

The Florida Bar Board of Governors
March 28, 2014
Hammock Beach Resort
Palm Coast, FL

1. Roll Call

Eugene K. Pettis, President
Gregory W. Coleman, President-elect
Stephen H. Echsner, 1st Circuit
William H. Davis, 2nd Circuit
Clay A. Schnitker, 3rd Circuit
Michael G. Tanner, 4th Circuit
Renée Elise Thompson, 5th Circuit
Andrew B. Sasso, 6th Circuit
Sandra Fascell Diamond, 6th Circuit
Sandra C. Upchurch, 7th Circuit
Carl B. Schwait, 8th Circuit
Mary Ann Morgan, 9th Circuit
Paul Louis SanGiovanni, 9th Circuit
Scott R. McMillen, 9th Circuit
C. Richard Nail, 10th Circuit
Ramon A. Abadin, 11th Circuit
Dori Foster-Morales, 11th Circuit
Leslie J. Lott, 11th Circuit
Michael J. Higer, 11th Circuit
Dennis G. Kainen, 11th Circuit
Steven W. Davis, 11th Circuit
John H. (Jack) Hickey, 11th Circuit
F. Scott Westheimer, 12th Circuit
William J. Schifino, Jr., 13th Circuit
Lansing C. Scriven, 13th Circuit
Margaret Diane Mathews, 13th Circuit
John W. Manuel, 14th Circuit
David C. Prather, 15th Circuit
Ronald Peter Ponzoli, Jr., 15th Circuit
Michelle R. Suskauer, 15th Circuit
Gary Shepard Lesser, 15th Circuit
Timothy J. Koenig, 16th Circuit
Walter G. Campbell, Jr., 17th Circuit
Diana Santa Maria, 17th Circuit
Lorna E. Brown-Burton, 17th Circuit
Jay Cohen, 17th Circuit
O. John Alpizar, 18th Circuit
Marcy L. Shaw, 20th Circuit
Richard A. Tanner, Out of State

Ian M. Comisky, Out of State
Eric L. Meeks, Out of State
Brian D. Burgoon, Out of State
Melanie S. Griffin, YLD President
Michael F. Orr, YLD President-elect
Winston W. Gardner, Jr., Public Member

Members Absent

Lawrence E. Sellers, Jr., 2nd Circuit
S. Grier Wells, 4th Circuit
Michael S. Hooker, 13th Circuit
Adam Glenn Rabinowitz, 17th Circuit
John M. Stewart, 19th Circuit
Laird A. Lile, 20th Circuit
Anthony Holloway, Public Member

2. Staff in Attendance

John F. Harkness, Jr., Executive Director
John Berry, Director, Legal Division
Adria Quintela, Director, Lawyer Regulation
Marcy Jackson, Director of Administration and Chief Financial Officer
Beth Brenneis, Director, Finance and Accounting
Paul Hill, General Counsel
Mary Ellen Bateman, Director, Ethics and Advertising, UPL, and Special Projects
Lori Holcomb, Director, Unlicensed Practice of Law
Elizabeth Clark Tarbert, Ethics and Advertising Counsel
Francine Walker, Director, Public Information and Bar Services
Rosalyn A. Scott, Assistant to the President
Gary Blankenship, Senior Editor, Florida Bar News

3. Guests

Brittany Maxey, President, Florida Association for Women Lawyers
Ricardo Manoel Martinez-Cid, President, Cuban American Bar Association
Diana Bock, Government Lawyer Section

4. Invocation and Pledge of Allegiance

Board member Sandra Upchurch delivered the invocation and led the board in the Pledge of Allegiance.

5. Appearance by Seventh Circuit Chief Judge Terrence Perkins

Judge Perkins welcomed the board to Palm Coast, which he said is recovering from the housing bust that ended its explosive growth in previous years. He noted the county for a while had the highest rate of foreclosure filings not just in Florida but sometimes the nation.

6. Swearing in of New Board Member

President Pettis swore in Timothy J. Koenig, who replaced Edwin Scales representing the 16th Circuit on the Board of Governors.

7. Minutes Approval

The board approved the minutes from its January 31, 2014, meeting in Tallahassee. That approval included ratifying the following Executive Committee actions taken since the January meeting:

- On March 3, 2014, the Executive Committee voted 11-0 to recommend approval of out-of-cycle rules amendments proposed by the Florida Criminal Procedure Rules Committee in response to comments made to rule amendments in SC13-2066.
- On March 6, 2014, the Executive Committee considered three matters. In response to HB 7039 and SB 1496 concerning the unlicensed practice of law, the committee by an 8-0 vote adopted the following legislative position for the Bar: Supports the exclusive jurisdiction of the Supreme Court of Florida to define the practice of law in this state consistent with Article V, Section 15 of the Constitution of the State of Florida. In furtherance thereof, The Florida Bar opposes SB 1496 and HB 7039 in the 2014 Legislative Session. The committee considered the request from the Public Interest Law Section to support legislation requiring a unanimous jury recommendation in the penalty phase for a death penalty to be imposed and voted 8-0 that the matter should be considered by the Legislation Committee and the Board of Governors. The committee discussed, but took no action, on the Bar member petition to raise Bar membership fees by up to \$100 with the extra money going to The Florida Bar Foundation and on SJR 1188, a constitutional amendment on prospective appointment of appellate level judicial vacancies.
- On March 14, 2014, the Executive Committee considered three issues: SJR 1188, the petition to amend Bar membership fees to raise money for The Florida Bar Foundation, and law suits over Bar advertising rules. The committee took no action on any of those matters.

8. Consent Agenda Approval

The board approved the consent agenda after the advertising appeals in items 5b(i) and 5b(ii) and the section legislation request for item 5d(i)(2) were removed. The approval included the following matters:

- The appointment of Stefan Thomas Peavey Hoffer and Kendra L. Condon as attorney members and Col. Thomas Sanders as a public member to Unlicensed Practice of Law Committee 1B; the appointment of Nancy C. Wilder as a public member to UPL Committee 6B; the appointment of Dawn L. Smith as a public member to UPL Committee 7A; the appointment of Andre Raymond Perron as an attorney member and Brian D. Hall as a public member to UPL Committee 12; the appointment of Lucas Taylor as an attorney member to UPL Committee 3; and the appointment of John H. Myers as a public member to UPL Committee 11D.
- The appointment of Stu Chung, Gregory Ryan Cohen, and Jason Hunter Korn as attorney members and Paulita E. Kundid and Ellen Wile as public members to the Standing Committee on UPL. Barbara P. Burke, Jeffrey Michael Kolokoff, and David Lanaux were reappointed as attorney members and Manohar Athavale, Stanley M. Giannet, Monte Gordon, Gino Martone, and Nancy A. Murphy were reappointed as public members.
- The board considered the following legislative requests from the Real Property, Probate and Trust Law Section and agreed not to oppose these positions:

- Supports amendments to the Florida Condominium Act which set forth the rights and obligations of purchasers and lenders that acquire multiple units, but who are not creating developers of the condominium, including creating a Part VIII, and eliminating application of Part VII, of the Condominium Act to transactions recorded after the effective date July 1, 2016.

- Supports issuance of separate property tax folio numbers for separately described portions of a multiple parcel building and providing for allocation of underlying land value among the separate building parcels, including amendment of F.S. Chapter 193.

- Opposes selective increase of recording expense to only construction claims of lien, adding additional filing requirements, and concluding that filing a lien beyond the statutory 90 day period is an act of fraud, including opposing amendments to F.S. §§28.24 & 713.08.

9. Audit Committee Report

Chair Leslie Lott reported the committee is reexamining its role in not only overseeing auditing of the Bar's budget but also a wide range of activities and policies, including IT, liabilities, management succession and related issues. She said the committee would report on its findings and recommendations at a future meeting.

10. Budget Committee Report

Chair-elect Michael Higer presented the 2014-15 Bar budget, which keeps annual membership fees at \$265 for active Bar members and \$175 for inactive members for the 13th consecutive year without imposing an increase. Higer said 65 percent of Bar revenues will come from membership fees. The budget as presented has a \$1.1 million deficit, but Higer said that is due to committee's conservative approach in projecting revenues and expansive approach in projecting expenditures. He said the 2013-14 budget had a similar projected deficit but the year is now expected to end with a significant surplus. The board unanimously approved the budget. Higer said some tweaks to the budget may be presented to the board at its May meeting.

11. Investment Committee Report

Chair Ian Comisky reported the Bar had experienced an excellent two years for investment returns, but cautioned that such outstanding performance was unlikely to last. He noted the Bar had recently added more investments to further diversify its holdings with an eye to protecting Bar assets.

12. City, County and Local Government Section Report

Section Chair Hans Ottinot, Sr., reported the section offers a variety of seminars, including for the past 18 years an annual seminar on local government law. He noted 231 lawyers are now board certified in local government law and the section is working with law schools to attract law students to local government law. He said the section offers scholarships for students and grants to public agencies to hire law students as interns.

13. Legislation Committee Report

Chair Jay Cohen reported that a request from the Public Interest Law Section for a legislative position supporting requiring a unanimous jury recommendation to impose a death penalty had been withdrawn by the section. He said the committee recommended, and the board approved,

not opposing a request from the Trial Lawyers Section to seek a \$50,000 appropriation from the Legislature for the Chester Bedell Foundation's Justice Sandra Day O'Connor Teachers Law School Program. He said the committee is monitoring the ongoing legislative session, including a proposed constitutional amendment that would provide that an outgoing governor would fill vacancies on the Supreme Court and district courts of appeal when those vacancies occur on the last day of the governor's term. Chief Bar Legislative Counsel Steve Metz and his partner, Jim Daughton, reported on the legislative session, including the effort to achieve pay parity for court system employees, funding under the Civil Legal Assistance Act, and legislation affecting the unlicensed practice of law.

14. Executive Session

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

15. Board Review Committee on Professional Ethics Report

Chair Carl Schwait reported that:

- Advertising Appeals 14-00966, 14-00967, and 14-00968, which were items 5b(i) on the consent agenda, were deferred at the request of the filer.
- Advertising Appeal 14-01315, item 5b(ii) on the consent agenda, was deferred due to lack of time.
- The BRCPE recommended approval of amendments to Rule 4-7.22, Lawyer Referral Services. The board unanimously approved.
- Ethics Appeal 31741 was deferred due to lack of time.
- Ethics Appeal 32261 was deferred due to lack of time.
- The committee voted 5-1 to recommend that the Board of Governors determine that the following references to past results in the television advertisement in file 14-00062 are misleading, despite the on-screen disclaimer, in violation of Rule 4-7.13(b)(2) and the board's interpretation of that rule in the Guidelines for Advertising Past Results: Attorney Dan Newlin: "*Many times I meet with car accident victims the day after an accident but there's nothing more rewarding than meeting an accident victim after I've recovered all the money they rightfully deserve, like Mr. and Mrs. Adams. Where I recently went to their home and brought them a check for \$81,000. Recovering \$81,000 for Mr. and Mrs. Adams was a great honor.*" [with film of Mr. Newlin in the Adams' kitchen and handing them a check.] Onscreen Text Disclaimer: *Most cases result in a lower recovery. It should not be assumed that your case will have as beneficial a result.* The Board of Governors approved the recommendation on voice vote without objection. Governor Thompson was recused from the discussion and vote.
- The committee voted 5-1 to recommend that the Board of Governors determine that the following references to past results in the transcript of a proposed television advertisement in advertising inquiry 33402 are misleading, despite the proposed spoken disclaimer, in violation of Rule 4-7.13(b)(2) and the board's interpretation of that rule in the Guidelines for Advertising Past Results: Client: "*I was in a car accident and attorney Dan Newlin recovered \$50,000 for my injury claim and I was very satisfied with all Dan did to help me.*" Attorney Dan Newlin: "*I was honored to help Sara with her accident case and I'd be honored to help you too. I can't guarantee you a \$50,000 in your pocket, in fact most cases result in a lower recovery, and it should not be assumed your case will have the same result, but what I can guarantee is this, I'll fight for all the money you may be entitled to, and you can count on that.*" The Board of

Governors approved the recommendation on voice vote without objection. Governor Thompson was recused from the discussion and vote.

• The committee consensus was to give an extension to advertising filer Daniel Newlin in response to his request for an extension to continue use of television, radio and billboard advertisements until December 2014. The television and radio advertisements are in files 13-00926, 13-01699, 13-01700, 13-01701, 13-01702, 13-01853, 13-01854, 13-01856, 13-01857, 13-01859, 13-01860, 13-01862, 13-01864, 13-01868, 13-01870, 13-01872, 13-01905, 13-01906, 13-01907, 13-01908, 13-01909, 13-01910, 13-02633, 13-02634, 13-02635, 13-02636, 13-02637, 13-02638, 13-02639, 13-02640, 13-02641, 13-02642, 13-02643, 13-02644, 13-02645, 13-02646, 13-02647, 13-02648, 13-02649, 13-02650, 13-02708, 13-02885, 13-02886, 13-02887, 13-02915, 13-02916, 13-03282, 13-03563, 13-03564, 14-00657, 14-00658, 14-00659, 14-00660, 14-00661, 14-00663, 14-00664, 14-00665, 14-01040, 14-01041, 14-01042, 14-01043, 14-01044, 14-01045, 14-01046, 14-01706, 14-01707, 14-01708, 14-01709, 14-01710 and 14-01711 and the billboard advertisements are in files 14-00819, 14-01009, 14-01010, 14-01011, 14-01012, 14-01037, 14-01038, 14-01039, 14-01382, 14-01383 and 14-01384. The opinions in all the files were later revised after the Board of Governors adopted the Guidelines on Past Results. However, the committee deadlocked on motions to extend the advertisements' use for 90, 60, or 30 days. A motion was made and seconded to extend the time period for the advertisements' use for 60 days, but the motion failed. A motion was made, seconded and passed on voice vote without objection to extend the time period for the advertisements' use for 30 days from March 28, 2014. Governor Thompson was recused from the discussion and vote.

• The committee consensus was to give an extension to advertising filer McGrath Gibson. The firm had requested an extension to continue use of three billboard and one television advertisement in files 14-00705, 14-00706, 14-00707, and 14-00274 until May 5, 2014, and August 10, 2014, respectively. The ads originally received a notice of compliance from Bar staff, which was later revised after the Board of Governors adopted the Guidelines on Past Results. However, the committee deadlocked on motions to extend the advertisements' use for 90, 60, and 30 days. A motion was made, seconded and passed by the board on voice vote with objections to extend the time period for the advertisements' use for 30 days from March 28, 2014.

• The committee voted 4-2 to recommend that the Board of Governors give an extension of 60 days to advertising filer Unger & Kowitt in response to the firm's request for an extension to continue use of one direct mail advertisement in file 13-03216. The ad originally received a notice of compliance from Bar staff, which was later revised after the Board of Governors adopted the Guidelines on Past Results. A motion to amend the committee motion to make the extension 30 days was made, seconded, and passed 23-18. The motion to extend the time period for the advertisement's use for 30 days from March 28, 2014, passed 20-16.

• The committee consensus was to give an extension to advertising filer Lorenzo and Lorenzo in response to the firm's request for an extension to continue use of one television advertisement in file 13-03162. The firm asked for an extension until December 31, 2014 for the ad, which originally received a notice of compliance from Bar staff, which was later revised after the Board of Governors adopted the Guidelines on Past Results. However, the committee deadlocked on motions to extend the advertisements' use for 90, 60, and 30 days. A motion was made, seconded and passed on voice vote with objections to extend the time period for the advertisement's use for 30 days from March 28, 2014.

Schwartz presented the board with a written informational report that minor editorial changes were made to the Guidelines for Advertising Past Results. He also reported that Professional Ethics Committee has adopted Florida Ethics Opinion 12-4, regarding trust account issues relating to real estate transactions.

16. Disciplinary Procedure Committee Report

Chair Jay Manuel presented two items on first reading:

- Rule 3-7.10 Reinstate and Readmission Procedures, Subpart (b) Timing of filing a petition for reinstatement: Amends subpart (b)(1) of Rule 3-7.10 to specify that a respondent may not file a petition for reinstatement until that respondent has completed 80 percent of the respondent's total period of suspension. Nonsubstantive changes are proposed to conform to the Supreme Court of Florida's style guide.
- Rule 3-7.11 General Rules of Procedure, (Clarifying service through postal requirements, allowing for e-mail service in staff level matters): Within subdivisions (b) and (c), amends rule to make clear that certified postal mail service on respondents is required only for service of formal complaints in referee proceedings. Service on respondents during the investigatory phases of Bar proceedings may be made via e-mail or facsimile.

Manuel presented two items on second reading with the committee's recommendation for approval, and the board approved both on voice vote:

- Rule 5-1.1 Trust Accounts (Replacing Funds Improperly Taken from a Lawyer's Trust Account): Reorganizes subdivision (a) and within subdivision (a)(1) creates an exception to commingling to permit a lawyer to deposit sufficient funds into the lawyer's trust account to make up a shortfall in the trust account caused by misappropriation, bank error, bank charge or a bounced check. Also makes style changes to comply with the Supreme Court of Florida's style guidelines.
- Rule 5-1.2(c) Trust Accounting Records and Procedures (Trust Account Certification): Strikes subpart (c)(5), which had required Bar members to file a trust account compliance form with the bar each year.

Manuel reported that the committee recommended approval of an amendment to Standing Board Policy 15.40 Grievance Committee Membership: Authorizes criminal background investigations of non-lawyers who will be nominated as public members of Bar grievance committees. The board, however, rejected that recommendation 15-24 after arguments that the background check would discourage nonlawyers from serving on grievance committees.

Manuel reported the DPC reviewed a case where prosecutors had ex parte communications with a judge in a case where it was feared the defendant would have witnesses killed and hence was having his communications monitored. He reported the Professional Ethics Committee declined to issue an opinion saying the issue was outside its scope and the DPC decided that requesting an opinion from the full board would create more problems than it would solve and hence no further action was being taken by DPC.

17. Out of State Division Report

President Don Workman reported the division remains focused on its goal of helping out-of-state Bar members with practice development, education, administration, and pro bono work while encouraging diversity and providing a forum for discussion of common interests. He noted the division has conducted a variety of CLE programs, including one in conjunction with the board's October 2013 meeting in Chicago and another is planned for the October 2014 board meeting in Philadelphia. It has also done webinars with the Young Lawyers Division. The division, he said, has upgraded its website and has an online newsletter that is sent to all members.

18. Program Evaluation Committee Report

Chair Ray Abadin reported that the PEC recommended, and the board approved, amendments to the Trial Lawyers Section bylaws. He reported that the committee recommended repealing Rule 6-3.7, which established the emeritus specialist status, and Rule 6-3.11(g), establishing the emeritus application fee. The board unanimously approved. Abadin reported the PEC recommended changing Standing Board Policy 13.10 to change the name of the Citizens Forum to the Citizens Advisory Committee, and the board approved that unanimously. Abadin presented a revision to the Board of Governors Policy on Fees for Lawyer Advertisements which would require paying a new review fee when an existing approved ad is modified and submitted to the Bar for review. The board unanimously approved that change. Abadin reported the committee recommended moving the diversion program aspects of the Law Office Management Assistance Service to Lawyer Regulation, while a subcommittee of the Special Committee on Technology studies broadening the charge of LOMAS, including to technology issues. The board approved that change. Abadin said the subcommittee is expected to report to PEC by late September. He also reported the committee is discussing the Bar's certification program with the Board of Legal Specialization and Education as part of a long-term review.

19. Communications Committee Report

Chair Michelle Suskauer presented the committee's recommended changes to the Bar's social media policies and a social media strategy plan for the next 12 months, which were both approved by the board. She presented a report on e-etiquette best practices for electronic communications and the board approved the committee's recommendation to refer that to the Standing Committee on Professionalism to determine how the practices can be incorporated into Bar professionalism guidelines. Suskauer presented a report on pro bono activities by the Bar, sections, and committees, produced in response to strategic plan objective III-3, and the board approved forwarding that to the Vision 2016 committee on access to legal services. She reported that the Judicial System Education Subcommittee is reviewing the Bar's speakers bureau and how it works with the Benchmarks program and also about improving education about the judicial system. President-elect Greg Coleman reported that video equipment will be at the board's May 23 meeting so members can record short videos to be posted on the Bar's YouTube channel to inform Bar members about board members.

20. Rules of Judicial Administration Report

RJA Committee member Keith Park presented an out-of-cycle amendment to Rule 2.520 clarifying the formatting of filed documents, including electronic documents, so there is space

for clerks' stamps and also detailing the specifications of those stamps. The board voted 39-0 to recommend approval of the change, which now goes to the Supreme Court.

21. Petition on Raising Bar Annual Membership Fees

President Pettis reported that a petition had been submitted to the Bar, signed by more than 200 Bar members, calling on the Supreme Court to allow the board to raise Bar annual membership fees by up to \$100 annually, with the amount over the current \$265 dues going to The Florida Bar Foundation for the support of legal aid agencies. The money would partially replace the reductions in IOTA funds the Foundation has experienced from historically low interest rates. President Pettis and Foundation President John Patterson reported to the board on a developing plan for the Bar to loan the Foundation \$2 million a year over a three-year period to help with its shortfall. Pettis said the details of that loan will come to the board for its examination at the May meeting, and the board voted to give the idea conceptual approval. Patterson said part of the loan will go to study new, cost effective, and innovative ways of providing legal services. By a unanimous voice vote, the board opposed the petition to raise annual membership fees.

22. Young Lawyers Division Report

President Melanie Griffin reported that the division is continuing a variety of CLE courses, including an appellate advocacy course held in Tampa that day and a variety of webinars, including a luncheon course on cell phone and computer searches conducted with the Out of State Division. Griffin said the webinars attract up to 500 to 1,000 participants and the division's next such course would be on mediation tips. The division is also working on a legislative symposium that will summarize the Legislature's 2014 session. President-elect Michael Orr, she said, is leading an effort to review ADA policies on disability access to Bar events. Griffin also said the division is working on diversity and inclusion initiatives, including a stateside diversity symposium to be held simultaneously at the law schools at Florida International University, Florida A&M University, and Florida State University and having grants for local affiliates for diversity projects.

23. Rules Committee Report

Chair John Alpizar reported that a change to Standing Board Policy 16.20 requiring a background check for nonlawyer members of UPL committees was being withdrawn in light of the board's vote on the issue for grievance committees earlier in the meeting. He presented three items on first reading:

- Rule 1-3.2 Membership Classifications (Inactive Members): Within subdivision (a), deletes "inactive members" from the classification of persons who are not members of The Florida Bar in good standing. Within subdivision (c), changes "membership in good standing" to "active membership" regarding reinstatement. Non-substantive edits are made to conform to the Supreme Court style guide.
- Rule 1-3.7 Reinstatement to Membership (Inactive Members): Within subdivision (g), changes "membership in good standing" to "active membership" regarding reinstatement. Non-substantive edits are made to conform to the Supreme Court style guide.
- Rule 1-7.3 Membership Fees (Inactive Members): Within subdivision (d), "member in good standing" is changed to "active member." Non-substantive edits are made to conform to the Supreme Court style guide.

Alpizar presented 11 items on second reading, all of which were approved by the board:

- Rule 1-3.3 Official Bar Name and Contact Information (Email Address Requirement): Within subdivision (a), requires that bar members provide an e-mail address to the bar unless the bar grants an exception. Non-substantive edits conform the rule to the Supreme Court of Florida style guide.
- Rule 1-3.7 Reinstatement to Membership (Supreme Court Approval Required): Within subdivision (d), proposed amendments clarify that reinstatement requires approval by the Supreme Court of Florida. Non-substantive edits conform the rule to the Supreme Court of Florida style guide.
- Preamble - A Lawyer's Responsibilities (Terminology): In terminology under "writing" changes "e-mail" to "electronic communications." Within the comment on "screened," changes "materials" to "information, including information in electronic form" in 2 places. Nonsubstantive amendments conform the rule to the Supreme Court of Florida style guide.
- Rule 4-1.5 Fees and Costs for Legal Services (Retainers, Advances): Within subdivision (c), defines the terms retainer, flat fee and advance fee and indicates proper placement in operating versus trust account. Within the commentary, moves commentary regarding a bonus in domestic relations matters to the section of commentary titled "Prohibited contingent fees." Within the commentary, indicates that nonrefundable fees should not be held in trust as they are earned on receipt, but that advances on fees must be held in trust. Within commentary indicates that nonrefundable fees remain subject to the prohibition against clearly excessive fees.
- Rule 4-1.6 Confidentiality of Information: Adds new subdivision (c)(6) and commentary which would permit lawyers to disclose confidential information to discover and resolve conflicts of interest when law firm composition changes or a lawyer changes employment with a firm where attorney-client privilege will not be compromised and disclosure will not harm the client. Adds new subdivision (e) requiring lawyers to make reasonable efforts to avoid inadvertent disclosure of confidential information and re-letters subsequent subdivisions accordingly. Adds new commentary explaining lawyer's obligations to avoid inadvertent disclosure of confidential information. Nonsubstantive amendments conform the rule to the Supreme Court of Florida style guide.
- Rule 4-1.17 Sale of Law Practice: Proposed amendments to the comment reference proposed amendments to rule 4-1.6 which would permit disclosure of some confidential information to resolve conflicts of interest before the purchase of a law practice. Nonsubstantive amendments conform the rule to the Supreme Court of Florida style guide.
- Rule 4-1.18 Duties to Prospective Client: Throughout the rule and comment, replaces terms such as "discuss" with "consult" to make clear that communications between lawyer and prospective client are not limited to oral communications. Proposed commentary also clarifies when a person is considered a prospective client under this rule. Nonsubstantive amendments conform the rule to the Supreme Court of Florida style guide.
- Rule 4-4.4 Respect for Rights of Third Persons: Changes throughout the rule and comment add "electronically stored information" regarding inadvertently sent material. Proposed amendments to the comment clarify the meaning of inadvertently sent, the meaning of document or electronically stored information, and clarify a lawyer's obligation regarding metadata. Nonsubstantive amendments conform the rule to the Supreme Court of Florida style guide.

- Rule 4-5.3 Responsibilities Regarding Nonlawyer Assistants (ABA Ethics Commission 20/20): Changes in the rule and commentary clarify that a lawyer's obligations regarding nonlawyers apply whether the nonlawyers work directly for lawyers inside a law firm or are work outside the firm. Proposed commentary provides examples of work "outsourced" to nonlawyers, factors to consider in determining the extent of reasonable measures of the lawyer, the lawyer's obligation to communicate with the nonlawyers outside the firm, and allocation of decision making between lawyer and client regarding use of nonlawyers outside the firm. Nonsubstantive amendments conform the rule to the Supreme Court of Florida style guide.

- Rule 4-5.5 Unlicensed Practice of Law; Multijurisdictional Practice of Law (ABA Ethics Commission 20/20): Nonsubstantive amendments conform the rule to the Supreme Court of Florida style guide.

- CSF Regulation C 4 Claims Ordinarily Denied: Clarifies that claims by subsidiaries and affiliates of publicly traded companies will not ordinarily be considered for payment.

24. Leadership Academy Report

Chair Renée Thompson reported that the academy members held their last substantive meeting and would be participating in a graduation ceremony at the Bar's Annual Convention in June. She said the academy's second class would have its initial meeting at the convention and its membership would be announced in the coming weeks.

25. President's Report

President Pettis thanked board members for their efforts in recruiting candidates for upcoming vacancies on the state's 26 judicial nominating commissions. He said the number of applicants had gone from 188 in January to 679 people and the diversity of the applicant pool has increased tremendously. He also reported the issue of diversity on the JNCs and on the bench was raised continually in his editorial board meetings around the state.

26. Vision 2016 Report

Chair Jay Cohen reported that the work of all the commission's committees was proceeding well and that there would be a Vision 2016 Presidential Showcase seminar at the Annual Convention with a panel discussion.

27. Special Committee on Special Appointments Report

Chair Michael Higer said the committee had reviewed the board's procedures for making its special appointments and had three recommendations:

- Someone from the board should screen applicants for each appointment and provide an objective summary of the applicants.
- The page listing applicants in the board backup materials should reflect relevant information such as which applicants are incumbents and whether an applicant might be the incoming chair or other officer of the agency.
- Special appointments should be made earlier in the board meetings to better engage board members' attention.

President Pettis appointed Higer to do the screening of applicants for future special appointments.

28. Special Appointments

The board appointed John B. Bowman of Ft. Lauderdale to a two year term, beginning July 1, on the Supreme Court's Bar Admissions Committee.

29. Time and Place of Next Meeting

There being no further business before the board, President Pettis adjourned the meeting at 2:38 p.m. The next Board of Governors meeting is May 23, 2014, at the Casa Monica in St. Augustine.

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