

**The Florida Bar Board of Governors
December 11, 2009
Ritz-Carlton
Amelia Island, Florida**

1. Roll Call

Jesse H. Diner, President
Mayanne Downs, President-elect
Stephen H. Echsner, 1st Circuit
Lawrence E. Sellers, Jr., 2nd Circuit
Dominic M. Caparello, 2nd Circuit
Clay A. Schnitker, 3rd Circuit
S. Grier Wells, 4th Circuit
John J. Schickel, 4th Circuit
Denise A. Lyn, 5th Circuit
Andrew B. Sasso, 6th Circuit
Murray B. Silverstein, 6th Circuit
Carl B. Schwait, 8th Circuit
Mary Ann Morgan, 9th Circuit
Daniel L. DeCubellis, 9th Circuit
Scott M. McMillen, 9th Circuit
Ramon A. Abadin, 11th Circuit
David Rothman, 11th Circuit
Ervin A. Gonzalez, 11th Circuit
Michael J. Higer, 11th Circuit
Dennis G. Kainen, 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
Clifford W. Sanborn, 14th Circuit
David C. Prather, 15th Circuit
Gregory Coleman, 15th Circuit
Scott G. Hawkins, 15th Circuit
Lisa S. Small, 15th Circuit
Edwin A. Scales, 16th Circuit
Nancy W. Gregoire, 17th Circuit
Eugene K. Pettis, 17th Circuit

Jay Cohen, 17th Circuit
Timothy A. Bailey, 17th Circuit
Clifton A. McClelland, Jr., 18th 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
Roger J. Haughey II, Young Lawyers Division President
Renée Thompson, Young Lawyers Division President-elect
Arnell Bryant-Willis, Public Member
Alvin V. Alsobrook, Public Member

Members Absent:

Charles Chobee Ebbets, 7th Circuit
Robert M. Brush, 10th Circuit
Juliet Roulhac, 11th Circuit
John M. Stewart, 19th Circuit

2. Guests

Susan R. Healy, Florida Association for Women Lawyers

3. Staff Attending

John F. Harkness, Jr., Executive Director
John T. Berry, Division Director, Legal Division
Paul F. Hill, General Counsel
Allen Martin, Director, Finance and Accounting
Mary Ellen Bateman, Division Director, Ethics and Advertising, UPL, and Special Projects
Ken Marvin, Director, Lawyer Regulation
Elizabeth Tarbert, Ethics and Advertising Counsel
Lori Holcomb, Unlicensed Practice of Law Counsel
Francine Walker, Director, Public Information
Rosalyn A. Scott, Assistant to the President
Gary Blankenship, Senior Editor, Florida Bar *News*

4. Invocation and Pledge of Allegiance

Board member Jake Schickel led the invocation and the Pledge of Allegiance.

5. Local Bar Officials

President Diner recognized the presence of Chandra Rogers of the Nassau County Bar Association, who welcomed the board to Amelia Island, and Daniel K. Bean of the Jacksonville Bar Association.

6. Grievance Agenda Non-Roll Call Items – Agenda Item 2

Non-roll call items were 6 and 8 on the grievance agenda and 32, 34, and 38 on the Clients' Security Fund Agenda.

7. Approval of Minutes – Agenda Item 4

The board approved the minutes from its September 25, 2009, meeting in Hollywood. The vote included approving Executive Committee actions taken since the September meeting. At an October 14, 2009, meeting, the Executive Committee:

- Recommended acceptance of amendments to Fla.R.Civ.P. Form 1.996, as modified from an earlier presentation to the board.
- Approved partial dues refunds to three Bar members who objected to Bar Legislative Position 10 for the 2008-10 biennium.
- Recommended to the Supreme Court that public board member Alvin Alsobrook be appointed for a second two-year term.
- Approved officer appointments to the Adoption Law Certification Committee and Education Law Certification Committee.

At an October 16, 2009, meeting, the Executive Committee:

- Approved the request of the Real Property, Probate and Trust Law Section to file an amicus brief with the 11th U.S. Circuit Court of Appeals in *In re Sarah E. Baker*, dealing with the applications of F.S. §222.21 to 401(k) plans in bankruptcy proceedings.
- Allowed the Real Property, Probate and Trust Law Section and the Consumer Protection Law Committee to file separate amicus briefs at the request of the Fourth District Court of Appeal in *JPG Enterprises, Inc. v. McLelian* (Case No. 4D08-962) on the effect of F.S. 501.1375 on certain home construction contracts.

At a November 6, 2009, meeting, the Executive Committee voted to recommend acceptance of suggested amendments to Fla.R.Jud.Admin. 2.420 and Fla.R.AppP. 9.100 proposed by a consolidated committee made up from members of the Rules of Judicial Administration Committee, Appellate Court Rules Committee, and Criminal Procedure Rules Committee. The amendments were proposed in response to a Supreme Court request for comments on Fla.R.Jud.Admin. 2.420 and three appellate rules.

At a November 13, 2009, meeting, the Executive Committee:

- Approved allowing the Juvenile Court Rules Committee to file an amendment with the court, as requested in the October 15, 2009, Supreme Court opinion in case number SC08-1141. The rules committee recommended that a new cover sheet used in family law filings should not be used in delinquency cases, since those are criminal in nature.
- Approved naming Carolyn Poteet to serve as a public member of the Florida Registered Paralegal Committee.

8. Consent Agenda – Agenda Item 5

The board approved the consent agenda, with the exception of item 5(b)(1) (Advertising Appeal 09-03179) which was deferred. The approval included:

- Appointing John H. Patterson, Jr., as an attorney member of Unlicensed Practice of Law Committee 11C.

- Approval of an amendment to Rule 4-1.12, Former Judge or Arbitrator, Mediator or Other Third-Party Neutral: Within the comment to rule 4-1.12, adds “or court-appointed” to clarify that Florida Bar members who are either certified or court-appointed mediators are governed by applicable law and rules relating to certified or court-appointed mediators.

- Approved an amendment to Rule 4-2.4, Lawyer Serving as Third-Party Neutral: Within the comment to rule 4-2.4, adds “or court-appointed” to clarify that Florida Bar members who are either certified or court-appointed mediators are governed by applicable law and rules relating to certified or court-appointed mediators.

- Approval of an amendment to Rule 4-8.3, Reporting Professional Misconduct: Within new subdivision (c)(2) and the comment, adds an exception to the requirement that lawyers report professional misconduct of other lawyers for lawyers who serve as mediators or mediation participants if the information is privileged or confidential under applicable law. Within subdivision (c), amendments organize the subdivision into separate subdivisions and make grammatical changes not intended to change substance of the rule, other than new subdivision (c)(2) as discussed above.

- Approval of an amendment to Rule 1-3.10, Appearance By Non-Florida Lawyer in a Florida Court: Adds commentary defining what constitutes an appearance for purposes of the rule and that a non-Florida lawyer making an appearance in a Florida court is required to comply with rule 2.510 of the Fla. R. Jud. Admin. Adds commentary providing an explanation and example of how to calculate the number of appearances in a 365-day period.

- Approval of an amendment to Rule 10-6.2, Subpoenas: Amends rule to conform to rules of civil procedure regarding return of subpoena.

- Approval of an amendment to Rule 10-6.3 Recommendations and Disposition of Complaints: Within subdivision (a), removes “forward a” from the rule as reports are given at meetings.

- Rule 10-7.1, Proceedings for Injunctive Relief: Within subdivision (e)(1), amends time frame from 10 days to 20 days for the reply brief to conform to Rules of Appellate Procedure.

- Rule 10-7.2, Proceedings for Indirect Criminal Contempt: Within subdivision (d), amends the timeframe the reply brief is due from 10 days to 20 days to conform to Rules of Appellate Procedure.

- Regulations of the Clients' Security Fund b.1: Within subdivision (b), allows for the payment of claims based on attorney's fees as approved.

- Fee Arbitration Procedural Rule II(a) – Selection of Arbitrators: Increases the amount in controversy from \$15,000 to \$75,000 or less in order for a single arbitrator to be appointed.

- SBP 5.10, Standing Committees: Sunsets the Physician-Attorney Relations Committee and the Committee on Relations with CPAs and FICPAs.

- BLSE Policies – 2.10, Approved Continuing Legal Education: Within subdivision (b), reconfigures CLE calculation for grade review panel service from 5 hours for panel service to a maximum of 5 hours per petition reviewed; within new subdivision (c), specifies the maximum amount of CLE that may be granted for

preparation of certification examination questions and model answers; revises other subdivision entries as editorially necessary to accommodate this new matter.

- BLSE Policies – 300 Series: Policy 3.03, Eligibility for Accreditation – Within subdivision (f), adds that for a certification program to be eligible for accreditation, the program's certified lawyers must continue to satisfy requirements comparable to, and no less than, the Florida certification requirements; Policy 3.04, Minimum Standards for Lawyer Certification – Within subdivision (a), clarifies that satisfying standards “comparable to, but no less than, those required for certification under the Florida plan,” where the same or similar specialty area exists under the Florida plan, includes passage of the Florida certification exam; and within subdivision (a)(3), removes the language indicating that the certification program's examination pass/fail level, consistency of test results and content are factors that will be used to judge the suitability of the examination of a program that is an area that does not exist under the Florida plan; Policy 3.10, BLSE Action – Within subdivision (a), extends the period of evaluation from 60 to 120 days; and Policy 3.15, Annual Renewal – Removes the annual accreditation renewal requirement that the organization shall indicate the current status of each accreditation program and shall submit an explanation of any changes to its standards or examination, and, instead, clarifies that the certification program shall submit its latest certification exam and documentation showing it continues to satisfy the requirements set forth in Policy 3.04.

- BLSE Policies – 3.16 Fees: Raises the application fee for accreditation from \$750 to \$1,500 and raises the annual renewal fee from \$250 to \$500.

- Not prohibiting the following legislative positions of the Real Property, Probate and Trust Law Section:

- Supports clarification of the Condominium, Cooperative and Homeowners' Association Acts, to clarify and amend duties of owners, directors and associations to each other, including definition of common expenses; protection of private information; bulk buyer rights; and, procedures for: restriction amendments, records access, financial reporting, assessment levy and collection, delinquent collection of assessments from tenants and resulting suspension of rights, payment of delinquent assessments, meeting notice, election procedures; and, disclosures to purchasers.

- Supports recommendations to the Title Insurance Study Advisory Council concerning the providing and regulation of title insurance.

- Supports clarification that probate formal notice is actually a particular form of notice not just a document or just a method of service, including amendments to F.S. §731.110, F.S. §731.201, F.S. §731.301, F.S. §733.2123, F.S. §733.608, F.S. §735.203.

- Supports the treatment of assets in certain estate tax-planning irrevocable trusts under the Florida Trust Code as having been contributed by the settlor's spouse as the lifetime beneficiary of the trust, and not by the settlor, including an amendment to F.S. 736.0505.

- Supports clarification of the definition of “income” for calculating Veterans guardianship fees, including an amendment to §744.604, Fla. Stat.

- Supports creation of a new statute, F.S. §732.703, which would provide a rebuttable presumption that, upon the death of a Florida resident, a surviving former spouse would not inherit certain assets or accounts, including but not limited to life

insurance, annuities, IRAs, transfer-on-death accounts and pay-on-death accounts, and would be treated as if they predeceased the decedent, subject to certain exceptions.

- Supports legislation to clarify that the laws for determining paternity and relationships for purposes of intestate succession will apply in determining whether class gifts or terms of relationship set forth in wills and trusts include adopted persons or persons born out of wedlock, including amendments to Amendments Section 732.608 and 736.1102.

- Supports legislation that would permit a challenge to certain property and inheritance rights that inure to a surviving spouse who procured a marriage by fraud, duress, or undue influence.

- Supports legislation to clarify that two annual gift tax exclusion amounts are exempt from the claims of creditors of a trust beneficiary having a power to withdraw trust assets when contributions to the trust are made by a married person whose spouse makes a “split gift election” under the Internal Revenue Code.

- Supports legislation to clarify that a decedent’s will and revocable trust must be read together in determining the source of payment of administration expenses and obligations of the decedent’s estate, and the order in which gifts under a will and trust are appropriated to pay expenses and obligations if an estate is insolvent.

- Supports amendments to F.S. §736.0206 that: delete duplicative statutory provisions on court review of attorneys’ fees of trustees; delete redundant notice provisions; and provide that in judicial proceedings to determine compensation for a trustee or person employed by a trustee, the court has discretion to award a reasonable expert witness fee from the assets of the trust unless it finds that the expert testimony did not assist the court.

- Supports legislation that would provide a surviving spouse with an election between a life estate interest or a tenancy in common interest in the homestead property which would also allow either the descendants or the surviving spouse to partition the property if necessary, including amendments to F.S. §§ 732.401 and 744.444(9).

- Supports legislation that would clarify that forced descent of homestead property pursuant to F.S. §732.401 does not apply to property which is held either as a joint tenancy with right of survivorship or as a tenancy by the entireties.

- Supports legislation to clarify post-death disclaimers of homestead interests and provide for a defined result upon such a disclaimers, including amendments to F.S. §§ 732.401 and 732.4015.

- Supports amendment of the Florida Trust Code to add new provisions limiting certain trustee fiduciary duties with respect to policies of insurance on the life of the settlor if the limitations are consented to by the settlor or the qualified beneficiaries of the trust; supports amendment of F.S. § 518.112 to harmonize notice procedures under that statute with notice procedures in the Florida Probate Code and the Florida Trust Code.

- Opposes amendment of Article II, §7 of the Florida Constitution (“Hometown Democracy”) that would remove a local government’s authority to adopt a local comprehensive plan, or amend a local comprehensive plan, without a vote by referenda by the general electorate.

- Not prohibiting a legislative position of the Business Law Section in opposition to “sunset” of the Division of Corporations of the Department of State.
- Approving the legislative consulting contract between the Workers’ Compensation Section and Fausto Gomez.

9. Public Reprimands – Agenda Item 10

President Jesse Diner administered one public reprimand.

10. Report of the Civil Procedure Rules Committee – Agenda Item 27

The board, by a 45-0 vote, recommended approval of changes recommended by the committee to its earlier three-year cycle rule amendments submitted to the Supreme Court.

11. Legislation Committee Report – Agenda Item 21

The board considered the recommendation of the Legal Needs of Children Committee that the Bar adopt this legislative position:

To adequately promote and protect the legal rights and remedies of children, The Florida Bar supports the development of a comprehensive system and structure for child representation that includes Guardian ad Litem representation, Public Defender representation, and legal representation by both government paid counsel and pro bono attorneys by way of legislation substantially similar to the draft legislation approved by the Standing Committee on the Legal Needs of Children on November 16, 2009 which would create a statewide program of legal representation with some or all of the following components:

- 1) no child shall be denied the right to have the representation by an attorney for the child appearing on the child's behalf in a dependency case whether volunteer or state paid;
- 2) provides for representation that is paid for by the state of Florida in conjunction with local, foundation or pro bono support in certain critical categories of dependency cases, recognizing that the ability to create such mandatory representation depends on the amount of new and dedicated revenue appropriated by the Florida Legislature and subject to the protection of the funding of the GAL program and funding for the Courts; and/or
- 3) permits representation of children in other discretionary categories of children in dependency cases and for other children, recognizing that the ability to create such discretionary representation depends on the amount of new dedicated revenue appropriated by the Florida Legislature and subject to the protection of the current funding of the GAL program and funding for the Courts.

The board by a 45-0 vote found the position within the scope of authority of the Bar. Board member Laird Lile made a motion to strike the reference to draft legislation in the position, which was rejected by a voice vote. After an extensive debate, the board approved the proposed position by a 42-3 vote.

12. Report of the Board Review Committee on Professional Ethics – Agenda Item 20

Chair David Prather reported:

- The Board Review Committee on Professional Ethics voted 6-0 to direct staff to draft for consideration by the Board Review Committee on Professional Ethics at the January meeting amendments to Florida Ethics Opinion 07-2 that would require the informed consent of clients before outsourcing confidential information to clients and amendments to the Rules Regulating The Florida Bar addressing either notice to third parties or redaction before outsourcing sensitive financial or medical information.

- The Board Review Committee on Professional Ethics voted to recommend adoption of the following goals in the regulation of lawyer advertising:

- The primary purpose of lawyer advertising should be to benefit the public by providing information about the need for and availability of legal services.

- Primary goals of advertising regulation are: 1) Protection of the public from false, misleading, or deceptive information by lawyers for the purpose of obtaining representation of prospective clients; 2) Promotion of advertising that provides information that will assist a prospective client in making an informed and meaningful decision about the prospective client's need for legal services and about which lawyer can best fulfill those needs (protecting public access to knowledge about reasonably priced quality legal service); 3) Protection of the public from advertising that contributes disrespect for the judicial system, including disrespect for the judiciary; 4) Protection of the public from advertising that causes the public to have an inaccurate view of the legal system, of lawyers in general, or of the legal professional in general; 5) Enforcement that will not have an unreasonable economic impact on lawyers who provide information about legal services by methods that do not require expenditure of significant funds as compared to those who provide information about legal services by more expensive means; and 6) Provision of clear and simple guidelines and, to the greatest extent practicable, establishment of "bright line" standards, violation of which will likely be clear so that violation will justify the conclusion that violation was either intentional or the result of gross incompetence, thereby allowing imposition of a harsh penalty.

The Board of Governors voted to approve recommendation of the Board Review Committee on Professional Ethics on a voice vote.

- The Board Review Committee on Professional Ethics voted 6-0 to recommend that the Board of Governors affirm the staff opinion as revised by the Professional Ethics Committee, which concludes that handling medical lien negotiation in the specific written proposal by the inquiring lawyer would likely result in an excessive fee, because the inquirer would receive the reverse contingent fee for performing the service of lien resolution, which is customarily done as part of the personal injury case, in addition to the original personal injury lawyer receiving a full contingent fee under his or her contract. The item was deferred at the board's September meeting. The BRC voted 6-0 to affirm Florida Bar Staff Opinion 28724 as written and, if the board determined to respond to the inquirer's additional inquiry, to direct staff to write a staff opinion that concluded that the second inquiry was likely to result in an excessive fee. The Board of Governors voted to defer the matter and refer it to the appropriate committee to consider an amendment to the Rules Regulating The Florida Bar addressing the subject.

- The Board Review Committee on Professional Ethics voted 6-0 to recommend that the Board of Governors affirm Florida Bar Staff Opinion 28879 as written, which

concludes that the inquirer may not place the ownership interest of the inquirer's law firm into a revocable trust as part of the inquirer's estate plan, because Rule 4-5.4(e) prohibits a nonlawyer (the trust) from owning any interest in a law firm. The Board of Governors voted to approve the BRC recommendation on a voice vote.

- The Board Review Committee on Professional Ethics voted 6-0 to recommend that the Board of Governors affirm Florida Bar Staff Opinion 28884 as written, which concludes that the inquirer should not compensate a witness who is retired and not otherwise employed for time spent preparing for deposition and testimony because Rule 4-3.4(b) permits only "reasonable compensation to reimburse a witness for the loss of compensation incurred by reason of preparing for, attending, or testifying at proceedings," and to refer the issue to the Rules Committee to consider an amendment to Rule 4-3.4(b) to adopt the ABA Model Rule which permits payments to witnesses as permitted by law. The Board of Governors voted to approve the BRC recommendation.

- The Board Review Committee on Professional Ethics voted 5-0 to recommend that the Board of Governors adopt staff's recommended policy on attempted voluntary filings of lawyer websites that staff will not review the entire contents of a website even if a lawyer files the website voluntarily, but will respond to specific questions involving a specific phrase or image to be included on a website. The Board of Governors voted to approve the BRC recommendation on a voice vote.

- The Board of Governors voted to approve a moratorium on prosecution of violations of the lawyer advertising rules in lawyer websites for a period of six months on a voice vote.

13. Report of the Communications Committee – Agenda Item 18

Vice Chair Murray Silverstein outlined recent improvements to the Bar's website as well as upcoming enhancements. That includes the beginning of the Career Center to help lawyers find jobs and law firms fill vacancies. Silverstein said the committee is considering a request from avvo.com to allow attorneys to list their avvo ratings on their profile page on the Bar website. The committee is working on a rule change to require Bar members to provide the Bar with an official e-mail address, as well as their official name and mailing address. That proposal is going to the Rules Committee. The committee decided not to pursue for the moment changing policies for listing a member's 10-year disciplinary history. Silverstein said it was brought to the committee's attention that a link from the website will connect a view to the charging document from a grievance case and that can include charges which were dismissed or not proven during the referee hearing.

14. Report on E-Filing and Electronic Access to Court Records – Agenda Item 28

Board member Murray Silverstein, who also serves on the Florida Courts Technology Commission, reported that the state courts system and the Florida Association of Court Clerks and Comptrollers were still negotiating over operation of the e-portal for the incipient statewide e-filing system. The FCTC also has set a schedule for establishing the data elements needed to accomplish e-filing for the various trial court divisions.

15. Executive Session – Agenda Item 10

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

16. Report of the Certification Plans Appeal Committee – Agenda Item 19

Chair Norman Vaughn-Birch reported on one appeal where the committee upheld the ruling of the Board of Legal Specialization and Education.

17. Report of the Rules Committee – Agenda item 12

Chair Ray Abadin presented one rule which received final board approval; Rule 4-1.5, Fees and Costs for Legal Services: Within the comment to rule 4-1.5, adds that lawyers may have statutory restrictions on fees, including in areas such as workers' compensation.

He also presented five rule amendments on first reading:

- Rule 1-3.6, Delinquent Members: Within subdivisions (d) and (f), deletes provision that permits extension of deadlines by the Board of Governors for restitution or an award in fee arbitration proceedings.

- Rule 4-7.10, Lawyer Referral Services: Creates new subdivision (b)(11) that requires for-profit lawyer referral services to include in all advertisements that lawyers to whom cases are referred pay to participate in the lawyer referral service.

- Rule 10-2.1, Generally: Moves subdivision (a)(1) of rule 10-2.1 to subdivisions (a) and (c) of new rule 10-2.2; moves subdivision (a)(2) to subdivision (b); moves subdivision (a)(3) to subdivision (c); makes minor editorial changes throughout.

- Rule 10-2.2 Form Completion by a Nonlawyer: Creates new rule to clarify and define the unlicensed practice of law when a nonlawyer is assisting with completion of forms; subdivision (a) contains language moved from subdivision (a)(1) of rule 10-2.1 to define what a nonlawyer is allowed to do when assisting with completion of a Supreme Court Approved Form and further clarify that a nonlawyer cannot give legal advice; subdivision (b) codifies case law explaining what a nonlawyer can and cannot do when completing a form which has not been approved by the Supreme Court of Florida; subdivision (c) contains language moved from subdivision (a)(1)(A)–(C) of rule 10-2.1 to define language that must be on each form or included in the disclosure statement.

- Rule 20-2.1, Generally: Within subdivision (d), clarifies that membership in the American Association for Paralegal Education shows substantial compliance in relation to the definition of approved paralegal program.

- Rule 20-7.1, Generally: Within subdivision (a), clarifies language that can be used to meet disclosure requirement.

18. Report of the Budget Committee – Agenda item 14

Chair Jake Schickel presented on first reading an amendment to Standing Board Policies, SBP 6.30 - Fees for CLE Courses: Increases the non-member surcharge for CLE courses from \$25 to an amount equal to section dues.

Schickel also presented six amendments for the 2009-10 budget, all of which were approved by the board:

- \$5,000 for increased certified mailing expenses to Bar members who are late paying their annual membership fees.
- \$4,500 for extra phone costs because of the higher than anticipated number of calls to the Bar's Ethics Hotline.
- \$744 for equipment maintenance for the Clients' Security Fund program.
- \$2,325 for Clients' Security Fund program phone expenses.
- \$107,698 for expenses related to a special election and the contested president-elect election.
- \$14,100 for the new Committee to Study the Decline in Jury Trials.

19. Report of the Investment Committee – Agenda Item 15

Chair Ian Comisky reported that the Bar's long term investments continue to recover from the economic meltdown in late 2008, and outperform benchmark indicators. The committee is continuing to conduct an overview of Bar investment policies in evaluating a recommendation from its investment advisors, Morgan Stanley, to further diversity and reduce investment in domestic securities and increase it in global securities.

20. Report of the Audit Committee – Agenda Item 16

Chair Dan DeCubellis presented the written audit for the 2008-09 fiscal year, which found no significant issue. The committee recommended, and the board approved, a three-year extension with Carr, Riggs & Ingram to continue Bar audits, at a cost of \$43,900 each year.

21. Report of the Criminal Procedure Rules Committee – Agenda item 26

Board member David Rothman presented the out-of-cycle rule amendment updating the list of crime lab accrediting agencies which certify labs for DNA testing. The board recommended acceptance of the amendment by a 44-0 vote.

22. Special Appointments – Agenda Item 24

The board appointed Thomas N. Findley of Tallahassee to a four-year term on the 11th U.S. Circuit Judicial Conference. The board appointed Denise L. Hutson of Gainesville, Julie A. Horstkamp of Sarasota, Ira B. Price of Miami, John R. Banister of Palm Beach Gardens, and Frederick W. Jones of Winter Park to two-year terms on the Florida Realtor-Attorney Joint Committee. The board appointed Owen L. Luckey, Jr., of LaBelle to a three-year term on the Florida Rural Legal Services Board of Directors.

23. Report of the Disciplinary Procedure Committee

Chair Andy Sasso reported the committee's one rule amendment, Fee Arbitration Procedural Rule II(a), up for final approval passed on the consent agenda. He said the committee is continuing to work on board policies governing which public reprimands will be delivered by the Bar president at board meetings. He also said the committee is studying changes to trust accounting rules that would prohibit attorneys from signing blank trust account checks, using a signature stamp to sign checks, or allowing nonlawyers in their offices to sign trust account checks.

24. Report of the Program Evaluation Committee – Agenda Item 13

Chair Gwynne Young reported that the committee, acting at the suggestion of President-elect Mayanne Downs, recommended creating the Special Committee to Study the Decline of Jury Trials. The special committee will look at the shrinking number of jury trials, both civil and criminal, in federal and state courts and determine what effect that has on the public and the profession. The board approved the recommendation. Young also presented on first reading an amendment to the Appellate Practice Section bylaws relating to affiliate members for the section. On other matters, Young said questions for a public survey of attitudes about lawyer advertising, part of the Bar's latest review of advertising regulations, has been approved. The survey will be conducted soon by a group affiliated with the University of Florida. A study on the usability of the Bar's website is also going forward. Young reported the committee is continuing with its five review projects for the current Bar year: the diversity initiative including the annual diversity symposium, the Member Outreach Committee, restructuring the Bar's Legal Publications program, reviewing The Florida Bar rules committees, and reviewing Florida Lawyers Assistance, Inc.

25. Report of the Clients' Security Fund Review Committee II – Agenda Item 25

Chair Greg Coleman reported that the committee is working on several rule and regulation changes to clarify and streamline the process and procedures including a definition of useful services to include in the Clients' Security Fund regulations to help guide when clients are due reimbursement from the fund when an attorney they have hired does not provide any useful services. The committee is also looking at larger issues, including whether the fund should compensate those who had a fiduciary but not an attorney-client relationship with a defalcating attorney. The committee is also looking at ways, Coleman said, of preventing trust accounting thefts, which could include random audits or requirements that lawyers carry surety bonds.

26. President-elect Report – Agenda Item 7

President-elect Mayanne Downs presented the 2010-13 Strategic Plan which was unanimously approved by the board. Downs said the four main strategic goals remained unchanged, but the ways of achieving those goals were tweaked in recognition of changing trends. Those trends include economic pressures, increasing use of technology, the growth of multi-jurisdictional and global law practices, and the decline in the number of jury trials.

27. Report on Supreme Court's Opinion on Bar Rules Package

Ethics and Advertising Counsel Elizabeth Tarbert provided the board with a summary of the Supreme Court's ruling on the Bar's annual rules package.

28. Young Lawyer Division Report – Agenda Item 9

YLD President R.J. Haughey reported on division activities, which include the division's affiliate outreach conference in January and a statewide community service day on February 27 that will feature the YLD's Law Student Division and local YLD chapters. The YLD will focus on e-filing and what lawyers need to know about the state's in-

progress electronic filing system at its annual government symposium at the Midyear meeting, Haughey said.

29. Time and Place of Next Meeting

There being no further business before the board, President Diner adjourned the meeting at 2:56 p.m. The next board meeting is January 29, 2010, in Tallahassee.

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