

Florida Bar Board of Governors  
December 14, 2018  
Ritz Carlton Hotel  
Naples

**1.Roll Call**

Michelle Renee Suskauer, President  
John M. Stewart, President-Elect  
Jeremy C. Branning, 1st Circuit  
Lawrence E. Sellers, Jr., 2nd Circuit  
Melissa VanSickle, 2nd Circuit  
Michael Fox Orr, 4th Circuit  
Michael G. Tanner, 4th Circuit  
Renée E. Thompson, 5th Circuit  
Joshua T. Chilson, 6th Circuit  
Sandra Fascell Diamond, 6th Circuit  
Sam Nicholas Masters, 7th Circuit  
Stephanie M. Marchman, 8th Circuit  
Thomas P. Wert, 9th Circuit  
Julia L. Frey, 9th Circuit  
Wayne L. Helsby, 9th Circuit  
C. Richard Nail, 10th Circuit  
Roland Sanchez-Medina, Jr., 11th Circuit  
Jordan A. Dresnick, 11th Circuit  
Jeffrey Rynor, 11th Circuit  
Steven W. Davis, 11th Circuit  
John H. (Jack) Hickey, 11th Circuit  
F. Scott Westheimer, 12th Circuit  
Thomas Roe Bopp, 13th Circuit  
Amy S. Farrior, 13th Circuit  
Paige A. Greenlee, 13th Circuit  
Margaret Diane Mathews, 13th Circuit  
Michael P. Dickey, 14th Circuit  
Sia Baker-Barnes, 15th Circuit  
Ronald P. Ponzoli, Jr., 15th Circuit  
Robin I. Bresky, 15th Circuit  
Gary S. Lesser, 15th Circuit  
Wayne LaRue Smith, 16th Circuit  
Jay Kim, 17th Circuit  
Diana Santa Maria, 17th Circuit  
Lorna E. Brown-Burton, 17th Circuit  
Hilary Creary, 17th Circuit  
Adam G. Rabinowitz, 17th Circuit  
James G. Vickaryous, 18th Circuit  
Gregory S. Weiss, 19th Circuit

Laird A. Lile, 20th Circuit  
Marcy Lynn Shaw, 20th Circuit  
E. Duffy Myrtetus, Out of State  
Ian M. Comisky, Out of State  
Eric L. Meeks, Out of State  
Brian D. Burgoon, Out of State  
Christian P. George, Young Lawyers Division President  
Santo DiGangi, Young Lawyers Division President-Elect  
Lawrence W. Tyree, Public Member  
Sharon B. Middleton, Public Member

**Members Absent:**

Bruce W. Robinson, 3rd Circuit  
Deborah B. Baker-Egozi, 11th Circuit  
Dori Foster-Morales, 11th Circuit

**2. Staff in Attendance**

Joshua Doyle, Executive Director  
John Berry, Director, Legal Division  
Rick Courtemanche, Deputy General Counsel  
Lori Holcomb, Division Director, Ethics and Consumer Protection  
Terry Hill, Director, Program Division  
Cynthia Jackson, Director of Administration  
Francine Walker, Director, Public Information and Bar Services  
Adria Quintela, Staff Counsel, Lawyer Regulation  
Navin Ramnath, Assistant Bar Counsel  
Ali Sackett, Associate Director of Lawyer Regulation  
Rosalyn A. Scott, Assistant to the President  
Jim Ash, Senior Editor, Florida Bar News

**3. Invocation and Pledge of Allegiance**

Board member Michael Dickey delivered the invocation and board member Marcy Lynn Shaw lead the Pledge of Allegiance.

**4. Welcoming Remarks**

The Honorable Heather Fitzenhagen, Representative of Florida House District 78, welcomed her fellow Florida Bar members to Southwest Florida.

**5. President's Opening Remarks, Guest Recognition**

President Suskauer acknowledged the following guests:  
Twentieth Judicial Circuit State Attorney-elect Amira Dajani Fox  
Jennifer Richardson, President, Florida Association for Women Lawyers  
Lashawnda K. Jackson, President, Virgil Hawkins Florida Chapter, National Bar Association  
David Aronberg, Government Lawyer Representative  
Maria Garcia, President-elect, Cuban American Bar Association

Andy Sasso, Official Parliamentarian  
Kimberly Spiker, President, Collier County Bar Association  
Kevin Crews, President, Southwest Florida Chapter, American Board of Trial Advocates  
Henry Paul, President, Calusa Inn of Court, Fort Myers  
Chris Donovan, President, Michael R.N. McDonnell American Inn of Court, Collier County

### **6. Budget Committee Report**

Chair Thompson said the committee was studying a health insurance proposal forwarded by the Member Benefits Committee and the committee is crafting a proposed rule amendment that would facilitate the setting of pro hoc vice fees on an annual, recurring basis. Thompson urged board members to attend a February 6<sup>th</sup> budget workshop in Tallahassee.

### **7. Member Benefits Committee**

Board liaison Thompson said the committee voted unanimously to recommend adding “TimeSolv,” legal billing, time-keeping and project-management software, as the newest member benefit. The board voted unanimously to recommend approval.

### **8. Audit Committee Report**

Vice-chair Ponzoli said the committee approved a “clean” audit for FY 2018. Ponzoli said the Tallahassee firm, Law, Redd, Crona & Munroe P.A. will soon review the Bar’s retirement plan and legislative refund functions. The auditors delivered a “management” letter recommending the committee review the bar’s administrative policies for procuring commodities and services. Ponzoli said Bar will soon adopt anonymous reporting of suspected procedural violations.

### **9. Legislation Committee Report**

Chair Tanner moved that the board find the legislative slate for 2018-2020, (items 21 (a) i-xii) is in compliance with the provisions of Keller-Schwarz. The board voted unanimously to approve the finding. Tanner moved subject-matter approval and permission to lobby. The board voted unanimously to approve.

Tanner moved that the board find that reactivating a YLD legislative position opposing judicial term limits complies with the provisions of Keller-Schwarz. The board voted unanimously to approve the finding. Tanner moved the board recommend subject-matter approval and permission to lobby. The board voted unanimously to approve.

Tanner moved that the board table reports from two special committees, Mental Health and Child-Parent Representation. The board voted unanimously to table the reports.

Tanner noted first reading of proposed amendments to “900 Legislative Policies and Procedures,” that clarify procedures for legislative activity.

Co-chair Lesser urged board members to register for the Key Contacts program and forms were distributed. Legislative consultant Jim Daughton reported that Governor-elect DeSantis is expected to appoint three Supreme Court justices soon after his swearing in ceremony.

### **10. Investment Committee Report**

Chair Comisky said the committee met December 7<sup>th</sup> and found the Long-Term Investment Portfolio “in good shape” despite a volatile market, with \$51.3 million on December 3<sup>rd</sup> vs. \$52 million on June 3<sup>rd</sup>.

Comisky moved the following recommendations:

- 1) Approve a new investment manager in the Large Cap Equity asset class: EV Atlanta and move \$4.1 million of the funds from the Lazard US Equity Concentrated account into the new manager EV Atlanta;  
Move the balance remaining \$400,000 to LT Cash.
- 2) Move \$2 million from the LT portfolio into the ST portfolio to support operational needs for the next fiscal year;
- 3) Move funds in the Small/Mid Cap. Equity class from Congress MC Growth manager into the Anchor MC Value manager;
- 4) Move funds in the International & Emerging Markets class from Oppenheimer International value into Harding Loevner International growth.

The board voted unanimously to recommend approval.

### **11. Community Legal Services of Mid-Florida Report**

CEO Kimberly Sanchez reported that her organization is working with The Florida Bar to convene a statewide legal aid disaster response plan. CLSMF is also working with TFB’s IT vendor to coordinate legal aid triage and intake services with TFB’s online portal referral service.

### **12. Solo and Small Firm Section Report**

Section Chair Jennifer Griffin reported that membership numbers are improving and that the section is implementing a committee structure that includes a new health and wellness committee. The section offers the quarterly “Link” and bi-weekly “QuickLINK” newsletters and is increasing the use of audio webcasts for CLEs. Griffin invited board members to attend the section’s annual technology conference on January 18<sup>th</sup> at the Winter Meeting in Orlando.

### **13. LegalFuel Report**

YLD immediate past president Zack Zuroweste reported that he has been working on the LegalFuel speaker series, “Better Lawyer, Better You.” The LegalFuel website posts a new CLE video monthly. Subjects include “Ten Ways to Avoid a Grievance,” “Cyber Security for the Every Day Lawyer,” and “Five Simple Lessons to Help You Earn More, Stress Less and Be Awesome.” Videos are professionally produced and feature expert legal consultants, Zuroweste said.

### **14. Executive Session**

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

### **15. Small Claims Rules Committee Report**

Board liaison Gregory Weiss moved the board adopt an (additional) amendment to regular cycle amendments to Rule 7.343:

- (Fact Information Sheet), which would require an individual to attach the last two income tax returns filed.

The board voted 42-0 to recommend approval.

### **16. Judicial Qualifications Commission Report**

JQC Chair, Judge Krista Marx, reported that the 15-member commission, which includes four Florida Bar appointees, vets nearly 700 complaints annually, most of them deemed insufficient to pursue. Judge Marx noted that Florida Bar Rule 4-8.3 (b) requires lawyers to report judicial misconduct and that complainant confidentiality is strictly observed.

### **17. Special Appointments**

**Judicial Qualifications Commission**, (two lawyers for six-year terms, beginning January 1<sup>st</sup>, 2019): **Mayanne Downs, Orlando**; and **William “Bill” Schifino, Tampa**.

**Florida Rural Legal Services Board of Directors**, (One lawyer, for a three-year term beginning January 1, 2019): **Ashley N. Minton, Fort Pierce**.

**Florida Realtor-Attorney Joint Committee**, (five lawyers, one for each state appellate district, for two-year terms beginning January 1, 2019): First Appellate District – (no applicants); Second Appellate District, **John N. Redding, Tampa**; Third Appellate District, **Thomas D. Wright, Marathon**; Fourth Appellate District, **S. Brian Bull, Palm Beach Gardens**; Fifth Appellate District, **Andrew M. Fisher, Orlando**.

### **18. Special Committee on Trust Accounting Solutions Report**

Chair Sasso said the Advantage Platform has been modified to run IOTA accounts and that virtual law offices representing small, medium and large firms have been created and Bar staff volunteered to be initial test subjects. A second testing cycle begins next week, Sasso said.

### **19. Board Review Committee on Professional Ethics Report**

Chair Lawrence E. Sellers reported on behalf of the committee:

#### **a. Review of Proposed Advisory Opinion 18-1 (Payments to Qualifying Providers/Lawyer Referral Services)**

The Board Review Committee on Professional Ethics voted 8-0 to recommend that the Board of Governors approve Proposed Advisory Opinion 18-1, addressing how qualifying providers are paid and which was published in the November 1, 2018 issue of the *Florida Bar News* and received 1 comment by a Florida Bar member, rejecting the first change requested by Bill Wagner because it was a quote from existing commentary to Rule 4-7.22, but approving the second amendment proposed by Wagner to add a statement that ethics opinions from other states are not dispositive of how Florida will address an issue. The Board of Governors approved Proposed Advisory Opinion 18-1 as amended on voice vote.

#### **b. Advertising Appeals 18-02376 and 18-02377**

The Board Review Committee on Professional Ethics voted 7-1 (with 2 recusals) to affirm the Standing Committee on Advertising decision regarding the billboards in files 18-02376 and 18-02377, finding that the two billboards on pages 20b(5) and 20b(6), with images of superheroes

that contain the tag line “there’s a new hero in town” are impermissible, and to find that the billboard in file 18-02377 on page 20b(10), with an image of a superhero in a cape without the tag line is permissible if the filer adds the disclaimer “Dramatization.” The Board of Governors approved the recommendation on voice vote. Board members Steven Davis and Melissa VanSickle recused themselves on the discussion and vote at both the committee and board meeting.

**c. Proposed Amendments to Rule 4-7.13 (Google AdWords)**

The Board Review Committee on Professional Ethics voted 10-0 to approve amendments to Rule 4-7.13 and commentary that would prohibit a lawyer from stating or implying another lawyer is part of or affiliated with the advertising lawyer’s firm if that is not the case. This item will be on the Board of Governors agenda for first reading at the February Board of Governors meeting. The board took no action.

**20. Rules of Judicial Administration Committee Report**

Chair Sanchez moved an amendment to proposed Rule 2.570, Parental Leave Continuance SC18-1554. The board voted 36-1 to recommend approval.

**21. Probate Rules Committee Report**

Committee member Denise Cazobon moved the following proposed amendments to Rule 5.200:

- Amending Subdivision (e) to require a statement identifying any other person who has equal or higher preference than the petitioner for the appointment of a personal representative under section 733.301, Florida Statutes.
- Subdivision (k) amended to require a statement of the specific facts that show the petitioner’s qualifications to serve as personal representative under sections 733.303 and 733.304, Florida Statutes.

And amendment to Rule 5.499:

- Whereby Subdivision (e) would be amended to eliminate a time deadline not otherwise required by statute or law.

The board voted 37-0 to recommend approval.

**22. Young Lawyers Division Report**

President George announced the YLD’s annual Affiliate Outreach Conference is scheduled for Thursday, January 10<sup>th</sup> through Sunday, January 13<sup>th</sup>, at Casa Monica in St. Augustine. YLD continues to focus on Hurricane Michael relief, with 200 volunteers responding to 500 victim inquiries. The YLD Health and Wellness Committee survey results are being viewed by psychologists prior to release. YLD board member Nikki Fried was elected Agriculture Commissioner, board member Ben Gibson was named general counsel for Governor-elect DeSantis’ transition team, and board member Paige Hardy Gillman was appointed Palm Beach County Judge.

**23. Rules Committee Report**

Chair Mathews moved the following for final action: Proposed amendments to Standing Board Policy, 16.21, “Waiver of Conflict as Lawyer for Respondents.”

- Within subdivisions (a), (b), (c) and (d), changes consent to conflicts for respondent's counsel from the executive director or board of governors to the executive director.

- Within subdivisions (b) and (c), changes consent to conflicts for respondent's lawyer only if bar counsel, UPL counsel, and the bar's executive director have no objection.

The board voted unanimously to recommend approval.

Chair Mathews noted first reading of Rule 1-3.10, "Appearance by Non-Florida Lawyer in a Florida Court," Rule 21-3.1, "Continuing Legal Education," Rule 4-1.5, Fees and Costs for Legal Services, (Closing Statements lawyer's fee.) The board took no action.

#### **24. Program Evaluation Committee Report**

Chair Helsby moved final action on proposed amendments to Appellate Practice Section Bylaws:

- Within Article II, Sections 1 and 2, section headings are removed.
- Within Article III, Section 1, changes the definition of officers to include the immediate past chair.
- Within Article II, Section 2, changes terminology to reflect changes to Section 1.
- Within Article IV, Section 3, deletes procuring and publishing articles from responsibilities of vice-chair.
- Within Article IV, Section 4, deletes of assisting with preparation of annual report from responsibilities of secretary/treasurer.
- Within Article IV, Section 5, creates new job description for immediate past chair, reflecting change to Article III, Section 1. Within Article V, Section 2, clarifies the secretary/treasurer's authority to authorize expenses (within the budget), and adds a notice provision for executive council votes on large expenditures.
- Within Article V, Section 3, clarifies the executive council quorum requirements with an actual number that does not have to be calculated, and clarifies that voting by proxy is not permitted.
- Within Article VI, Section 5, provides clarity on the implementation of "Robert's Rules of Order," and expressly permits the chair to designate a parliamentarian.
- Within Article VII, Section 2(c), removes a provision allowing immediate removal of a past chair for failure to attend executive council meetings.
- Within Article IX, Section 2, deletes the Publications Committee, renames the "Website" committee as the "Communications" committee, and adds Outreach, Pro Bono, and Pro Se Handbook committees.
- Within Article IX, Section 4, changes one-week notice period to 10 days for consistency.

The board voted unanimously to waive first reading and recommend approval. Helsby noted first reading of proposed amendments to Animal Law Section bylaws. The board took no action.

Helsby reported that a subcommittee, chaired by Governor Tanner, has been formed to study a request by CPAC to award CLE for "various Bar activities." Another committee will study recommendations for awarding Blue Ribbon designation to law firms that excel in gender equality. PEC is studying the formation of a Cannabis Committee. An implementation committee will review progress on PEC recommendations for areas that include LegalFuel, the Diversity and Inclusion Committee, the *Journal and News*, the Florida Registered Paralegal Committee, and FLA, Inc.

### **25. Government Lawyer Liaison**

Liaison Aronberg reported that one in five ASAs and APDs have left office, marking the highest turnover rate in six years, raising public safety concerns. Aronberg told board members a TaxWatch report demonstrated that raising salaries for prosecutors and public defenders would save money.

### **26. Real Property and Probate Trust Law Section Report**

Chair Boje reported that the section remains the largest, with nearly 10,000 members, 35 substantive committees, 20 general standing committees, and offers more than 37 CLE programs. The section recently introduced a practice series consisting of 50 hours of webinars and the section is working with Bay Area Legal Services on “No Place Like Home,” which helps low-income clients document homeownership.

### **27. Disciplinary Procedure Committee Report**

Chair Smith asked board members to note first reading of proposed amendments to Rule 1-3.8, “Right to Inventory.” The board took no action. The proposed changes are designed to increase participation in the Inventory Attorney program, Smith said. The board took no action.

### **28. President’s Report**

President Suskauer urged board members to attend the legislative reception when they come to Tallahassee for the February board meeting. Suskauer thanked deputy general counsel Rick Courtemanche for planning the Criminal Justice Summit in Tampa in October that attracted 160 attendees, including Chief Justice Charles Canady, 10 elected state attorneys, and various elected public defenders, sheriffs, legislators and other officials. President Suskauer encouraged Winter Meeting attendance.

### **29. President-elect’s Report**

President-elect Stewart asked board members to complete and submit committee appointment forms, including liaison positions. He asked board members to note the annual meeting calendar.

### **30. Communications Committee**

Chair Westheimer reported that the website subcommittee is improving the TFB website search function to make members with alternate names easier to find. Work also continues to improve the usability of the member portal. Westheimer reported that new online platform for *The Florida Bar News* is scheduled to go live in early January and that print versions will only be published on the first of each month while the website will be updated continuously and will have additional stories and information. He announced that The Florida Bar is the only bar organization listed on the ABA Journal 2018 Web 100 Best Twitter Accounts and congratulated the communications team for their contributions to TFB’s award-winning social media sites.

### **31. Technology Committee**

Chair Burgoon reported that the committee is developing a Blue Ribbon designation for technologically superior firms. A survey to gauge interest in a secure portal for communicating with clients will circulate in January.



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

There being no further business before the board, President Suskauer adjourned the meeting at 2:46 p.m. The next meeting is on February 8 at the DoubleTree in Tallahassee.

SUBJECT INDEX

AUDIT COMMITTEE REPORT .....	3
BOARD REVIEW COMMITTEE ON PROFESSIONAL ETHICS REPORT .....	5, 6
BUDGET COMMITTEE REPORT .....	3
COMMUNICATIONS COMMITTEE REPORT .....	8
COMMUNITY LEGAL SERVICES OF MID-FLORIDA REPORT .....	4
DISCIPLINARY PROCEDURE COMMITTEE REPORT .....	8
EXECUTIVE SESSION .....	4
GOVERNMENT LAWYER LIAISON REPORT .....	8
GUEST RECOGNITION .....	2, 3
INVESTMENT COMMITTEE REPORT .....	4
INVOCATION AND PLEDGE OF ALLEGIANCE .....	2
JUDICIAL QUALIFICATIONS COMMISSION REPORT .....	5
LEGALFUEL REPORT .....	4
LEGISLATION COMMITTEE REPORT .....	3
MEMBER BENEFITS COMMITTEE REPORT .....	3
PROBATE RULES COMMITTEE REPORT .....	6
PRESIDENT’S REPORT .....	8
PRESIDENT-ELECT’S REPORT .....	8
PROGRAM EVALUATION COMMITTEE REPORT .....	7
REAL PROPERTY, PROBATE AND TRUST LAW SECTION REPORT .....	8
ROLL CALL .....	1, 2
RULES COMMITTEE REPORT .....	6, 7
RULES OF JUDICIAL ADMINISTRATION COMMITTEE REPORT .....	6
SMALL CLAIMS RULES COMMITTEE REPORT .....	5
SOLO AND SMALL FIRM SECTION REPORT .....	4
SPECIAL APPOINTMENTS .....	5
SPECIAL COMMITTEE ON TRUST ACCOUNTING SOLUTIONS REPORT .....	5
STAFF IN ATTENDANCE .....	2
TECHNOLOGY COMMITTEE REPORT .....	8
TIME AND PLACE OF NEXT MEETING .....	9
WELCOMING REMARKS .....	2
YOUNG LAWYERS DIVISION REPORT .....	6