

THE FLORIDA BAR BOARD OF GOVERNORS

Regular Minutes
December 16, 2005
The Ritz Carlton
Amelia Island, 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, December 16, 2005, in Amelia Island, Florida, with President Alan B. Bookman presiding.

1. Roll Call

Alan B. Bookman, President
Henry M. Coxe, III, President-elect
Ross M. Goodman, First Judicial Circuit,
Lawrence E. Sellers, Jr., Second Judicial Circuit
Dominic M. Caparello, Second Judicial Circuit
Gregory S. Parker, Third 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
Mayanne Downs, Ninth Judicial Circuit
Warren W. Lindsey, Ninth Judicial Circuit
Robert M. Brush, Tenth Judicial Circuit
Francisco R. Angones, Eleventh Judicial Circuit
David Rothman, Eleventh Judicial Circuit
Ervin A. Gonzalez, Eleventh Judicial Circuit
Jennifer Coberly, Eleventh Judicial Circuit
Henry T. Courtney, Eleventh Judicial Circuit
Sharon L. Langer, Eleventh Judicial Circuit
Benedict P. Kuehne, Eleventh Judicial Circuit
Steven Chaykin, Eleventh Judicial Circuit
Kimberly A. Bald, Twelfth Judicial Circuit
Timon V. Sullivan, Thirteenth Judicial Circuit
William Kalish, Thirteenth Judicial Circuit
Gwynne Alice Young, Thirteenth Judicial Circuit
Clifford W. Sanborn, Fourteenth 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
Nancy W. Gregoire, 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
Harold G. Melville, Nineteenth Judicial Circuit
A. Lawrence (Larry) Ringers, Twentieth Judicial Circuit
Richard Arthur Tanner, Out-of-State
Ian M. Comisky, Out-of-State
Gary J. Leppla, Out-of-State

Brian D. Burgoon, Out-of-State
Jamie B. Moses, YLD President
John M. Stewart, YLD President-elect
Solomon L. Badger, III, Ed.D, Public Member
J. Blair Culpepper, Public Member

Board members absent:

Carl B. Schwait, Eighth Judicial Circuit
Daniel L. DeCubellis, Ninth Judicial Circuit
Alan C. Brandt, Jr., Seventeenth Judicial Circuit
J. Christopher Lombardo, Twentieth Judicial Circuit

Others in attendance:

June McKinney Bartelle, President of Florida Association for Women Lawyers

Staff attending the meeting:

John F. Harkness, Jr., Executive Director
Paul F. Hill, General Counsel
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
Tony Boggs, Director Legal Division
Mary Ellen Bateman, Director, Ethics, Advertising and Professionalism Division
Lori Holcomb, Director of Unlicensed Practice of Law
Ken Marvin, Director of Lawyer Regulation
Francine Walker, Director of Public Information

2. Guests

In addition to other individuals indicated hereafter, the following guests were present during the Board meeting:

Jane Curran, Florida Bar Foundation, Executive Director
Ben Crump, Chair of the Diversity Symposium Planning Committee
Tod Aronovitz, Past President of The Florida Bar
Jorge Cestero, Chair of the Family Law Section
George Tragos, Chair of the Criminal Procedure Rules Committee
The Honorable Judge Davis, Chief Judge, Fourth Circuit

3. Invocation and Pledge of Allegiance

Invocation and Pledge of Allegiance were led by Grier Wells.

4. Non-Roll Call Grievance agenda items

Co-Chair David Rothman reported that the only non-roll call grievance item was number 12.

5. Non-Roll Call advertising appeal agenda items

Chair Steven Chaykin reported that item 5b(1) was the only advertising appeal agenda item pulled from consent.

6. APPROVAL OF MINUTES and EXECUTIVE COMMITTEE ACTION

- a. Regular Minutes October 21, 2005 meeting
- b. Grievance Minutes October 21, 2005 meeting

c. Executive Committee action taken:

November 16, 2005

Two matters required Executive Committee approval. The Executive Committee was transmitted the information on the items via email and the following members responded with their votes: President Alan Bookman, President-elect Hank Coxe, Frank Angones, Kim Bald, Jesse Diner, Mayanne Downs, Nancy Gregoire, Jamie Moses, David Rothman, Grier Wells and Jay White.

Item Number 1

Legislative Objections to 2004-2006 Biennium, Position #16

The Florida Bar received one legislative objection to position #16 from a Bar member who was not a new objector in the 2004-2006 biennium. Pursuant to Rule 2-9.3, December 15, 2005 is the deadline for action and the next board meeting would be past the applicable deadline for action, therefore Executive Committee action was necessary. This present series of legislative objections is the fifth group in our current legislative biennium that began July of 2004.

The Executive Committee acknowledged by a vote of 11-0 the legislative objection.

Item Number 2

One UPL circuit committee (1A) was improperly constituted. The Executive Committee approved the two nominations to this committee by a vote of 11-0.

November 28, 2005

Three matters required Executive Committee approval. The Executive Committee was transmitted the information on the items via email and a conference call was held on November 28. The following members participated: President Alan Bookman, President-elect Hank Coxe, Jesse Diner, Nancy Gregoire, Jamie Moses, David Rothman, Grier Wells and Jay White. Also in participating on the call were Jack Harkness, Paul Hill, Tony Boggs and Barry Richard.

Item Number 1

Amendment 3 Lawsuit with The Florida Bar as Defendant

The Bar was joined along with the State of Florida in a suit by an Eleanor Graulich and attorneys Grossman & Roth, P.A., seeking a determination as to the constitutionality of Amendment 3 as it affects legal fees and whether she may otherwise knowingly and voluntarily waive its provisions. Graulich's constitutional attack is grounded upon pre-emption by federal law and conflict with the Supremacy Clause, denial of access to courts, denial of due process, denial of equal protection, and denial of freedom of association. Outside counsel Barry Richard noted that, historically, the Bar has not been involved in challenging statutes unless the issue had arisen out of a matter in which the Bar was already a party. In-house and outside counsel recommended that the Bar move to dismiss the Bar as a party.

The Executive Committee voted to have Barry Richard move to dismiss the Bar as a party by a vote of 8-0.

Item Number 2

UPL Circuit Committee nomination

One UPL circuit committee (6B) was improperly constituted. The Executive Committee approved the nomination to this committee by a vote of 8-0.

Item Number 3

Amendment to Fla.Fam.L.R.P. Form 12.900(a)

The Family Law Rules Committee had a fast-track rules amendment that needed approval by the Executive Committee. The Florida Supreme Court approved amendments to Rule Reg. Fla. Bar 10-2.1, Unlicensed Practice of Law. Subdivision (a)(1)(B) contains language used in *Fla.Fam.L.R.P. Form 12.900(a)*, so the form needed to be amended to conform to the rule. The amendments to Rule 10-2.1 are effective January 1, 2006, therefore the Family Law Rules Committee sought to submit the amendment to the form to the Supreme Court using the fast-track procedure requested by the Court.

The Executive Committee voted to approve the fast-track rules amendment by a vote of 8-0.

December 5, 2005

Members participating: President Alan Bookman, President-elect Hank Coxe, Kim Bald, Jesse Diner, Mayanne Downs, Nancy Gregoire, Jamie Moses, David Rothman and Jay White. Also in participating on the call were Jack Harkness, Vicki Brand and Tina Ruffin.

Purpose: To review the 4th DCA JNC Screening Committee's list of highly qualified applicants for the unexpired term ending 6/30/06 on the 4th DCA JNC due to the resignation of Marjorie

Gadarian Graham. The Executive Committee was charged with determining the final 4th DCA JNC nominations to be forwarded to the Board of Governors for approval and ultimately to the Governor for appointment. The Governor will make the appointments from a list of 3 names for the vacancy.

Jay White, who served as chair of the screening committee, led the discussion. All applications received (22) were reviewed by the screening committee. Screening committee members rated each applicant based on criteria that included: length of practice, type of practice, community service, reputation in the community, previous experience and diversity. A conference call was set up to determine those applicants deemed highly qualified to send to the Executive Committee for consideration.

The Executive Committee carefully considered the screening committee's recommendations together with the overall makeup of the 4th DCA JNC. After a thorough discussion, the final list of nominations was agreed upon to go forward to the Board of Governors for approval at its December 16, 2005 meeting in Amelia Island. The following names will be submitted:

Sonja K. Dickens, Miramar

James G. Pressly, Jr., Palm Beach

Kara Berard Rockenbach, North Palm Beach

7. Consent Calendar

The board unanimously **approved** the following items on the consent calendar.

a. UPL Circuit committee nominations

Timothy J. Conner, Attorney member, Seventh Judicial Circuit

Jon Visscher, Public member, Eighth Judicial Circuit

Collen Flanagan, Public member, Eighth Judicial Circuit

Rebecca B. Lippman, Public member, Ninth Judicial Circuit

Nancy Wear, Attorney member, Eleventh Judicial Circuit

Michael Lerner, Public member, Eleventh Judicial Circuit

James J. Carlstedt, Public member, Thirteenth Judicial Circuit

Andrew L. Vita, Public member, Thirteenth Judicial Circuit

Ted Haney, Public member, Fourteenth Judicial Circuit

Michael Greenhill, Public member, Fifteenth Judicial Circuit

David John Audilin, Jr. Attorney member, Sixteenth Judicial Circuit

Michelle Cates Deal, Attorney member, Sixteenth Judicial Circuit

Benjamin McPherson, Public member, Sixteenth Judicial Circuit

Bruce Moore, Public member, Sixteenth Judicial Circuit

Vernon Pierce, Public member, Seventeenth Judicial Circuit

D. Paul Bonevac, Public member, Seventeenth Judicial Circuit

Jerrod R. Trefelner, Public member, Nineteenth Judicial Circuit

Jennifer LePera, Public member, Twentieth Judicial Circuit

b. Board Review Committee on Professional Ethics

1) Advertising Appeal 05-02936-**Removed from Consent**

2) Advertising Appeal 05-02594

Advertising Appeal 05-02594 concerns application of Rule 4-7.2(b)(1)(B), prohibiting statements that create unjustified expectations about results a prospective client may receive. Staff rendered opinions on May 23, 2005, May 24, 2005, and September 15, 2005, that a television advertisement violated Rule 4-7.2(b)(1)(B) on unjustified expectations because of the language "Get the compensation you deserve," among other violations. The Standing Committee on Advertising upheld staff's opinion on October 18, 2005. The attorney subsequently requested Board of Governors review.

The Board Review Committee on Professional Ethics voted 5-0 to affirm the Standing Committee on Advertising decision that the language, "Get the compensation you deserve" creates unjustified expectations, in violation of Rule 4-7.2(b)(1)(B).

The board voted to approve the BRC recommendation on the consent calendar.

3) Advertising Appeals 05-02359, 05-02360, and 05-02361

Advertising Appeals 05-02359, 05-02360, and 05-02361 concern application of Rule 4-7.2 (b)(1), prohibiting misleading information, and Rule 4-7.3(b), requiring the hiring disclosure for non-

exempt print advertisements. Staff rendered an opinion on May 13, 2005, that the advertisement in file number 05-02359 contained misleading information based on the filer's inclusion of the term "Doctor En Leyes."

The same opinion stated that the hiring disclosure in the advertisements in file numbers 05-02359, 05-02360, and 05-02361 did not meet the size requirement of Rule 4-7.2(c)(11) because the hiring disclosure was not at least one-quarter the size of the largest type used in the advertisement. Staff indicated by letter that the non exempt-information (information not listed in Rule 4-7.2(c)(12)) appearing the advertisement is as follows:

05-02359 (A) – Injured/Damaged due to inadequate medical care?

05-02359 (B) – Injured?

I do not collect fees or costs if I do not win your case!

05-02359 (C) – Damaged/Injured due to inadequate medical care?

05-02360 – Did your employer not pay you? If fewer than 90 days have passed since leaving the project, a laborer's lien can be filed against the real estate where the project is located for your unpaid wages earned at the site.

05-02361 – Construction worker unpaid by your employer?

The Standing Committee on Advertising upheld staff's opinion on July 19, 2005, (regarding the size of the hiring disclosure in file numbers 05-02359, 05-02360, and 05-02361) and September 13, 2005, (as to the use of "Doctor En Leyes" in file number 05-02359). The attorney subsequently requested Board of Governors review.

The Board Review Committee on Professional Ethics voted 5-0 to affirm the Standing Committee on Advertising decision that the term "Doctor En Leyes" (Doctor in Laws) is misleading under Rule 4-7.2(b)(1)(A) because it implies the lawyer has qualifications other than a juris doctor degree.

The board voted to approve the BRC recommendation on the consent calendar.

c. Legislative Committee Review

1) New section legislative position requests for the 2004-2006 biennium

a) Real Property, Probate and Trust Law Section

i) Supports legislation to clarify the law to ensure that communications between a lawyer and client acting as a fiduciary in estate- and trust-related matters are privileged to the same extent as if the client were not acting as a fiduciary.

ii) Supports legislation to clarify that the discretionary power of a trustee to reimburse a trust settlor for income taxes owed by the settlor on trust income taxable to the settlor under federal income tax law, but not actually received by the settlor, does not alone result in subjecting the allowable reimbursement to claims of the settlor's creditors.

iii) Supports SB 472 (2006) regarding Florida's Guardianship law as originally filed on 10/25/05, with two exceptions: (1) the proposed amendments to §744.441(19), Florida Statutes; and (2) the proposed amendments to §744.474(20) Florida Statutes.

iv) Supports the creation of §689.072 Florida Statutes, Real Estate Interests Owned and Transferred by a Custodian or Trustee of an Individual Retirement Account or Qualified Plan, to rectify ambiguities within Florida Statutes regarding the ability of an IRA or qualified plan custodian to take title to real estate.

v) Supports legislation to simplify, improve, clarify and modernize the law governing land trusts in §689.071 Florida Statutes.

d. Rules, Bylaws, & Policies

1) Rule 1-7.5 Retired, Resigned, Inactive, Delinquent Members

Deletes "resigned" members from text that lists those members who shall not practice law until reinstated; revises title likewise.

2) Rule 1-12.2 Supreme Court Procedures on the Review of Proposed Amendments

New rule, which sets forth a court conference and dialogue process -- rather than a case or controversy format -- as the procedure to amend the Rules Regulating The Florida Bar.

3) Rule 3-7.11 (f) General Rules of Procedure (contempt)

- Within subdivision (f) regarding contempt matters, adds new subdivision (2) to clarify that the supreme court may appoint a referee to conduct a trial or evidentiary hearing, with report; conforms current provision relating to appellate review of such cases and adds guidance for the preparation, filing, and review of the record; redesignates current subdivision (2) as new (3) to accommodate new matter.
- 4) Rule 5-1.1 (g)(7) Trust Accounts
Within subdivision (g)(7), allows the bar foundation to disclose to the bar the location of an attorney's trust account and account numbers in limited circumstances and subject to maintenance of confidentiality.
 - 5) Subchapter 6-26 Certification of Intellectual Property Certification Standards
New subchapter 6-26 setting forth standards to establish a new certification standards in intellectual property law.
 - a) Rule 6-26.1 Generally
 - b) Rule 6-26.2 Definitions
 - c) Rule 6-26.3 Minimum Standards
 - d) Rule 6-26.4 Recertification
 - 6) Rule 10-7.2 Proceedings for Indirect Criminal Contempt
Within subdivision (b), streamlines existing verbiage by tying the determination of indigent status to applicable statutory criteria and factors.
 - 7) Chapter 14 - Grievance Mediation and Fee Arbitration
Amends provisions of Chapter 14 and allied policies and procedures that deal with fee arbitration in order to be consistent with the provisions regarding mediation as same relate to authority for referral to fee arbitration and referral to mediation.
Rule 14-2.1, Generally; Rule 14-6.1 Binding Nature;
Fee Arbitration Procedural Rules & Grievance Mediation Policies
 - a) Rule 14-2.1 Generally
 - b) Rule 14-6.1 Binding Nature
 - c) Fee Arbitration Procedural Rules
 - d) Grievance Mediation Policies
 - 8) Standing Board Policy 1.80 General Recusal Policy
New policy, to clarify that the president or presiding officer may order recusal of a board member in any non-disciplinary matter upon concurrence of a majority of the board; further clarifies that a recused member may not participate in any manner of discussions with any member or group of members of the board concerning the matter, and the recused member should not be present when the matter is being debated by the board.
 - 9) Standing Board Policy 6.20 Authority for CLE Courses
Within subdivision (b)(1), replaces "videotape" with "other media."
 - 10) Standing Board Policy 6.30 Fees for CLE Courses
Deletes "then" from penultimate sentence relating to adjustment of fees.
 - 11) Standing Board Policy 6.50 CLE - Eligibility to Attend or Receive Materials and to Purchase Publications
Within subdivision (a), deletes subdivisions (1)-(7) and revises policy language to state that CLE programs may be attended by any person, without limitation.
 - 12) Standing Board Policy 15.40 Grievance Committee Membership
Deletes obsolete references to circuit fee arbitration committees, and updates verbiage regarding appointment by "local" board members, to more accurately reflect those members "assigned to review the action of the grievance committee to which the nominated member is appointed"; clarifies that a board member is a "nominating" rather than "appointing" authority for grievance committee members.
- e. Continuing Legal Education Committee
- 1) Policies Governing Continuing Legal Education Committee
 - a) 1.00 - *Scope and Function of CLE Committee*
 - i) Policy 1.05 Transaction of Business
Adds language to define a quorum as at least 20 percent of members present.
 - ii) Policy 1.06 Removal

Adds language giving the chair authority to waive the removal of a committee member after 2 consecutive meeting absences if such absences are deemed unavoidable.

iii) Policy 1.07 Responsibility

Consistent with Standing Board Policy 6.10, deletes language indicating committee's responsibility to educate Bar members is "in cooperation with the sections, divisions and committees of The Florida Bar and other co-sponsors."

iv) Policy 1.08 Executive Committee Appointment

Changes the appointment of subcommittees and subcommittee chairs from required action by the committee chair, to optional action.

v) Policy 1.09 CLE Co-sponsorship with Law Schools, Other Bar Associations and Professional Groups, Sections, Divisions and Committees of The Florida Bar
Revises title, to emphasize role of sections, divisions and committees as CLE co-sponsors.

vi) Policy 1.10 Program Evaluation Responsibility

Adds "and Oversight" to title, to reflect the committee's active role in program development as well as program evaluation; reduces the number of courses, from 2 to 1, that committee members must evaluate on an annual basis.

b) *2.00 Section/Division Responsibility*

i) Policy 2.01 Primary Responsibility

Deletes reference to section and division "authority" for programs; clarifies that such programs are "co-sponsored" rather than sponsored; deletes reference to use of speaker evaluation systems; and adds language about established quality standards.

ii) Policy 2.02 Selection of Speakers

Changes title to "Speaker Diversity".

iii) Policy 2.03 Financial Recapitulations

Revises language to specify that financial recapitulation information shall go directly to sections and division instead of through the CLE representative.

iv) Policy 2.04 Revenue Sharing

Substitutes the term "allowable" for "direct" in reference to revenue sharing with sections and divisions, and adds 3 examples of revenue sharing to make the policy easier to understand.

c) *3.00 CLE Programs*

i) Current 3.02 / Proposed 3.04 Method of Resolving Conflicts

Moved and renumbered as new 3.04

ii) Current 3.03 / Proposed 3.02 Proposed Courses-Review-Conflicts

Renumbered as 3.02 in view of movement of former 3.02

iii) Current 3.04 / Proposed 3.03 Standards for Resolution of Conflicts

Renumbered as 3.03 in view of movement of former 3.02

iv) Policy 3.07 Considerations of Ethics and Professionalism

Updates references to areas of special credit, to include substance abuse and mental illness awareness; conforms title to reflect considerations of "Special Credit Hours" rather than "Ethics and Professionalism."

v) Policy 3.08 Smoking Policy

Deletes provision regarding permissive smoking in designated areas.

vi) Policy 3.09 Exhibits and Displays at Courses

Revises policy to allow bar staff, rather than the committee, to determine whether exhibits have educational value.

d) *4.00 Preparation of Publications*

i) Policy 4.01 Selection of Steering Committees and Authors

Deletes references to actual steering committee selection by staff; confirms that policy is also applicable to coordinating the selection of authors; and clarifies that authors or steering committee members disciplined "in any jurisdiction" may not serve.

ii) Policy 4.04 Publication Covers

Expands policy to confirm that staff has discretion over all aspects of the design and style of CLE publications; conforms title accordingly.

iii) Policy 4.05 Supplements

Expands policy to confirm its applicability to new editions as well as supplements; conforms title accordingly.

iv) Policy 4.08 Purchase and Return of CLE Publications

Decreases period in which purchasers may return publications, from 90 to 30 days.

v) Policy 4.11 Price Lists for CLE Publications

Updates language to reflect the posting of order forms and price lists on the Bar's website.

e) *5.00 Lease Programs*

i) Policy 5.01 Local Bar Lease Program

Revises and condenses policy language for ease of understanding.

ii) Policy 6.01 Registration Fees

Allows for increase of base course fee based on the number of speakers or out of state speakers; increases, from \$15 to \$25, the surcharge for non-member attendance at section or division programs.

iii) Policy 6.02 Refunds

Increases, from \$15 to \$25, the cancellation fee charged against refunds.

iv) Policy 6.03 Late Registration Charge

Increases, from \$15 to \$25, the surcharge for late registration.

v) Policy 6.04 Half-price Registration Fees for CLE Courses

Within subdivision (b), adds full-time clinical instructors at "provisionally accredited" as well as accredited law school as eligible for half-price registration fees.

vi) Policy 6.05 Half-price Fees for CLE Publications

Specifies new or revised limits on half-price publication purchases in various instances – within subdivision (b), 2 copies for public libraries; within subdivision (c), 3 instead of 5 copies for contributing authors; within subdivision (d), 1 copy for university students; within subdivision (e), 1 copy for college professors; and within subdivision (f), 2 copies for selected law libraries.

vii) Policy 6.06 Complimentary CLE Publications

Within subdivision (c), deletes distribution of 1 complimentary publication to each district court of appeal judge; adds provision authorizing 1 complimentary copy to all court libraries at each level of the court system; within subdivision (h), adds provision allowing complimentary copies of Standard Jury Instructions to all circuit and county judges.

viii) Policy 6.07 Complimentary Course Admissions

Within subdivision (d), revises reference to "general masters" to read "magistrates," and adds court-appointed hearing officers as complimentary attendees; within subdivision (e), deletes provision regarding Florida Legal Services and adds news reporters instead.

f) *9.00 Course Quality Standards and Reporting*

i) Policy 9.01 Quality Control - CLE Committee

Deletes provision regarding the committee's lack of authority to control the quality of other providers.

ii) Policy 9.02 Minimum Quality Standards for Florida Bar Continuing

Within subdivision (2), adds reference to CLE diversity policy regarding the selection of CLE volunteers; updates reference to speaker database, to "recent evaluation report summaries."

f. Workers' Compensation Section Bylaws

Within Article III (Officers), reorganizes 30-member executive council into 30 voting members commencing in 2007, composed of 2 members from each appellate district and 20 at large members, plus non-voting emeritus members; sets forth staggered terms and schedule for such elections; provides for mail and live balloting, with allowance for future electronic balloting; within Article V (Nomination and Election of Officers and Executive Council), specifies that executive council and officers shall be balanced geographically as well as by employee-employer representation; limits executive council representatives

from a single law firm to 2 and imposes a cumulative 12-year term limit on council membership, with separate re-entry provisions for the immediate past chair, and both voting and emeritus seats; and within Article VII (Meetings) would allow for executive council meetings in Tallahassee as well in conjunction with the bar's midyear meeting.

g. **Florida Legal Services Articles of Incorporation**

A substantive amendment to Article VI, Section 3 limits Florida Bar Board of Governors appointees to four consecutive terms.

8. Introduction of the President-elect designate

President Alan B. Bookman announced that Frank Angones, Eleventh Judicial Circuit, would be the first Cuban born President of The Florida Bar. Angones will lead from 2007-2008.

9. Disciplinary Procedure Committee Report

Chair Murray Silverstein reported that the committee members are still refining and further tweaking the standard for designated reviewers which will be Standing Board Policy 15.76. He told the board that they would see the language at the February board meeting in Tallahassee. Silverstein told the board that the committee is also working on a board policy to provide Bar staff with certain standards for when to file proofs of claim in seeking to recover costs in a bankruptcy proceeding when someone who has been discipline has filed. The policy will allow staff to work on it if amount is \$2,500 or less and ask outside counsel to help on a pro bono basis if our costs judgment exceeds \$2,500, for proceedings in state and \$5,000 if out of state.

10. Budget Committee Report

Chair Mayanne Downs reported that a financial statement was included in the board materials and that The Florida Bar is operating within a balanced budget. Downs reported that the following rule is recommended by the Budget committee and is before the board on first reading. The board concurred with the committee recommendation and approved the budget amendments.

a. **Rule 1-7.3 Membership Fees (first reading)**

1) Amendment to Rule 1-7.3 Membership Fees

Creates new subdivision (f), to allow for an exemption from membership fees for activated reserve members of the armed services.

b. **Budget amendments-** The committee recommendation is the board approve the following four budget amendments:

1) HVAC repair - \$230,000 from Building Reserves

2) Consultant – Florida Survey: Separation of Powers - \$18,500 from Operating & New Program Reserves.

3) Consultant & Internal Expenses – Disability Independence Group Poll - \$28,633 from the General fund and from Operating & New Program Reserves.

4) Lawyer Regulations Headquarters – equipment for Legal Administrator & Advertising Counsel - \$6,638 from the General Fund.

11. Investment Committee Report

Chair Ian Comisky reported that the Bar has over \$23 million in its long term investment funds. He reminded the board that \$5 million of that was transferred from the short term funds, based on a board vote in October. Comisky reported that at the end of the third quarter, the Bar's long term portfolio was up by \$400,000 for the month and that since December 1, 2004 the Bar had earned \$1.24 million on its investments. This is a 6.29% increase. Comisky told the board that the committee was exploring further diversification beyond the large cap, mid cap, small cap and international funds.

12. Audit Committee Report

Chair Clif McClelland reported that the Bar's most recent audit had been a favorable one. The audit suggested that the committee look into emergency preparedness. The areas that the committee will be looking at are: storm events; fire; computer crash due to virus or other causes; and building security.

13. Young Lawyers Division Report

President Jamie Moses reported that the Young Lawyers Division had held its out-of-state meeting in Washington DC. She told the board that she and 17 others were sworn-in before the United States Supreme Court. Moses told the board that the brochure on how to get involved in the Florida Bar that the YLD had drafted was waiting for final approval before sending to the print shop. They plan to print between 500 and 1,000 brochures. Moses told the board that in January 2006, the YLD would hold an affiliate outreach program in Brevard County.

Moses informed the board that the YLD is hosting a government symposium at the Levin Law School at the University of Florida in March, which will include Chief Justice Pariente and Representative Kottkamp as speakers and law professor Wolf as the moderator.

14. Certification Plan Appeals Committee Report

Chair Nancy Gregoire reported that at the last meeting, the board approved CPAC's rejection of a petition from a woman who was seeking recertification in family law. She has filed her appeal with the Supreme Court, and that Tom Ervin will be replying on behalf of the Bar.

15. President-elect Report

President-elect Hank Coxe reported on The Florida Bar's 2005-2008 Proposed Strategic Plan. He explained to the board that in 2002 the committee chair was John Patterson, from Sarasota. Coxe said that the committee, under Patterson's leadership came to the conclusion that due to the annual turnover of Bar leadership, that there wasn't enough continuity. That each Bar president came into office with his or her own agenda. The committee felt like its efforts and plans would simply be put on a shelf from year to year. In order to rectify this situation, it was agreed there would be a transition from long range planning committee to an executive planning committee, including present and expected future members. This was done in a setting with a professional moderator or facilitator. Coxe told the board that the newly configured committee had been looking at a Georgia Bar study that the Georgia Bar did several months ago. One of the things the study concluded was that the phrase "judicial independence" strikes a negative note with the public. The term "judicial independence" denotes a free wheeling, do their own thing when they want to image of judges. There are two terms that do appeal to the public and those are the word "fairness" and the word "impartial." On fair and impartial, one appealed to minorities and other to non minorities. Minorities relate more to "fair" than they do "impartial" and non minorities related more to the word "impartial."

Coxe reported that another issue that had come up at the committee's last meeting was whether the board of governors would receive regular reports about what this small group was doing. Coxe told the board that included in their board materials there the committee's noted goals. He told the board that the committee recommendation was to approve the committee goals. The board concurred and approved the goals.

16. Unlicensed Practice of Law

Lori Holcomb, Director of Unlicensed Practice of Law Department, presented Standing Board Policy 16.24 and requested waiver of second reading. Holcomb reported that the policy would allow undercover investigations in unlicensed practice of law matters. Holcomb reported that Rule 4-8.4(c), which has already been approved by the Florida Supreme Court and will go into effect January 1, 2006, allows certain attorneys to supervise undercover investigations. Some board members expressed concern over the policy and felt that a second reading was necessary. Holcomb told the board that the UPL offices will not do any undercover work unless or until the board approved the policy. The board denied the waiving of second reading.

Holcomb told the board that the Bar's Tampa office had hired a new attorney: Michael Lojek.

17. Special Committee to Study Paralegal Regulation Report

Chair Ross Goodman reported that the committee was requesting that they be given more time. The board approved a motion to allow the committee to continue so that the issues may be studied. Goodman told the board that although the committee had been working with the paralegals, as well as Representative Zapata, the committee could not support HB 395 and SB 906 and that the recommendation of the committee was to have the board adopt a legislative position in opposition to the

bills. Bar chief legislative counsel Steve Metz answered questions from board members concerning how the legislature might respond. Metz explained that the sponsors of the bills had received a letter from Lori Holcomb explaining the bill's deficiencies. Metz told the board that the way the bills were drafted, the legislature and the paralegals wouldn't accomplish what they wanted to. The board concurred with the paralegal committee's and the legislation committee's recommendation and on a two part vote; the board approved the following legislative position:

Opposes HB 395 (2006) and SB 906 (2006) as originally filed and further believes that more meaningful recognition of the paralegal profession can be achieved by continuing discussion with the legal profession and judicial branch before enactment of this particular legislation.

18. Legislation Committee Report

Chair Frank Angones thanked the board for concurring with the legislation committee recommendation that it adopt the legislative position which they had just adopted. He then asked Steve Metz to give the board a brief legislative report. Metz reported that the 2007-08 Florida Bar President will be the first Cuban born Bar leader and that the Florida House of Representatives will be led by Representative Marco Rubio and that the Senate will have a Cuban leader during the following biennium. Metz told the board that the legislature had just finished a Special Session where they had passed a bill to give the 20th Judicial Circuit 2 new judges and Collier county 2 new judges. He reminded the board that the legislature had promised that they would provide 55 new judges statewide during the 2006 session. Metz also told the board that the legislature had passed new lobbying and compensation reporting bills. He said that the legislature had yet to issue its rules concerning these new laws and that once the legislature releases its rules he would be able to tell the board members more on how it would affect them.

Metz told the board members that included in their materials was a chart of legislators and board members. He told them that they had each been assigned two legislators in or near their circuit and that they were to make contact with the legislators to try to foster a relationship. Metz said that he would distribute, by email, a description of the issues that The Bar would be working on.

19. Diversity Symposium Committee Report

Chair Ben Crump reported that the committee was in the process of planning its 3rd diversity symposium. The symposium is being held on April 27 & April 28, 2006 in Orlando with FAMU law school as the host. The topics will include: diversity in legal education; diversity in hiring; diversity in the judiciary and diversity in leadership. Crump told the board that the committee would like one of the board of governors to be moderator and invited anyone interested to see him. The panelists will be Justice Lewis and Justice Cantero and that Chief Justice Barbara Pariente will be in attendance. The key note speaker for the Symposium is Fred Grey from Alabama. Grey was the first African-American President of the Alabama Bar.

20. Criminal Procedure Rules Committee Report

Chair George Tragos reported that in 2000, the Florida Legislature passed a law saying that no one charged with a dangerous crime should be granted a non-monetary bond at first hearing. It passed unanimously in both chambers. However, in *State v. Raymond*, June 30, 2005, the Supreme Court said it was improper for the legislature to pass the new law because it was a separation of powers and therefore unconstitutional. Tragos told the board that although they found the bill unconstitutional, the legislature's intent was clear, and the committee drafted rules to implement the legislature's intent. Tragos reminded the board members that at their meeting in October, they had sent the rules back to the committee for reconsideration. Tragos said that upon reconsideration, the fast track subcommittee recommends that the board asks the court to refrain from changing rules 3.131 and 3.132. The report to the court will still provide a draft of changes to those rules in case the court decides that it should adopt the procedures that the legislature provided. The board concurred with the committee recommendation and voted 36-0 to approve the committee recommendation.

21. Board Review Committee Report

Chair Steve Chaykin reported on the following items:

- a. 5b(1) ADVERTISING APPEAL 05-02936 – Removed from consent calendar
Advertising Appeal 05-02936 concerns application of two rules: 1) Rule 4-7.2(b)(1)(B), prohibiting statements that create unjustified expectations about results a prospective client may receive, and 2)

Rule 4-7.5(b)(2)(B), requiring that a nonlawyer spokesperson who appears in a television advertisement make an oral disclosure that the nonlawyer is a spokesperson and not a lawyer. Staff rendered an opinion on July 8, 2005, that a television advertisement violated Rules 4-7.2(b)(1)(B) on unjustified expectations and Rule 4-7.5(b)(2)(B), requiring an oral disclosure that the person speaking in the advertisement is a nonlawyer spokesperson. The Standing Committee on Advertising upheld staff's opinion on September 9, 2005. The attorney subsequently requested Board of Governors review. The Board Review Committee on Professional Ethics voted 3-2 to affirm the Standing Committee on Advertising decision that the language "For over forty-five years Richard Mulholland has been helping accident victims like you get the money damages that you are entitled to" creates unjustified expectations, in violation of Rule 4-7.2(b)(1)(B).

The Board Review Committee on Professional Ethics voted 5-0 that the language "For over forty-five years Richard Mulholland has been helping accident victims like you get the money damages that you are entitled to" refers to past successes, in violation of Rule 4-7.2(b)(1)(B). The board approved the Board Review Committee on Professional Ethics recommendation by voice vote. The Board Review Committee on Professional Ethics voted 5-0 to affirm the Standing Committee on Advertising decision that the use of a nonlawyer spokesperson who makes an oral disclosure that she is a spokesperson, but does not make an oral disclosure that she is not a lawyer, violates Rule 4-7.5(b)(2)(B). The board approved the Board Review Committee on Professional Ethics recommendation by voice vote.

b. Ethics Inquiry 26068

On March 11, 2005, the State of Florida Commission on Ethics requested an advisory opinion from The Florida Bar providing clarification and/or expansion of ethical guidance to Florida Bar members regarding conflicts of interest in representing public officials as expressed in Florida Ethics Opinion 77-30. The Florida Bar Executive Director requested the Professional Ethics Committee's guidance on how The Florida Bar Board of Governors should respond to the request. At its June 23, 2005 meeting, the Professional Ethics Committee voted to recommend that the board respond to the inquiry by informing the commission that the opinion is good, the commission should continue to refer lawyers who appear before it to the opinion, and that enforcement of the ethics rules is not within the purview of the committee. At its August 2005 meeting, the board deferred this issue to obtain input from the City, County and Local Government Law Section. The Board Review Committee on Professional Ethics voted 5-0 to recommend that the board refer Florida Ethics Opinion 77-30 to the Professional Ethics Committee to review and modify the opinion in light of current rules and practices. The Board Review Committee on Professional Ethics voted 4-1 to recommend that the board make a specific finding that Florida Ethics Opinion 77-30 remains in effect until the opinion is withdrawn or modified.

The board voted to refer Florida Ethics Opinion 77-30 to the Professional Ethics Committee to review and modify the opinion in light of current rules and practices.

c. Ethics Inquiry on Electronic Storage of Closed Files

Staff requested that the Board of Governors consider directing the Professional Ethics Committee to draft a proposed advisory opinion regarding retention of electronic documents instead of paper documents. Staff has received numerous inquiries on this subject, both via the Ethics Hotline and through the LOMAS office. Many of the inquiries appear to be related to the recent spate of hurricanes, causing major damage to numerous law offices across the state. There is no Florida ethics opinion on this specific topic. There are ethics opinions from other states addressing the issue. A Florida ethics opinion would provide guidance to both staff and Florida Bar members in addressing this issue. If adopted, the opinion would be posted on the bar's website, linked to information on disaster preparedness, and linked to the informational packet on closed files. Bar staff could also cite to the opinion in providing assistance to bar members with ethics inquiries.

The Board Review Committee on Professional Ethics voted 5-0 to recommend that the board refer the matter to the Professional Ethics Committee to draft a proposed advisory opinion on electronic storage of files that is not limited to the hypothetical presented by the LOMAS Department, including addressing software retention, passing costs of storage to clients, and whether storage of files electronically is required as opposed to permissible. The Board Review Committee on Professional Ethics also voted 5-0 to recommend that the board refer the issue of admissibility of electronic documents in lieu of originals to the appropriate bar committee.

The board voted to approve the BRC recommendation by voice vote.

d. Ethics Inquiry on Metadata

Staff requests that the Board of Governors consider directing the Professional Ethics Committee to draft a proposed advisory opinion regarding the use of technology to trace and obtain specific information about an opponent's documents. In a related issue, staff requests that the Board of Governors consider requesting a proposed advisory opinion that addresses whether a lawyer who sends such documents has any ethical responsibility to ensure that an opponent cannot obtain any information from the documents. Procedure 2(b)(2) permits the Professional Ethics Committee to render an opinion at the request of the Board of Governors. This issue appears to be an emerging issue that could be of interest to a large number of Florida Bar members, and would provide guidance to both staff and bar members on the issue. An article included with the board's backup material discusses the technological ability to trace information, including edits to documents and the identity of the person who made the edits. This type of information about a document is called "metadata." An opposing counsel who receives an e-mailed document can easily obtain this information from an attached word or word perfect document. The ethics issues involved are whether a lawyer should take any special precautions in sending documents, and whether a lawyer receiving such documents should try to obtain metadata from an opponent's documents. At least one other state has already issued ethics opinions about these issues.

The Board Review Committee on Professional Ethics voted 5-0 to recommend that the board refer the matter to the Professional Ethics Committee either to draft a proposed advisory opinion on the ethical issues presented by "mining" electronic documents of another for information or to make a recommendation to the board that the matter is more appropriately addressed by a rule change.

The board voted to approve the BRC recommendation by voice vote.

The board further voted by voice vote that it is the sense of the board that it is unethical and unprofessional to "mine" the electronic documents of another for information.

22. Communication Committee Report

Chair Kim Bald reported that the Board of Legal Specialization and Education submitted its 2005-06 strategic communication plan for review and approval. The committee approved the plan with one minor change. A committee motion for approval with this change was offered and subsequently was passed by the board. The Communications Committee will continue to monitor the activities of the plan.

Bald discussed the strategy for President Bookman's upcoming editorial board visits. A July 2005 American Bar Association poll on Americans' knowledge of basic principles of democracy revealed that most adults need a civics refresher course, and the Citizens Forum recommended that an initiative be developed in response to this. The Program Evaluation Committee approved conducting the same poll in Florida in order to provide relevant information to the state media, and the Communications Committee agrees with this strategy. ABA President Michael S. Greco has offered to attend the first editorial board meetings with President Bookman, on January 11 and January 12, 2006, to reinforce the message. In addition, according to the Florida Law Related Education Association less than 10% of Florida schools require a civics course although civics has traditionally been an integral part of public school education. The strategy of the Bar's initiative is to increase awareness of the adult civics knowledge problem and to engage community leaders in convincing all district school boards to adopt a yearlong required applied civics course in the middle school curriculum. Both of these goals will be addressed with the editorial boards. President Bookman will also advocate for restored state funding for the Civil Legal Assistance Act with the editorial boards.

23. Member Benefits Committee Report

Chair Frank Walker reported that the Bar is celebrating the six month anniversary for Fastcase. He said that providing Fastcase to Florida Bar members had been a huge success. Over 6,200 members are using Fastcase regularly for their legal research, which is approximately 10% of the Bar's membership. Fastcase representatives have told the Bar that the most common response they get from Florida Bar members is that they can't believe it is being provided at no cost.

24. Program Evaluation Committee Report

Chair Frank Walker reported on the following items discussed during the PEC meeting and told the board the committee recommendations.

- a. Review of Rule Amendment 6-25: Standards for Certification of a Board Certified State and Federal Government and Administrative Practice Lawyer- Walker told the board that the committee

recommendation is to waive the second reading requirements and approve the rule amendment. The board concurred with the committee recommendation and approved the waiver and approved the rule.

- b. Review of Rule Amendment 6-22(e) and Amendments to BLSE Policies, 200 Series – Walker told the board that the committee recommendation is to approve the rule amendments to the 200 series of BLSE Policies. The board concurred with the committee recommendation and approved the rule amendments.
- c. Review of Disability-Diversity Initiative: A proposal to conduct a Survey of Lawyers with Disabilities in Florida- Walker told the board that this item is a review of disability diversity initiative; this was a proposal to conduct a survey of lawyers with disabilities in Florida. He said that the survey will be posted on the website of the Bar for lawyers with disabilities to respond and set forth the barriers and the problems they are having in the practice of law. The board approved the questionnaire and the methodology of this. And it has been approved by the budget committee.
- d. Increasing public awareness of the need for and value of Civic Education: A Poll of Floridians on Knowledge of the Principles of Democracy – Walker told the board that the primary objective of this project is to gain the support and participation of Florida's major daily newspapers in enhancing the civic education of Floridians on the roles and responsibilities of the three branches of government and the vital importance of an independent judiciary. The committee recommendation is that the board approve the poll. The board concurred with the committee recommendation and approved the poll.
- e. Proposed name change for Florida Bar Committee on Relations with CPA's
Walker reported that in the Florida Bar Committee on Relations with CPA's had requested that they be allowed to change its name to The Florida Bar Committee on Relations with CPA's and the FICPA. The board concurred with the committee recommendation to allow the committee name change.
- f. Review of a proposal for the creation of a Florida Bar 50-year member award:
Walker reminded the board that at annual meeting every year, the Bar has a ceremony for lawyers who have been members for 50 years. This proposal is that the awards should be two pronged. One should be for 50 years belonging to the Florida Bar and the other would be 50 years service, which would count service in other states. The board concurred with the PEC recommendation and approved the change to the awards.

25. Special Committee on Website Advertising Rules 2005-2006

Chair Chobee Ebbets reported that the Bar has filed a petition to amend the lawyer advertising rules with the Supreme Court of Florida based on the recommendations of the Advertising Task Force 2004. He reminded the board members that the time for public comments to the submission closes on January 31, 2006. He told the board that oral arguments had yet to be set. Ebbets told the board that the new website special committee had broken into subcommittees to review specific issues in-depth, would be meeting at The Florida Bar Midyear meeting in January in Miami, Florida, and that he would report on that meeting at the February board meeting.

26. President's Report

President Alan B. Bookman reported that the next meeting of the board would be in Tallahassee, Florida in February, 2006. Bookman said that the board would be having a joint dinner with the Supreme Court Historical Society.

Bookman told the board that in early December, the Florida Supreme Court had ordered the Bar to draft rules and a form to allow clients to waive their rights to the attorney's caps in Article I, Section 26 of the Florida Constitution. The Supreme Court requested this be completed within 60 days from December 14, 2005. Bookman told the board that he had been contacted by the Florida chapter of the American Board of Trial Advocated and the Academy of Trial Lawyers. Both organizations have organized committees to begin this task. Bookman appointed the following board members to the committee: Timon Sullivan; Murray Silverstien; Eugene Pettis. He intends to appoint members from both the Academy of Trial Lawyers and FLABOTA.

27. Family Law Section Report

Chair Jorge Cestero reported that the Family Law section has about 3,700 members. He went on to say that the section had developed its legislative agenda for the 2006 legislative session. He told the board

that they could expect legislative position requests on litigation involving children when they're in a divorce and looking at rewriting the child support bill. He said that the House Future of Florida Families committee is working on a child support rewrite bill and an adoption glitch bill.

Cestero told the board that the section has a seminar/CLE planned for the end of January at the Grand Floridian in Orlando. He said that last year's CLE raised \$90,000. He also said that the section was looking in to holding webinars, which are seminars on the web with the help of Lexus Nexus.

Finally, Cestero told the board that the section has requested that every member of the Family Law Section represent at least one child pro bono.

28. Commission on Lawyer Regulation Report

Chair Hank Coxe reported that the commission has received the preliminary draft and the commission will need to do some rewriting, as well as some restructuring of the format. Coxe said the committee hopes to have it completed in the next 2-4 weeks.

Coxe told the board that the commission had determined that the public would like to have access to what the Bar does, specifically regarding disciplinary matters. The commission will recommend that the Bar make some disciplinary records available on the website.

Coxe went on to describe many of the items that would be included in the final commission report, which he predicted would be available in 3 to 4 weeks.

29. Board of Legal Specialization and Education Report

Board liaison Ben Kuehne reported on the following items:

- a. Items on **first reading**
 - 1) Rule 6-22.3 Minimum Standards, Antitrust & Trade Regulation Certification
Amendment adjusts time frame from 2 years to 4 years for applicants to qualify for certification under exam exemption provision.
- b. Items on first reading - asking for waiver of 2nd reading and for final action
 - 1) Rule 6-3.9 Manner of Listing Certification – **withdrawn from agenda**
Provides option for certified lawyers to use initials: B.C.S. to convey Board Certified Specialist in an abbreviated version.
 - 2) Subchapter 6-25 Standards for Certification of State and Federal Government and Administrative Practice Lawyers - **waiver and amendment approved**
New subchapter 6-25 setting forth standards to establish new certification standards in state and federal government and administrative practice.
 - a) Rule 6-25.1 Generally
 - b) Rule 6-25.2 Definitions
 - c) Rule 6-25.3 Minimum Standards
 - d) Rule 6-25.4 Recertification
 - e) Rule 6-25.5 Manner of Certification
 - 3) 200 series BLSE policies - **waiver and amendment approved**
 - a) Policy 2.02 Areas of Certification
Adds construction law to approved areas of certification within subdivision (b).
 - b) Policy 2.03 New Area Requests
Within subdivision (c) adds the Program Evaluation Committee to the review process for new certification area proposals.
 - c) Policy 2.05 Applications for Certification
Clarifies application review requirements and provides for an extension in the CLE deadline in Policy 2.05(a) & (b)(2); codifies applicant's obligation to update application information if necessary after filing in new 2.05(d) and redesignates subsequent subdivisions appropriately; adds construction law to the exam cycle in new 2.05(e), as redesignated; codifies application processing steps in new 2.05(g), as redesignated.
 - d) Policy 2.11 Exam Preparation and Administration
Amendments are proposed to lift restrictions on involvement by BLSE and certification committee members in exam preparation and/or course review, to set parameters on participation, to allow for dissemination of a sample exam question and model answer, and to modify the course brochure disclaimer language.
 - e) Policy 2.12 Grading, Review, and Petition Process

Within subdivision (a)(1)(2), changes term from "approved" to "exam eligible" consistent with prior references to address rights of applicants unsuccessful on the examination; in 2.12(b), provides for an alternate location for initial exam review in limited circumstances to accommodate members who, for example, may reside out-of-state; in 2.12(c)(2), codifies existing restrictions to ensure anonymity of grade review petitioner and to specify limitations on petition content; in 2.12(c)(3), sets forth a new subdivision to allow for certification committee officer review of each grade review petition to determine whether errors have been made in advance and potentially in lieu of panel review; in 2.12(d)(1), specifies that panel review time frame begins upon receipt of the review materials.

f) Policy 2.13 Application Review Process for Certification or Recertification
Within subdivision (d), a limitation on the applicant's submission of additional documentation is incorporated, with a provision for expansion subject to approval by the certification committee chair; in 2.13(o), eliminates appeal of BLSE decision by a certification committee.

g) Policy 2.15 Annual Audits

Strikes policy due to its obsolescence and re-designates subsequent subdivisions appropriately.

h) New Policy 2.16 - former 2.17 Revocation

Amends policy to include a new subdivision (d) which will cause automatic revocation of all other certifications held by a lawyer if one certification is revoked due to either unsatisfactory peer review based upon, or action or conduct determined to be inconsistent with, character, ethics, and reputation for professionalism.

30. Tax Law Section Bylaws

President Bookman reported that the Tax Law Section Bylaws were on first reading.

Amendment to Article VI, Section 3. Restructuring the State Tax Division. On October 15, 2005, the Tax Section of The Florida Bar unanimously passed an amendment that changes the committee structure of the State Tax Division.

31. Special Nominations and Appointments

- a. 4th DCA Judicial Nominating Commission –
The board voted to nominate the following applicants: Sonja K. Dickens, James G. Pressly Jr., and Kara Berard Rockenbach.
- b. Florida Board of Bar Examiners –
The board voted to nominate Alan Aronson, Kimberly Rodgers and Noel Lawrence.
- c. Florida Realtor-Attorney Joint committee – (2-year terms)
The board voted to appoint Denise Lawry Hutson to the 1st Appellate District, David R. Carter to the 2nd Appellate District, John R. Banister to the 4th Appellate District and Frederick W. Jones to the 5th Appellate District. The board voted to allow the Executive Committee of the board to appoint one of the applicants to the 3rd Appellate District.
- d. Florida Rural Legal Services, Inc. Board of Directors –
The board appointed Mark A. Perry for a 3-year term.
- e. Eleventh Circuit Judicial Conference (4-year term)
The board appointed Thomas M. Findley.
- f. Community Legal Services of Mid-Florida, Inc. Board of Directors (2-year term)
The board appointed Emery H. Rosenbluth, Jr.

32. Time and Place of Next meeting

The Board of Governors will be meeting in Tallahassee at The Florida Bar headquarters from February 15-18, 2006.

There being no further business to discuss, the meeting adjourned at 3:00 PM.

Respectfully submitted,

Dana M. Watson
Secretary for the Board of Governors

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