U.S. 11th Circuit Court of Appeals opinion ratified the confidential peer review process used in certifications and re-certifications.

20. Executive Session

The board went into executive session to discuss grievance and other confidential matters.

21. International Law Section Report

Chair Ed Mullins reported that the section had reorganized itself to cope with a growing membership and has participated in a number of conferences and CLE programs. Legislatively, the section successfully opposed a proposed state law barring the use of foreign laws to resolve disputes in Florida courts involving foreign entities. He also announced that the section had helped bring the International Council for Commercial Arbitration's 2014 congress to Miami.

22. Business Law Section Report

Chair-elect Mindy Mora said the section worked legislatively to pass a law addressing the *Olmstead* decision on LLCs and worked with the International Law Section on the bill affecting the use of foreign laws in Florida courts. The section opposed a bill allowing non-judicial foreclosures, worked on another measure on transferring tax liabilities, and is currently working on a redrafting of the LLC statute. The section is working with the Real Property, Probate and Trust Law Section on standards for third party opinions. The section sponsors several seminars and is moving more CLE programs online. It is also working to promote diversity in section membership and to recruit young lawyers as members.

23. Report on Electronic Filing of Court Documents

Board members Laird Lile and Murray Silverstein and Supreme Court Clerk Tom Hall reported to the board on activities related to the ongoing program to set up electronic filing for Florida's courts. Hall, who also sits on the authority that runs the Internet portal that is the access point for the e-filing system, noted that several counties are now accepting electronic filing in some types of cases, and more counties will be joining. Hall predicted that the number of users will grow fairly slowly until a "tipping point" is reached and then the system will rapidly become generally used. He said a major problem is that lawyers apparently are not complying with rules requiring them to notify clerks of confidential information contained in the electronically filed documents. Lile reported that the portal authority is addressing issues of concern to lawyers, including what happens when a clerk rejects a filing and how a lawyer's non-lawyer staff can do electronic filings on the lawyer's behalf.

24. Communications Committee Report

Chair Murray Silverstein noted in the past year the committee has overseen the redesign of the Bar's Internet site, with the changes going online earlier in the month. The committee will continue working with Operation Uplift, also called The Law and You, as a grassroots outreach program that will be conducted with voluntary bar associations.

25. President-elect's Report

President-elect Hawkins presented the list of standing committee officers for the coming year, which were ratified by the board. He also presented the dates for the board's 2011-12 meetings and the committee appointments and liaison assignments for board members. He opened the floor for the board's nominations to the Executive Committee for the 2011-12 Bar year, and the board elected Jay Cohen, David Prather, and Ed Scales as its

representatives on the committee. Hawkins named board members Laird Liles and Eugene Pettis as his appointments to the committee. Hawkins also announced the creation of a special commission to study the Bar's grievance process. The board approved the creation of the commission, which is scheduled to make its recommendations at the board's March or May 2012 meeting.

26. Judicial Nominating Commission Nominations

Board member Bill Schifino presented the recommendations from the Bar's JNC screening committees, as reviewed by the Executive Committee. The board approved the nomination of the following people to the governor, who will appoint one person from each slate to that JNC:

- For the Supreme Court JNC: Howard C. Coker, Jacksonville, Paul C. Perkins, Jr., Lake Mary, and Jeanne T. Tate, Tampa.
- For the First District Court of Appeal JNC: Michael J. Korn, Jacksonville, Jerome M. Novey, Tallahassee, and George T. Reeves, Madison.
- For the Second DCA JNC: Celene H. Humphries, Riverview, Joshua Magidson, Clearwater, and Lara J. Tibbals, Tampa.
- For the Third DCA JNC: Raoul G. Cantero, Coral Gables, Glenn Phillip Falk, Palmetto Bay, and Cynthia B. Hibnick, Palmetto Bay.
- For the Fourth DCA JNC: Amy S. Rubin, N. Palm Beach, Rebecca M. Vargas, Jupiter, and Louis B. Vocelle, Jr., Vero Beach.
- For the Fifth DCA JNC: Dan H. Honeywell, Winter Park, April S. Kirsheman, Winter Park, and Maria D. Tejedor, Orlando.
- For the First Circuit JNC: Brent F. Bradley, Pace, Larry A. Matthews, Gulf Breeze, and Timothy M. O'Brien, Gulf Breeze.
- For the Second Circuit JNC: James C. Banks, Tallahassee, Benjamin Crump, Tallahassee, and Bruce A. Leinback, Monticello.
- For the Third Circuit JNC: Andrew J. Decker IV, Live Oak, D. Todd Doss, Lake City, and Kimberly Kay Mears, Lake City.
- For the Fourth Circuit JNC: C. Gary Pajcic, Jacksonville, Matthew Posgay, Jacksonville, and William J. Scott, Jacksonville Beach.
- For the Fifth Circuit JNC: Timothy S. Babiarz, Ocala, Darryl W. Johnston, Brooksville, and Michele L. Lieberman, Inverness.
- For the Sixth Circuit JNC: Stephen O. Cole, Clearwater, Robert H. Dillinger, St. Petersburg, and Hugh C. Umsted, New Port Richey.
- For the Seventh Circuit JNC: Raymond S. Constantino, Ponte Verde Beach, Frank B. Gummey III, Daytona Beach, and Lizzie L. Johnson, Debarry.
- For the Eighth Circuit JNC: Marcia Davis, High Springs, Jack J. Fine, Gainesville, and Shanon Miller, Gainesville.
- For the Ninth Circuit JNC: Jeffrey B. Jones, Windermere, William D. Umansky, Orlando, and Tad Allen Yates, Orlando.
- For the 10th Circuit JNC: Timothy J. McCausland, Bartow, Sherri Scarborough, Winter Haven, and John Hugh Shannon, Lakeland.
- For the 11th Circuit JNC: Melanie E. Damian, Miami Beach, Johnette L. Hardiman, Miami, and David O. Markus, Pinecrest.

- For the 12th Circuit JNC: Eric D. Bruce, Bradenton, Bertram (Dan) Dannheisser, Sarasota, and Henry R. Lutz, Holmes Beach.
- For the 13th Circuit JNC: Alexander Caballero, Tampa, Bradford D. Kimbro, Tampa, and Cynthia S. Oster, Tampa.
- For the 14th Circuit JNC: Robert C. Blue, Jr., Panama City, Martha Blackmon Milligan, Panama City Beach, and R. Waylon Thompson, Lynn Haven.
- For the 15th Circuit JNC: Philip H. Hutchinson, West Palm Beach, Nancy S. LaVista, Juno Beach, and L.A. Perkins, Boca Raton.
- For the 16th Circuit JNC: John R. Collins, Key West, Loriellen Robertson, Key West, Bonnie Jean Helms, Key West, Amy Beth Maloy, Key West, Brian Dane Preister, Key West, Timothy N. Thomes, Key Largo, and Donald E. Yates, Key West.
- For the 17th Circuit JNC: Phillipa G. Hitchins, Ft. Lauderdale, D. David Keller, Plantation, and Frank C. Walker, Ft. Lauderdale.
- For the 18th Circuit JNC: Roger B. Handberg, Oviedo, Philip F. Nohrr, Indialantic, and Clayton D. Simmons, Lake Mary.
- For the 19th Circuit JNC: George W. Bush, Jr., Palm City, Scott Konopka, Stuart, and Linda L. Weiksnar, Palm City.
- For the 20th Circuit JNC: Gerald T. Berry, Naples, Russell T. Kirshy, Punta Gorda, and Steven G. Koepfel, Ft. Myers.

27. Program Evaluation Committee Report

Chair Greg Coleman presented several action items, all of which were approved by the board. Those are:

- Amendments for the bylaws of the Appellate Practice Section.
- Amendments for the bylaws of the Real Property, Probate and Trust Law Section.
 - A revision of the Bar's special appointments application form to create a standard form for all special appointments. The approval included adopting policies on using the form: the form must be used for any Bar special appointment; application instructions should strongly recommend that applicants include a resume with the application; requirements and duties for the appointment should be posted on the Bar's website; applicants should verify with a "check-off" box that they are aware of the requirements and duties; there should be at least three applications received for every advertised vacancy and upon failing to get that number the positions should be re-advertised one additional time.
 - Defining the relationships among the Supreme Court Commission on Professionalism, the Bar's Committee on Professionalism, the Bar's Henry Latimer Center for Professionalism, circuit professionalism committees, and efforts by local bar associations.
 - Recommendations for the Bar's Fee Arbitration Program, including decreasing the amount in controversy necessary to have a three-arbitrator panel from \$75,000 to \$15,000, removing the cap of \$100,000 as the maximum that can be arbitrated under the program, allowing travel reimbursement for arbitrators who travel outside their circuits to handle cases, and stepping up recruitment efforts for arbitration panel members, including approaching grievance committee members at the end of their terms.

- Approving the minority report from the Special Committee to Study Paralegal Regulation which recommended ways of enhancing the Bar's Florida Registered Paralegal program but not the mandatory regulation scheme proposed in the special committee's majority report.

- Extending the life of the Special Committee on Diversity and Inclusion for another year.

Coleman reported the committee is reviewing the proposed new Operation Uplift/You and the Law public outreach program and that the Lawyers Helping Lawyers program is operating and has a presence on the Bar's website.

28. Clients' Security Fund Procedures Committee Report

Chair Greg Coleman recommended and the board approved transferring \$500,000 from the Clients' Security Fund reserve fund to the CSF operating fund to pay administrative expenses with the surplus going to pay claims. This follows a procedure recommended by the committee and approved by the board at an earlier meeting. Coleman also said the committee has finished its work and recommended it be abolished, which the board approved.

29. Special Appointments

The board made several appointments as well as nominations for the Florida Board of Bar Examiners, as follows:

- Elected Herman Russomanno of Miami and Jay White of West Palm Beach to two-year terms to the ABA House of Delegates. Outgoing President Mayanne Downs and incoming President-elect Gwynne Young get automatic two-year terms.

- Picked Mark A. Journey of Ft. Lauderdale, Kathi Lee Kilpatrick of Chattahoochee, and Wayne LaRue Smith of Key West as lawyer members for three-year terms on the Florida Lawyers Assistance, Inc., Board of Directors. Barry M. Crown of South Miami and Patricia Fowler of Altamonte Springs were named to terms as non-lawyer members of the board.

- Chose Edrick E. Barnes of West Palm Beach, Dolly V. Davis of Boca Raton, William Manikas of Boynton Beach, Mac R. McCoy of Tampa, Eric M. Sodhi of Miami, and Daniel H. Thompson of Tallahassee for two-year terms on the Florida Legal Services, Inc., Board of Directors.

- Nominated Lloyd Comiter of Boca Raton, Gregory A. Hearing of Tampa, Lynn James Hinson of Orlando, William Kalish of Tampa, Chet Kaufman of Tallahassee, and Victoria Vilchez of West Palm Beach for two five-year vacancies on the Florida Board of Bar Examiners. The Supreme Court will make the final appointments from the slate nominated by the board.

30. Young Lawyers Division Report

YLD President Renée Thompson recounted the division's activities over the past year, which include continuing its affiliate outreach program, working to grow its new Law Student Division, having orientations at all of the state's law schools, co-sponsoring two diversity picnics. Among several projects, the division funded local child-related courthouse improvements and Christmas in January programs, and also donated surplus funds to FLAME.

31. Disciplinary Procedure Committee Report

Chair Andy Sasso noted three of the committee's items were approved on the consent agenda, leaving only one to be acted on by the board. That was Rule 3-6.1 Employment of Certain Attorneys and Former Attorneys; Generally - Prohibited Conduct: Adds new subdivision (d)(4) to prohibit suspended attorneys and former attorneys who have been disbarred, or whose disciplinary resignations or revocations have been allowed, from representing clients in administrative proceedings and before administrative agencies which allow non-lawyer agents or "qualified representatives" to represent clients in certain circumstances. The board approved that amendment. On another matter, Sasso reported the committee expected to present sample trust accounting forms to be included in trust accounting rules at the board's July meeting.

32. Comments for the Good of the Order

Board members attending their final meeting spoke on what they learned from the experience and gave recommendations for the future of the Bar.

33. President's Report

President Downs, reflecting at her last meeting on the previous Bar year, talked about challenges faced by the Bar, particularly in the Legislature. She said the Bar must always be professional and thoughtful as it exercises leadership in meeting those challenges and representing the interests of its 90,000 members.

34. Time and Place of Next Meeting

There being no further business before the board, President Downs adjourned the meeting at 3:15 p.m. The next board meeting is July 29 at The Breakers hotel in Palm Beach.

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