

The Florida Bar Board of Governors
March 29, 2019
Willard Intercontinental Hotel
Washington, D.C.

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
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
Dori Foster-Morales, 11th Circuit
Jordan A. Dresnick, 11th Circuit
Deborah B. Baker, 11th Circuit
Jeffrey Rynor, 11th Circuit
Steven W. Davis, 11th Circuit
F. Scott Westheimer, 12th Circuit
Thomas Roe Bopp, 13th Circuit
Amy S. Farrior, 13th Circuit
Margaret Diane Mathews, 13th Circuit
Paige A. Greenlee, 13th Circuit
Michael P. Dickey, 14th Circuit
R. Sia Baker-Barnes, 15th Circuit
Robin I. Bresky, 15th Circuit
Wayne LaRue Smith, 16th Circuit
Lorna E. Brown-Burton, 17th Circuit
James G. Vickaryous, 18th 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, YLD President
Santo DiGangi, YLD President-Elect
Lawrence W. Tyree, Public Member

Members Absent

Bruce W. Robinson, 3rd Circuit
Sandra Fascell Diamond, 6th Circuit
Roland Sanchez-Medina, Jr., 11th Circuit
John H. (Jack) Hickey, 11th Circuit
Ronald P. Ponzoli, Jr., 15th Circuit
Gary S. Lesser, 15th Circuit
Jay Kim, 17th Circuit
Diana Santa Maria, 17th Circuit
Hilary Creary, 17th Circuit
Adam G. Rabinowitz, 17th Circuit
Gregory S. Weiss, 19th Circuit
Laird A. Lile, 20th Circuit
Sharon B. Middleton, Public Member

2. Staff in Attendance

Joshua Doyle, Executive Director
Adria E. Quintela, Director of Lawyer Regulation/Staff Counsel
Roselyn A. Scott, Assistant to the President
Jim Ash, Senior Editor, Florida Bar News

3. Guests

Judge Scott Suskauer, 15th Judicial Circuit
Jennifer Richardson, President, Florida Association of Women Lawyers
David Aronberg, Government Lawyer Representative
Judge Scott Bernstein, Conference of Circuit Court Judges
Andy Sasso, Parliamentarian
Mathew Kahl, President, Out of State Division
Jeffery Irvin Fogel, Senior Counsel, U.S. Dept. of Justice, (retired)

4. Invocation and Pledge of Allegiance

Board member Comisky delivered the invocation and board members Burgoon, Meeks, and Myrtetus lead the Pledge of Allegiance.

5. Out of State Division Report

President Kahl reported that with 15,000 members, the division is larger than the entire bars of 26 states and division members live in every other U.S. state, every U.S. territory and 52 nations.

6. Minutes Approval

The board approved the minutes from its February 8, 2019, meeting at the DoubleTree Hotel in Tallahassee. Included in that approval was ratifying actions taken by the Executive Committee since that meeting:

1. At a February 13, 2019, meeting, the Executive Committee voted 13-0 not to oppose the Real Property, Private and Trust Law Section advocating three legislative positions: Support proposed legislation removing the scheduled repeal of the public records exemption for certain information held by the Office of Financial Regulation relating to a family trust company, licensed family trust company, or foreign licensed family trust company. Support proposed legislation creating § 662.149, FS, to establish an exemption for the publication of applications of a family trust company (1) seeking to operate as a licensed family trust company under s. 662.121, FS, or (2) seeking to register and operate in the §662.122, FS; Oppose Florida's adoption of the Uniform Guardianship and Protective Proceedings Jurisdiction Act (including the Florida Guardianship and Protective Proceedings Jurisdiction Act) unless the act is substantially revised to provide for better due process protections for incapacitated individuals more consistent with Florida's laws and rewritten with vocabulary consistent with Florida's guardianship laws.
2. At a February 18th, 2019, meeting, the Executive Committee voted 12-0 not to oppose the Animal Law Section advocating three legislative positions: Support proposed legislation that would: a) eliminate a prohibition on veterinarians who report cases of animal cruelty to the authorities; b)

prohibit the practice of pet leasing: c) require continuing education for technicians that conduct dog and cat euthanasia; and, d) clarify that animals that are imported by shelters are required to have a health certificate.

Support proposed legislation that would increase the penalty for crimes committed against a police, fire, or search-and-rescue dog. Oppose proposed legislation that would preempt local animal ordinances that provide protections for animals that exceed the protection available at the state level.

3. At a March 7, 2019, meeting, the Executive Committee voted 11-0 to approve Screening Committee nominees for vacancies on the Supreme Court, five district courts of appeal, and 19 circuit judicial nominating commissions. Because of an application deadline extension for the 10th Circuit, recommendations for that circuit were not considered. The committee also voted 11-0 to approve a one-time reimbursement of \$9,642 for president-elect allowances as recommended by an analysis that showed travel and office expense reimbursements were insufficient.
4. At a March 8, 2019, meeting, the Executive Committee voted 11-0 not to oppose the Real Property, Probate and Trust Law Section legislative position to oppose amendments to the personal representative and trustee attorney fee compensation statutes contained in the Florida Probate Code and the Florida Trust Code. By the same vote, the committee approved allowing the section to seek leave to file an amicus brief in *Johnson v. Townsend et al.*, Case No. 4D18-432, currently being appealed to the Florida Supreme Court, and which addresses whether a surviving spouse must file a claim in her husband's probate estate in order to perfect her ownership of community property. The committee also voted 11-0 not to oppose the Public Interest Law Section advocating a legislative position to oppose any legislation that would increase the cost to consumers for any noncommercial loans or cause a reduction in consumer protections for non-commercial loans.

7.Consent Agenda Approval

The board approved the consent agenda, including:

- Naming Stanley M. Giannet as a public member to UPL Committee 6B.
- Approving on second reading Rule 14-2.1, Generally: Within subdivisions (a)(1) through (a)(4), replaces “certified” with “approved.”

- Approving on second reading Rule 14-3.1, Application Required: Within subdivision (a), deletes the word “certification” and replaces it with “approval.”
- Approving on second reading Rule II, Program Mediators: Within subdivision (a)(1), adds that Supreme Court certified mediators must be in good standing with the Alternative Dispute Resolution Center. Within subdivisions (a)(3), (b), and (d), replace “certified” and “certification” with “approved” and “approval” for grievance mediators. Adds new subdivision (c) adding training requirements for program mediators and renumbers subsequent subdivision accordingly.
- Rule IV, Procedures: Within subdivision (e), changes that parties may be represented if approved by the parties and program mediator to each party having a right to be represented at any mediation conference.
- Rule VII, Standards For Certification Approval And Training: Within the title and subdivisions (b) and (d), replaces “certification” with “approval.” Adds new subdivision (a)(4) “any other person who is in good standing as an arbitrator with the American Arbitration Association, American Health Lawyers Association, Association for Conflict Resolution, JAMS (formerly known as Judicial Arbitration and Mediation Services, Inc.), Financial Industry Regulatory Authority, Inc. (FINRA), or any other recognized conflict resolution organization” and renumbers subsequent subdivision accordingly. Adds new subdivision (c) requiring training for participating mediators.
- Chapter 7, Clients’ Security Fund Rules: Merges the Regulations of the Clients’ Security Fund into Chapter 7, Clients’ Security Fund Rules, so that all rules may be found in one document; removes references to the regulations from the rule.
- Regulations of the Clients’ Security Fund: Regulations of the Clients’ Security Fund are deleted in their entirety and will be merged into Chapter 7 of the Rules Regulating The Florida Bar.
- BLSE Policy 2.08, Application Processing: Clarifies in subdivision (a)(3) that an incomplete application will be considered a withdrawn application instead of a denied application.

- BLSE Policy 2.13, Grading, Review, and Petition Process: Adds additional provisions in subdivision (f) to allow the opportunity for an applicant to appear before the Board of Legal Specialization and Education as part of the appeal procedure in an examination grade review.
- BLSE Policy 2.15, Revocation and Other Sanctions: In Subdivision (d)(2)(C), adds that the Board of Legal Specialization and Education determines the good cause shown in an appearance extension request.
- Approving Second Amendment Legal Service Plan as a prepaid legal services plan under Chapter 9 of The Rules Regulating The Florida Bar.
- Approving partial annual fee refunds to two objectors to Bar legislative positions.

8. Welcome by Jesse Panuccio, Principal Deputy Associate Attorney General

Panuccio welcomed board members and said he has focused much of his tenure in the Department of Justice on regulatory reform and campus free speech.

9. President's Report

President Suskauer said attending a U.S. Supreme Court session with fellow board members was a highlight of her legal career, and the group's visit to the U.S. Holocaust Memorial Museum was profoundly moving.

10. Appearance by Judge Scott Bernstein, 11th Judicial Circuit

Judge Bernstein, at President Suskauer's request, described his work as a Holocaust educator.

11. Program Evaluation Committee Report

Chair Helsby reported that the committee has 12 ongoing program reviews and nearly all subcommittees have completed or will soon complete their work. He said the committee approved a recommendation by the Civics Education Subcommittee that the Bar continue existing education programs and not administer the "Justice Teaching" program. No board action was required. Subcommittee reviews and recommendations regarding Florida Lawyers Assistance, Inc.; Board Technology Committee; Military Affairs Committee; Florida Bar Committee Awards; Proposed Rule 3-5.5 to create a diversion program for disruptive lawyers; the

Public Interest Law Section; BLSE Policy 5.10 regarding CLE credit for participation in various committee work; and a request to form a cannabis committee, will be presented to the board in May. The Implementation Subcommittee determined that the Florida Registered Paralegal Committee; Bar Journal and News; the Diversity and Inclusion Committee; PRI; Florida Bar Media Awards; and FLA, Inc., are complying with previous reviews.

12. Legislation Committee Report

Chair Tanner reported that the committee considered four requests by the Real Property, Probate and Trust Law Section, with the first three approved by the committee and the fourth, a hand-carry item, recently approved by the Executive Committee. The board voted unanimously to adopt the committees' recommendation not to oppose the following section legislative requests:

- Items 21b(i)(1), to support amendments to Florida Statutes §§ 731.201, 733.607 and 733.612 which clarify that causes of action owned by a decedent at the time of death are property of the estate and that the personal representative is the appropriate party to pursue such causes of action on behalf of the estate.
- Item 21b(i)(2), to oppose legislation, including current Senate Bill 548 and House Bill 409, that would permit remote notarization or remote witnessing of all estate and incapacity planning instruments, (including electronic wills, powers of attorney, living wills, advance directives, and trust instruments having testamentary aspects,) unless such legislation is amended.
- Item 21b(i)(3) to oppose amendments to the personal representative and trustee attorney fee compensation statutes contained in the Florida Probate Code and the Florida Trust Code unless the amendments preserve the policies currently reflected in each of those codes.
- Item 21b(i)(4), to oppose Current Senate Bill 1184, and support its companion, Current House Bill 837, which supports a shortened time period, not less than 25 months, for the presumption of unclaimed property for smaller financial accounts if proof of death is established.

13. Audit Committee Report

Chair Myrtetus reported that the 2018 audit process is completed, and the 2019 audit will begin in June. Staff is beginning the process of reviewing the Bar's employee compensation plan, and the Audited Financial Statements for The Retiree Health Plan should be completed next month. Migration of data from the legacy AS400 system continues.

14. Budget Committee Report

The board voted unanimously to recommend approval of the Proposed FY 2019-2020 budget. Chair-Elect Davis said the budget includes \$42.1 in total revenues and \$44.6 million in total expenses. He said the board has not proposed a fee increase since 2001, and the projected \$2.4 million operating loss, which is slightly higher than the previous year, is being financed by undesignated reserves.

15. Member Benefits Committee Report

The board voted unanimously to approve adding "UniCourt" as the newest member benefit. Board Liaison Thompson said UniCourt is a case research, tracking, management and analytics platform. Bar members will receive a 15 percent discount on subscriptions, and the vendor will dedicate a portion of revenues to the Florida Bar.

16. JNC Screening Committee Recommendations

The board voted unanimously, with one recusal, to recommend approval of the following slates of candidates: **Supreme Court:** Nathan A. Adams IV, Tallahassee; Karla D. Ellis, Tallahassee; Jeanne T. Tate, Tampa. **First DCA:** Rebecca B. Creed, Jacksonville; Christine D. Graves, Tallahassee; Michael J. Korn, Jacksonville. **Second DCA:** Michael S. Hooker, Tampa; Bradford D. Kimbro, Tampa; Lara J. Tibbals, Tampa. **Third DCA:** Raoul G. Cantero, Coral Gables; Catherine M. Rodriguez, Miami; Lily Ann Sanchez, Miami Beach. **Fourth DCA:** Paul O. Lopez, Boca Raton; Anthony C. Musto, Hallandale Beach; Robert C.L. Vaughan, Davie. **Fifth DCA:** Patrick T. Christiansen, Orlando; Merideth Nagel, Clermont; Monique H. Worrell, Oakland. **First Circuit:** Ashley S. Herndon, Fort Walton Beach; Louis A. Maygarden III, Pensacola; Cecily M. Parker, Pensacola. **Second Circuit:** Kelly O. Johnson, Tallahassee; Brian A. Newman, Tallahassee; Steven E. Sellers, Tallahassee. **Third Circuit:** John J.

Kendron, Lake City; Chase E. Larsen, Lake City; Meagan L. Logan, Lake City. **Fourth Circuit:** Jacob A. Brown, Jacksonville; Ramona S. Chaplin, Orange Park; Michael R. Freed, Jacksonville. **Fifth Circuit:** James Argento, Leesburg; Matthew A. Foreman, Spring Hill; Zachary J. McCormick, Mt. Dora. **Sixth Circuit:** Lynn E. Hanshaw, St. Petersburg; Kara E. Hardin, Zephyrhills; Zachary T. Zuroweste, Oldsmar. **Seventh Circuit:** Aaron D. Delgado, Daytona Beach; Ingrid Suarez Osborn, St. Augustine; Jessica Travers, Ponte Vedra. **Eighth Circuit:** Leonard E. Ireland, Jr., Gainesville; Brian S. Kramer, Gainesville; Peggy-Anne O'Connor, Gainesville. **Ninth Circuit:** Thomas B. Feiter, Orlando; Ricardo R. Pesquera, Orlando; William R. Ponall, Orlando. **Tenth Circuit:** Jonn David Hoppe, Lakeland; Frederick John Murphy, Jr., Bartow; Sherri Lynn Scarborough, Winter Haven; **Eleventh Circuit:** Javier A. Lopez, Miami; Roberto R. Pardo, Miami; Michelle A. Prescott, Miami Lakes; **Twelfth Circuit:** Jesse R. Butler, Sarasota; AnneMarie Rose Rizzo, Sarasota; Anthony J. Rolfes, Sarasota. **Thirteenth Circuit:** Monica W. Harris, Riverview; Gregory A. Hearing, Tampa; Andrew J. Mayts, Jr., Tampa. **Fourteenth Circuit:** Todd C. Brister, Panama City; Clifford C. Higby, Panama City; Kimberly D. Jewell, Panama City Beach. **Fifteenth Circuit:** Sarah A. Cohen, West Palm Beach; F. Malcolm Cunningham, Jr., West Palm Beach; Barry A. Postman, Palm Beach Gardens. **Sixteenth Circuit:** Kasey W. Liberatore, Key West; Cheri A. Shapiro, Key West; Brett T. Smith, Key West. **Seventeenth Circuit:** Valerie B. Barnhart, Davie; Anika Hardmon, Weston; Joshua J. Hertz, Pembroke Pines. **Eighteenth Circuit:** James J. Dowdy, Winter Springs; Andrea L. Fant, Melbourne; Christine A. Wasula, Altamonte Springs. **Nineteenth Circuit:** Manuel Farach, Hobe Sound; James Harpring, Vero Beach; Keri S. Norbraten, Palm City. **Twentieth Circuit:** M. Travis Hayes, Naples; Sanjay Kurian, Fort Myers; Richard J. Montecalvo, Naples.

17. Investment Committee Report

Chair Comisky reported that the long-term investment portfolio stood at \$50,786,000 two days prior to the board meeting. The fund recovered from losses incurred during recent periods of stock market volatility and is \$650,000 ahead. During the past 22 months, managers transferred \$4.4 million from the LT portfolio to cover short-term needs. The committee voted to recommend transfer of \$800,000 from the Large Cap Equity fund to a Fixed Income fund within the LT

portfolio. The previous week, the yield on the 10-year U.S. Treasury note dipped below the yield on three-month paper for the first time since 2007, and the yield inversion signals that more rebalancing might be necessary. The board voted unanimously to recommend approval of the transfer.

18. Executive Session

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

19. Communications Committee Report

Chair Westheimer referred to a Schwartz Media Strategy report for January that showed the Bar's digital media footprint increased by 1.2 percent, with approximately 1.5 million people exposed to the Bar's social media content on Facebook, Twitter, LinkedIn and YouTube. The *Bar News* and Journal digital transition has been successful, and daily news updates are being well received, with 453,000 paid views and 406,000 unique users in past three months. A member benefit video will be ready for the Annual Meeting and online lawyer referrals rose 128 percent in five weeks.

20. Executive Director's Report

Director Doyle reported that transitioning to a new general counsel has afforded an opportunity to redefine position responsibilities for significant cost savings. He reported that the Bar is evaluating all programs in light of Janus-type challenges in other states. A board runoff election is scheduled for April 22.

21. Young Lawyers Division Report

President George reported that a planned local bar affiliate portal has registered 45 participants. The YLD and the ABA have launched a joint financial literacy campaign to encourage law schools to divulge more data. YLD governors voted 31-2 to eliminate the Law School Division and generate substantial savings. The "#StigmaFree YLD" three inaugural videos were viewed 60,000 times on YouTube and inquiries have come from as far away as Spain.

22. President-Elect's Report

President-elect Stewart said the Special Committee on Technologies Affecting the Practice of Law has developed a voluntary registration program concept that would offer currently unregulated on-line legal service providers an opportunity to claim Bar registration in exchange for complying with a regulatory framework. Stewart said he hopes to present it for first reading in May.

23. Special Committee on Trust Accounting Solutions Report

Chair Sasso reported that the committee voted, over his objection, to cancel the Bar's May 2018 contract with financial online services companies, FIS/TMI, after committee members determined the vendors were incapable of developing a user-friendly program capable of helping Bar members manage trust accounts in compliance with Bar regulations. Sasso urged board members to give the vendors additional time. Board Technology Committee Chair Brian Burgoon reported that his committee voted to recommend terminating the contract because the vendors failed to deliver features initially promised, and that Bar staff has devoted \$60,000 worth of hours over two years without finding a solution. The board voted to terminate the contract.

24. Special Appointments

- **Public Member Screening Committee:** The board voted unanimously to approve the screening committee recommendation and forward **Dr. Sylvia F. Carra-Hahn**, Tampa; **Joseph ("Jody") Hudgins**, Naples; **Ruth R. Lynch**, Lauderhill to the Supreme Court, which will make the final appointment. Prior to the vote, at the request of Board Member C. Richard Nail, President Suskauer suggested the Rules Committee consider reviewing Rule 2-3.5(c) which limits Public Members to a maximum of 2, two-year terms.
- **Florida Patient's Compensation Fund, Board of Governors:** The board voted unanimously to reappoint incumbent **Craig Dennis**, of Tallahassee.

- **Statewide Nominating Commission for Judges of Compensation Claims:**
The board voted to recommend the following candidates: First Appellate District: **Billie Jo Taylor**, Jacksonville. Third Appellate District: **Thomas E. Glick**, Miami (incumbent). Fifth Appellate District: **Maria T. Fabre**, Orlando, (incumbent.)

25. Time and Place of Next Meeting

There being no further business before the board, President Suskauer adjourned the meeting at 12:50 p.m. The next board meeting is May 24 at The Breakers in Palm Beach.

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