

The Florida Bar Board of Governors  
January 30, 2015  
Hotel Duval  
Tallahassee, Florida

**1. Roll Call**

Gregory W. Coleman, President  
Ramon A. Abadin, President-elect  
Stephen H. Echsner, 1<sup>st</sup> Circuit  
Lawrence E. Sellers, Jr., 2<sup>nd</sup> Circuit  
William H. Davis, 2<sup>nd</sup> Circuit  
Bruce W. Robinson, 3<sup>rd</sup> Circuit  
Fred D. Franklin, Jr., 4<sup>th</sup> Circuit  
Michael G. Tanner, 4<sup>th</sup> Circuit  
Renée Elise Thompson, 5<sup>th</sup> Circuit  
Andrew B. Sasso, 6<sup>th</sup> Circuit  
Carl B. Schwait, 8<sup>th</sup> Circuit  
Mary Ann Morgan, 9<sup>th</sup> Circuit  
Paul Louis SanGiovanni, 9<sup>th</sup> Circuit  
Wayne L. Helsby, 9<sup>th</sup> Circuit  
Roland Sanchez-Medina, Jr., 11<sup>th</sup> Circuit  
Dori Foster-Morales, 11<sup>th</sup> Circuit  
Leslie J. Lott, 11<sup>th</sup> Circuit  
Michael J. Higer, 11<sup>th</sup> Circuit  
Dennis G. Kainen, 11<sup>th</sup> Circuit  
Steven W. Davis, 11<sup>th</sup> Circuit  
John H. (Jack) Hickey, 11<sup>th</sup> Circuit  
F. Scott Westheimer, 12<sup>th</sup> Circuit  
William J. Schifino, Jr., 13<sup>th</sup> Circuit  
Lansing C. Scriven, 13<sup>th</sup> Circuit  
Margaret Diane Mathews, 13<sup>th</sup> Circuit  
Michael S. Hooker, 13<sup>th</sup> Circuit  
John W. Manuel, 14<sup>th</sup> Circuit  
Ronald Peter Ponzoli, Jr., 15<sup>th</sup> Circuit  
Michelle R. Suskauer, 15<sup>th</sup> Circuit  
Gary Shepard Lesser, 15<sup>th</sup> Circuit  
Timothy J. Koenig, 16<sup>th</sup> Circuit  
Diana Santa Maria, 17<sup>th</sup> Circuit  
Lorna E. Brown-Burton, 17<sup>th</sup> Circuit  
Jay Cohen, 17<sup>th</sup> Circuit  
O. John Alpizar, 18<sup>th</sup> 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  
Michael F. Orr, YLD President

Gordon J. Glover, YLD President-elect  
Winston W. Gardner, Jr., Public Member

Members Absent

Sandra Fascell Diamond, 6<sup>th</sup> Circuit  
Sandra C. Upchurch, 7<sup>th</sup> Circuit  
C. Richard Nail, 10<sup>th</sup> Circuit  
David C. Prather, 15<sup>th</sup> Circuit  
Walter G. Campbell, Jr., 17<sup>th</sup> Circuit  
Adam Glenn Rabinowitz, 17<sup>th</sup> Circuit  
John M. Stewart, 19<sup>th</sup> Circuit  
Laird A. Lile, 20<sup>th</sup> Circuit  
Marcy L. Shaw, 20<sup>th</sup> 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  
Paul Hill, General Counsel  
Marcy Jackson, Director of Administration and Chief Financial Officer  
Sheila Tuma, Chief Branch Discipline Counsel, Tampa Branch  
Mary Ellen Bateman, Director, Ethics and Advertising, UPL, and Special Projects  
Terry Hill, Director, Programs Division  
Lori Holcomb, Director, Unlicensed Practice of Law  
Elizabeth Clark Tarbert, Ethics and Advertising Counsel  
Mike Garcia, Director, Planning and Evaluation  
Kathy Bible, DPC liaison and Advertising Counsel  
Francine Walker, Director, Public Information and Bar Services  
Adriana Linares, Technology Consultant  
Rosalyn A. Scott, Assistant to the President  
Gary Blankenship, Senior Editor, Florida Bar News

**3. Guests**

Ricardo Martinez-Cid, President, Cuban American Bar Association  
Kamilah Perry, President, Virgil Hawkins Florida Chapter, National Bar Association  
Hans Ottinot, Sr., City, County, and Local Government Law Section

**4. Invocation and Pledge of Allegiance**

Board member Bill Davis delivered the invocation and board member Larry Sellers led the board in the Pledge of Allegiance.

**5. Appearance by Tallahassee Bar Association President Stan Chapman**

Chapman welcomed the board to Tallahassee and talked about the success that the Tallahassee Bar's Thunderdome program has had in boosting legal services for the needy.

## **6. Introduction of Citizens Advisory Committee Members**

President Coleman recognized the attendance of Citizens Advisory Committee members and praised their contributions and guidance to the Bar. Members attending were: Valdez Demings, Steve Deneke, Judy Doyle, Susanna Grady, Linda Goldstein, Sharon Middleton, Richard Sarner, M.D., Paulette Simms, and Larry Tyree.

## **7. Appearance By Gubernatorial General Counsel Tim Cerio**

Cerio was introduced by Third District Court of Appeal Judge Ed Scales, a former member of the Bar Board of Governors, who recounted Cerio's experience as a student member of the state Board of Regents, in private practice, and in the Department of Health. Cerio talked about the importance of always keeping the dialogue open between the Bar on the governor's office when it comes to appointments to the judicial nominating commissions and to the bench, even if there are disagreements about those appointments. He pledged to keep his door open to the Bar.

## **8. Minutes Approval**

The board unanimously approved the minutes from its December 12, 2014, meeting in Amelia Island. That approval included ratifying Executive Committee action taken since that meeting when the committee on December 22, 2014, voted 8-0 to recommend approval of amendments to Florida Rule of Civil Procedure 1.490 and to proposed new Florida Rule of Civil Procedure 1.491 suggested by the Civil Procedure Rules Committee. The rules committee acted after the Supreme Court made amendments to Rule 1.490. The proposed amendments will be submitted to the court in an out-of-cycle filing.

## **9. Consent Agenda Approval**

The board unanimously approved the consent agenda, including:

- Appointing Andrew John Jones and Christopher Sprysenski as attorney members and Jennifer Ferguson as a public member to UPL Circuit Committee 18B and appointing Frank J. Suarez as a public member to UPL Circuit Committee 11C.
- Ratifying the Board Review Committee on Professional Ethics 7-1 vote to recommend that the Board of Governors affirm the Standing Committee on Advertising decision in Advertising Inquiry 33763 that the lawyer advertising rules apply to a lawyer's solicitation for a non-legal business in which the lawyer has an ownership interest when the letter is sent on the lawyer's law firm letterhead.
- Ratifying the appointment of Tonya Chavis of the Florida Government Bar Association, Wendy Loquasto of Tallahassee Women Lawyers, Joel Margules of the Bay County Bar Association, Phil Smith of the Gadsden County Bar Association, and Michael Hamby of the Okaloosa County Bar Association to the Legal Services of North Florida, Inc., Board of Directors.
- Approving amendments to the University of Florida Student Legal Services Plan.

## **10. Legislation Committee Report**

Chair Michael Tanner reported the Legislation Committee unanimously recommended approval of the following five legislative consulting contracts, and the board approved by voice vote:

- Between the Public Interest Law Section and Alice Vickers, who will represent the section pro bono.

- Involving the Bar, the Florida Conference of District Court Judges and Tsamoutales Strategies.
- Involving the Bar, the Florida Conference of Circuit Court Judges, and Dean, Mead, Egerton, Bloodworth, Capouano & Bozarth.
- Involving the Bar, The Florida Conference of County Court judges, and The Advocacy Group at Cardenas Partners LLC.
- Between the Bar and Foley & Lardner LLP, which will represent the Bar in Executive Branch matters.

Tanner reported that the committee had reexamined Bar legislative positions from the 2012-14 biennium and recommended approving the following 14 positions for the 2014-16 biennium. The board found all 14 within the legislative purview of the Bar, and then approved unanimously adding the positions to the Bar's legislative platform:

- Opposes amendment of Article V, Section 2(a) of the Florida Constitution that would restrict the Supreme Court's authority to adopt rules for practice and procedure in all courts; further opposes any amendment of Article V that would change the manner by which rules of the Judicial Qualifications Commission, rules for judicial nominating commissions, or rules for practice and procedure in all courts may be repealed by the legislature.
- Supports a merit-based process for selecting Florida judges through independent judicial nominating commissions and opposes any changes to the current JNC process that would impair the independence of the commissions.
- Supports legislation consistent with the Supreme Court of Florida's certification of need for new judges.
- Supports language in the Legislative Appropriations Act to permit the payment of government attorneys' Florida Bar membership fees and continuing legal education costs from funds within budget entities.
- Supports legislation to create reasonable financial student loan assistance for all government lawyers and legal aid attorneys who have served in that capacity for more than 3 years.
- Supports adequate funding for civil legal assistance to indigent persons through the Florida Access to Civil Legal Assistance Act.
- To adequately promote and protect the legal rights and remedies of children, 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:
  - (a) 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;
  - (b) 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

(c) 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.

- Supports amendment of Article V, Section 8 of the Florida Constitution, to increase the mandatory retirement age for justices and judges, from 70 years to 75 years of age.
- Supports adequate funding of the Legal Services Corporation by the federal government, and opposes any funding cuts.
- Supports a pay increase for the federal judiciary.
- Supports an adequately funded federal justice system and judiciary.
- Supports HR 2936 – the Protecting Immigrants from Legal Exploitation Act – in the U.S. Congress, to provide protection to individuals harmed by nonlawyers in the immigration area and to provide for penalties against those who violate the law.
- Supports the preservation of, and opposes policies and procedures that have the effect of eroding, the attorney-client privilege and work product doctrine, both of which are essential to maintaining the confidential relationship between client and attorney required to encourage clients to discuss their legal matters fully and candidly with their counsel so as to:
  - (a) promote compliance with law through effective counseling;
  - (b) ensure effective advocacy for the client;
  - (c) ensure access to justice; and
  - (d) promote the proper and efficient functioning of the American adversary system of justice.
- To provide enhanced protection for attorney work product and attorney-client privilege, supports amendment of F.S. §119.071 revising the exemption from the attorney’s work product of a public agency; and supports amendment of F.S. §286.011 revising the criteria for the attorney-client sessions of a public agency.

Tanner reported the committee voted 5-3 to recommend against adopting a position from the 2012-14 biennium calling for a comprehensive review of Florida’s death penalty procedures by the executive, legislative, and judicial branches of government. He said the opposition was based on the committee’s uncertainty about how the Criminal Law Section felt about that issue. However, following the committee vote, Tanner said he had learned that the Criminal Law Section Executive Council had voted either unanimously or overwhelmingly to support that position. Based on that, Tanner and other committee members said they would reverse their opposition. The board found the position within the purview of the Bar’s legislative authority and by voice vote approved adding this position to the Bar’s 2014-16 platform: The Florida Bar supports a comprehensive review of Florida’s entire death penalty process by all branches of government.

Tanner reported that the committee recommended approving the Young Lawyers Division reactivating a position from the 2012-14 biennium. The board found the position within the purview of the division and voted to allow the division to advocate this position: Supports legislation to create reasonable financial student loan assistance for all government lawyers and legal aid attorneys who have served in that capacity for more than three years.

Tanner reported the Code and Rules of Evidence Committee requested permission to renew support for six positions from the 2012-14 biennium and the Legislation Committee unanimously recommended approval. The board found these six positions within the purview of the Bar and the Code and Rules of Evidence Committee and voted to allow the committee to support these positions in the Legislature:

- Supports amendments to F.S. §§90.202(9) & 90.205 regarding judicial notice, to modernize language.
- Supports an amendment to F.S. §90.406 regarding relevance to conform to Fed. R. Evid. 406 and to codify Florida common law.
- Supports amendments to F.S. §§90.603-90.607 regarding witnesses to make provisions consistent with other statutes and federal rule counterparts, to clarify that a child testifying must understand both the need to tell the truth and the duty not to lie, and the standard for determining the need for an interpreter and to ensure that the interpreter is properly qualified.
- Supports revisions to four subdivisions of F.S. §90.803 regarding hearsay to make usage/grammatical/punctuation changes and to conform to the Federal Rules of Evidence.
- Supports amendments to F.S. §90.951 regarding contents of writings, recordings, and photographs to modernize language by adding new technology such as magnetic resonance imaging (MRI).
- Supports amendments to F.S. §§458.3175(2)(b), 459.066(2)(b), and 466.005(2)(b), to add "if otherwise qualified under Chapters 90 and 766" at the end of each subdivision so that existing language is not construed as overriding detailed predicates for expert testimony contained in Chapter 766 and general expert qualifications in Chapter 90 – with the further understanding that The Florida Bar considers F.S. §766.102(12) to be unconstitutional.

### **11. Budget Committee Report**

Chair Michael Higer presented two amendments for the 2014-15 Bar budget:

- \$48,475 for the Meetings Departments of audio visual costs of providing computer Wi-Fi for the Annual Convention and for convention advertisements in the *Bar News*.
- \$25,000 for consulting contracts.

The board unanimously approved both amendments.

Higer reported that committee members met with Bar staff on January 28 to review the upcoming 2015-16 Bar budget, which he said will be presented to the board at its March 27 meeting for its approval.

### **12. Program Evaluation Committee Report**

Chair-elect Higer presented six items on first reading:

- Rule 2-9.8 Law Office Management Assistance Service (Bylaw – Name change): Changes the name of law office management assistance service to practice resource institute.
- Rule 4-5.8 Procedures for Lawyers Leaving Law Firms and Dissolution of Law Firms (Bylaw – Name change): Within the comment, changes the name of law office management assistance service to practice resource institute.
- Bylaws – Workers' Compensation Section: Adds “honorary” members in Article II, Section 1. Within article II, section 1, adds new subdivision (c) to permit active judges of compensations claims to become honorary members of the section without payment of dues. Non-substantive edits conform to the Supreme Court of Florida style guide.

• Bylaws – Government Lawyer Section: The Government Lawyer Section bylaws were amended throughout for clarity and consistency with current practice. Within Article I, Section 2, the purposes of the Government Lawyer Section are clarified. Under subsection (b), the Government Lawyer Section is to provide a forum for discussion, exchange of ideas, research and leadership, and to make recommendations in not only those areas of particular interest to government lawyers, but also as to matters affecting government lawyers. Subsection (f) is changed to clarify that the Government Lawyer Section assists The Florida Bar with regard to educational programs that relate to the interests of government lawyers. In subsection (h), the purpose of supporting Government Lawyer Section members for appointment to Bar committees has been added. Subsection (k) concerning advising and making recommendations to the executive, legislative and judicial branches in matters affecting government lawyers has been deleted as duplicative. Within Article II, Section 4, the limit on the number of affiliates has been changed from one-half to one-third of the Section membership. The last sentence of the first paragraph has been removed as unnecessary. Within subdivision (a), adds that affiliate members may also include local, state and federal agency personnel, educational personnel, law enforcement personnel, members of administrative boards, persons doing business with local, state and federal agencies, members of the legislature and legislative staff, authorized house counsel, and judicial assistants. The last sentence of subsection (b) has been removed as duplicative. Within Article III, Section 2(d), the duties of the Secretary are clarified and conformed to current practice of taking of minutes and responsibility for retaining the minutes in the permanent records of the Section is changed to the Section's Administrator. Within Article V, Section 1, what constitutes a quorum and those eligible to vote at the annual meeting of the Government Lawyer Section is clarified. At the annual meeting the members of the Section, rather than executive council members, who are in attendance constitute a quorum. Within Article V, Section 2, the quorum for the meetings of the executive council is set forth as ten members. The provision for conducting business through the written approval of a majority of the entire executive council has been removed as the subject is now covered in Section 5 of Article V. The time for the calling of meetings is reduced from 15 to 10 days. Within Article V, Section 3, a quorum for a special meeting of the section is established as the members attending that meeting, which is consistent with the quorum requirements for the annual meeting. Within Article V, Section 4, the use of video or other similar electronic communication equipment is added to the provisions concerning telephone conferences of the executive council. What constitutes a quorum is clarified and is the same as that for an in-person meeting. Article V, Section 5, is added. It provides that notices as well as voting by the executive council may be accomplished through electronic mail. Such voting (with a two-day notice) may be used only to expedite a decision required to meet a deadline that occurs before the next scheduled executive council meeting. The quorum requirement is the same as that for an in-person meeting. Within Article VI, Section 1(d), the procedures concerning The Florida Bar Claude Pepper Award are clarified, and the committee is renamed the Claude Pepper Award Nominations Committee. Subsections (e), (h), (i) and (j) have been added, establishing the Awards and Recognition Committee, the Technology Committee, the Certification Committee, and the Young Government Lawyers Committee. Article VII is eliminated. Article VII (formerly Article VIII), Section 6, has been added to provide a formal process for the nomination of a Government Lawyer Section member for The Florida Bar President's consideration for appointment as a Government lawyer liaison to The Florida Bar Board of Governors.

- Rule 4-8.3, Reporting Professional Misconduct (name change): Changes the name of law office management assistance service to practice resources institute.
- Standing Board Policy 5.10, Standing Committees: Replaces the list of standing committees with a statement that the bar will maintain a list of current standing committees and will post the list on the bar's website.

Higer presented seven items for final action, all of which were approved. The first four were for the creation of the new Condominium and Planned Development certification, and setting standards for that certification area. Other approved items were:

- Standing Board Policy 1.60: Within subdivision (a)(14), changes "Ideals and Goals of Professionalism" to "Professionalism Expectations." The board approved four amendments proposed by board member Bill Davis. The first added the word published to Standard 4.1 saying that lawyers should be familiar with judges' procedures, orders, administrative rules, and practices. The second removed language from the history discussion that the Supreme Court "has demonstrated a shift in the disposition of disciplinary cases." The third changed "must" to "should" in Standard 5.2 which requires lawyers to be "civil and courteous in all situations. . . ." The fourth changed "should" to "must" in Standard 5.3 on conduct in court, depositions, hearings and before judges and juries.

- Bylaws – Out of State Division: Non-substantive amendments are proposed to conform to the Supreme Court style guide.

- Bylaws – General Practice, Solo & Small Firm Section: The General Practice, Solo and Small Firm Section by-laws were amended throughout for clarity and consistency with the Supreme Court style guide. Within Article II, Section 2, subsection (b) the General Practice, Solo & Small Firm Section proposes to clarify required section membership dues for law students to be as established for student affiliate membership. Within Article III, Section 2, the General Practice, Solo & Small Firm Section proposes to clarify categories of executive council members. Within Article IV, Section 4, the General Practice, Solo & Small Firm Section proposes to clarify the circumstances under which executive council seats become vacant, along with adding a requirement that requests that notice of excused absences must be sent to the chair no later than seven days following the meeting.

Higer said the committee had approved the new guidelines for electronic communications by lawyers and those have been sent to the Communications Committee, which is reviewing them. He also said the PEC voted 10-1 to allow the Animal Law Committee to seek section status, and will bring that to the board at a future meeting.

### **13. President's Report**

With five justices from the Supreme Court in attendance, President Coleman reviewed the early findings and challenges identified by the four committees of the Vision 2016 commission. Those findings include that the legal marketplace is undergoing rapid changes. That includes nonlawyer corporations and individuals seeking to provide forms and legal services for low and moderate income families and individuals who have trouble affording traditional legal services. Those services are frequently being offered via the Internet. Some companies are using the Internet to link lawyers with potential clients. At the same time, law students are concerned their education is not preparing them on the "how" of practicing law and there are pressures to have a uniform bar exam among several states, with each state still doing its own character and fitness

evaluations. Other countries are allowing nonlawyers to own an interest in law firms. Justices expressed appreciation on getting the information and they and board members discussed possible ways of meeting new challenges while maintaining the core values of the profession.

#### **14. Chief Justice's Report**

Chief Justice Jorge Labarga discussed the Florida Commission on Access to Civil Justice which will issue its final report in 2016. He said it will engage the business community in finding solutions to legal access problems for the poor and middle class. Chief Justice Labarga also said a top legislative priority for the court will be getting pay raises for judges so the judiciary can continue to attract the best lawyers, including from private practice.

#### **15. Leadership Academy Report**

Leadership Academy Committee Chair Renée Thompson noted the full academy was meeting in conjunction with the board's meeting, had met Supreme Court justices, and participated in the previous day's pro bono award ceremonies and the Supreme Court Historical Society's annual dinner.

#### **16. Audit Committee Report**

Chair Paul SanGiovanni reported that the committee received a clean management letter from the Bar's auditors. He also said the contract with the auditors is expiring and the committee is sending out an RFP to get rates from other auditing firms. He reported the committee is continuing work on the Bar's disaster recovery programs.

#### **17. Investment Committee Report**

Chair Ian Comisky said the committee is continuing to monitor the Bar's investments with the help of its advisor, and has asked for comparisons of how its funds are performing against similar funds in addition to comparisons with benchmarks.

#### **18. Government Lawyer Section Report**

Chair Ellie Simon reported the section has more than 1,000 members and is working to increase membership, including by reaching out to law school students. The section has established a presence on social media and works with other sections and local bars to put on seminars. The section is also active, Simon said, in the effort to amend the comment to Bar Rule 4-4.2 dealing with communicating with government officials who are represented by counsel.

#### **19. Communications Committee Report**

Committee member Dori Foster-Morales presented the committee's proposed changes to the Bar's social media policy, which were approved by the board. She reported the committee recommended approval of a joint public education campaign by the Bar's Elder Law Section and the Elder Law Academy, which had the support of the Citizens Advisory Committee, and the board approved that. She presented recommended changes to the charter for the Citizens Advisory Committee and the board approved those amendments. Foster-Morales reported that the Citizens Advisory Committee had a productive meeting and reviewed the Bar's advertising rules and litigation over advertising with Bar Outside Counsel Barry Richard. President Coleman urged board members to get the Flipboard app for mobile devices to help them track articles and information related to the Bar.

## **20. Special Task Force to Study Enhancement of Diversity in the Judiciary and on the JNCs Report**

Chair Bill Schifino reported that the Bar has established a good relationship with the governor's new general counsel, Tim Cerio, and is working to advance the 10 recommendations made last year by the task force's predecessor, including improving diversity both on the bench and on the JNCs. He said the task force has been working with the Bar's Judicial Nominating Procedures Committee. JNCP Committee member Linda Bond Edwards told the board the committee is actively encouraging lawyers, including those who have unsuccessfully applied before, to apply again for Bar nominations to JNC posts. The JNCP Committee is working to educate both lawyers and nonlawyers about JNC service. Schifino and President Coleman urged board members to help find applicants for upcoming JNC vacancies for which the Bar will submit slates of nominees to the governors. They noted the Bar needs 78 applicants but as of the meeting had only 56 names, with several JNCs having no applicants. Coleman also said the Bar needs to improve the diversity of its applicant pool.

## **21. Young Lawyers Division Report**

YLD President Michael Orr recounted the division's recent Affiliate Outreach Conference, which attracted more than 60 young lawyer organizations and at which the division passed out more than \$60,000 in grants and awards. He said the division is undertaking a quality of life study after a discussion at a recent meeting about suicide and other health problems afflicting lawyers. The division is also planning a summit involving the division, law students, and law school deans after a meeting of the division's Law Student Division where students expressed concerns about what they are being taught. Orr said the division would be having its second online webinar, on the pitfalls of using social media, in February and already had more than 800 people registered.

## **22. Special Appointments**

The board appointed Stephen R. Senn of Lakeland and Suzanne Van Wyk of Tallahassee to three-year terms on The Florida Bar Foundation Board of Directors.

## **23. Vision 2016 Report**

Administrator Jay Cohen said the Vision 2016 commission's four committees are making excellent progress and he said the effort has already been a success as it has stimulated discussion about the challenges facing the legal profession, from education and bar admissions to technology and legal access. He said the committees are working on making their final recommendations.

## **24. Annual Convention Report**

President Coleman said a legal technology symposium, modeled on the ABA's technology conference, is being planned for Wednesday, June 24, at the start of the Bar's Annual Convention. Coleman said the conference will help lawyers deal with changing technology and how that affects the legal marketplace.

## **25. Disciplinary Procedure Committee Report**

Chair Ron Ponzoli reported the committee was making changes to several rules to conform to Florida Supreme Court style guide. He said the committee reviewed whether rule changes were needed to address attorneys who might want to enter into the state's new legal medical marijuana business, but concluded that a recent policy adopted by the board was adequate. Ponzoli said the committee looked at whether a rule change was needed to require an attorney confined to house arrest and wearing a monitoring device because of a misdemeanor conviction to report that to clients. He said the committee concluded the Bar already has the authority to require that disclosure. The committee has also begun a review of an attorney's responsibility to third parties with respect to settlement funds received by the client, and Ponzoli said that review was ongoing.

## **26. Rules Committee Report**

Chair Margaret Mathews presented two items on second reading, both of which were approved by the board:

- Rule 2-3.10, Meetings: Changes "The Florida Bar Center" to "in Tallahassee." Non-substantive changes conform to the style guide.
- Preamble – A Lawyer's Responsibilities (Lawyer Definition): In terminology, definition of "lawyer," deletes "any court of" so that the term "lawyer" includes both Florida Bar members and other lawyers authorized to practice in the State of Florida.

Mathews also presented for approval an amendment requested by the Supreme Court to Rule 4-1.7, Conflict of Interest; Current Clients (Subdivision d – Relationships between lawyers). The changed adds "other significant relationships" to the family relationships that require disclosure and consent when those relationships are with parties or attorneys on the opposing side in a representation. The board discussed board member Bill Davis' objection that the phrase "significant relationships" was vague and eventually voted to table the amendment and return it to the Rules Committee.

## **27. Certification Plan Appeals Committee Report**

Chair Steve Echsner said the committee is looking at its internal rules and has met to discuss that issue with the Program Evaluation Committee and the Board of Legal Specialization and Education. He also reported that Diana Polston replaced Dawna Bicknell as the director of Legal Specialization and Education, following Bicknell's retirement.

## **28. Board Review Committee on Professional Ethics**

Chair Carl Schwait noted that Ethics Appeal 34289 was withdrawn from the agenda as moot based on the action of the Professional Ethics Committee on January 23, 2015. He reported that the BRC was asked to consider whether any changes to the lawyer advertising review program would be appropriate. Currently, all advertisements must be pre-filed with the Ethics and Advertising Department. Advisory opinions are automatically issued on all filed advertisements. Opinions that an advertisement is compliant with the rules serves as a safe harbor, insulating the advertising lawyer/firm from discipline for publishing the particular advertisement providing that the facts supplied to the bar are accurate and there were no material omissions. Opinions that advertisements are non-compliant can be appealed to the Standing Committee on Advertising and from there to the Board of Governors (which must be reviewed first by BRC, which makes a recommendation to the full board). The BRC discussed the issues at length at its meeting and its

initial consensus is to make no changes at this time other than to increase the size of the Standing Committee on Advertising, but will make a full report to the board at its March 2015 meeting.

**29. Criminal Procedure Rules Committee Report**

Board member Dennis Kainen, liaison to the committee, presented an editorial amendment to Florida Rule of Criminal Procedure 3.985 to correct a web address. The board unanimously recommended approval.

**30. Time and Place of Next Meeting**

There being no further business before the board, President Coleman adjourned the meeting at 2.44 p.m. The next board meeting is March 27 at the Don CeSar Hotel in St. Petersburg Beach.

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