The Florida Bar Board of Governors
May 24, 2019
The Breakers
Palm Beach, Florida

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
Bruce W. Robinson, 3rd 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
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
Jeffrey Rynor, 11th Circuit
Steven W. Davis, 11th Circuit
John H. (Jack) Hickey, 11th 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
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
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
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
Sharon B. Middleton, Public Member

**Members Absent**
Sam Nicholas Masters, 7th Circuit
Deborah B. Baker, 11th Circuit
F. Scott Westheimer, 12th Circuit
R. Sia Baker-Barnes, 15th Circuit
Marcy Lynn Shaw, 20th Circuit

2. **Staff in Attendance**
Joshua Doyle, Executive Director
John Berry, Director, Legal Division
Gypsy C. Bailey, General Counsel
Rick Courtemanche, Deputy General Counsel
Terry Hill, Director, Program Division
Francine Walkman, Director, Public Information and Bar Services
Cynthia Jackson, Director of Administration
Lori Holcomb, Division Director, Ethics and Consumer Protection
Adria Quintela, Staff Counsel, Lawyer Regulation
Elizabeth Clark Tarbert, Ethics Counsel
Rosalyn A. Scott, Assistant to the President
Jim Ash, Senior Editor, Florida Bar News

3. **Guests**
Jennifer Richardson, President, Florida Association for Women Lawyers
LaShonda Jackson, President, Virgil Hawkins Florida Chapter, NBA
David Aronberg, Government Lawyer Representative
Judge Scott Bernstein, Conference of Circuit Court Judges
Judge Joseph Williams, Conference of County Court Judges
4. Invocation and Pledge of Allegiance
Board member Lesser delivered the invocation and Government Lawyer Representative Aronberg lead the Pledge of Allegiance.

5. Minutes Approval
The Board approved the regular and grievance minutes from its March 29, 2019 meeting. The approval included ratifying the following Executive Committee actions:

1. At an April 12, 2019 meeting, the Executive Committee voted 11-0 not to oppose the Real Property, Probate and Trust Law Section taking the following legislative positions:
   - Opposing requiring any insurance policy issued to an individual condominium unit owner to prohibit the right of subrogation against the condominium association, including a change to Fla. Stat. 627.714(4).
   - Opposing continuing to allow fines in excess of $1,000 in homeowner associations to become liens for non-monetary damages against the parcel that can be foreclosed, including a change to Fla. Stat. 720.305(2).
   - Opposing HB 1075 in its entirety for requiring any insurance policy issued to an individual condominium unit owner to prohibit the right of subrogation against the condominium association and continuing to allow fines in excess of $1,000 in homeowner associations to become liens for non-monetary damages against the parcel that can be foreclosed, including changes to Fla. Stat. 627.714(4) and 720.305(2).

The committee also voted 11-0 to recommend approval of the amendments submitted by the Civil Procedure Rules Committee to the new proposed Rule of Civil Procedure 1.353 (Remittitur and Additur).

2. At a March 28, 2019, meeting the committee voted 10-0 to accept the recommendation of the Second DCA JNC Screening Committee and forward to the governor three nominees for a vacancy on the Second DCA
JNC Screening Committee and forward to the governor three nominees for a vacancy on the 10th Circuit JNC: John D. Hoppe of Lakeland, Frederick Murphy, Jr., of Bartow, and Sherri Scarborough of Winter Haven.

6. Consent Agenda
The board approved the consent agenda for the meeting, including the following items:

1. Appointing Chaloa German as public member to UPL Committee 4, Lynn Davis as public member to UPL Committee 6B, Andrew Dunkiel as an attorney member to UPL Committee 17A, Ian O’Flaherty and Nora E. Portuondo as public members to UPL Committee 11B, Mitchell J. Panter as an attorney member to UPL Committee 11C, and Stephanie R. Silver as an attorney member to UPL Committee 11D.

2. Appointing Manohar Athavale, Marcie D. Bour, Marcia Green, and Gwendolyn Thompson Lisker as public members, and Jordan Marcus Brill, Barbara P. Burke, Stephen James Demanovich, Gregory Samuel Redmon, and Martin Jay Sperry as attorney members to the Unlicensed Practice of Law Standing Committee, and reappointing Samuel H. Applebaum as a public member and Susanne McCabe as an attorney member to that committee.

3. Appointing Lance Robert Kiss, Alyssa J. Flood, and Anita Devi Persaud Misir as attorney members and Linda M. Woolard, Kathleen Mann, and Anita Browning as registered paralegal members of the Florida Registered Paralegal District Committee.

4. Approving legislative contracts between The Florida Bar and Metz, Husband & Daughton; Matt Bryan, Jeff Harley, Tom Griffin, David Daniel, Lisa Hurley, and Teye Reeves; and Pamela Burch Fort.

5. Approving creating a new corporate banking relationship with Prime Meridian.


7. Public Reprimand
President Suskauer delivered a public reprimand as directed by the Supreme Court.

FLMIC Board of Directors member Lake Lytal, Jr., reported that FLMIC donated $100,000 to the FLMIC Endowment Fund for Bar-sponsored activities in the past year and recently made a third, $100,000 contribution to the Endowment Fund.
9. Budget Committee Report
Chair Thompson moved the following items:
1. A $445,000 budget amendment to augment the existing $875,000 fund for outside legal expenses. The board voted unanimously to recommend approval.
2. Creation of a separate general litigation fund for paying legal expenses resulting from defense against discipline cases, rule changes, or other operating matters occasionally requiring legal defense. The board voted unanimously to recommend approval.
3. Chair-Elect Davis moved approval of the FY 2019-2020 Annual Budget, with $42.1 million in total revenues and $44.6 million in total expenses. The board voted unanimously to recommend approval.

10. Member Benefits Committee Report
Board Liaison Thompson moved addition of ROSS Intelligence, the AI-based, legal research tool, to the Member Benefit Program. Bar members would receive a 10% discount on per-month subscription fees for the first year. The Florida Bar would receive a 5% non-dues revenue share in the first year of a firm’s membership. The board voted unanimously to recommend approval.

11. Program Evaluation Committee Report
Chair Helsby reported the committee, over the previous year, evaluated 13 programs, five new program requests, 33 rule amendments, and four section bylaw revisions. Items on first reading:
1. Trial Lawyer Section bylaw amendments, primarily allowing law students to participate as affiliate members. No board action was required.
2. Tax Law Section bylaw amendments, primarily to modify section election procedures and responsibilities of section officers. No board action was required.
3. Amendments to SBP 1.60 and proposed new SBP 5.52 which would change the process by which section bylaws are amended, primarily to streamline the process. No board action was required.

Final action: The PEC approved the following reports and recommendations:
1. Florida Lawyers Assistance, Inc.: Having greater awareness of mental health issues; hiring a consultant to review operations; implementing better record keeping of staff time utilization, retaining a consultant to review operations, and possibly considering a rebranding that includes a name change. The board voted unanimously to recommend approval.
2. **Standing Committee on Technology**: Increasing communications between the standing committee and sections and divisions as it relates to technology; having each section and division appoint a liaison to the committee; creating additional educational programming; reviewing the LegalFuel website; creating a subcommittee on practice management; suggesting on an annual basis to the President and President-elect that the board liaison to standing committee also be a member of the Board Committee on Technology and appointing the YLD President-elect to the committee. The Board voted unanimously to recommend approval.

3. **Proposal to Establish a Standing Committee on Cannabis Law**: The committee recommended not establishing a standing committee, and possibly establishing a committee under the Business Law Section. The PEC voted to recommend deferring action until next year. No board action was required.

4. **Public Interest Law Section**: Updating section website; conducting a membership drive, establishing various committees and subcommittees to promote participation; studying new sources of revenue, including CLEs; issuing periodic email blasts, and conducting a membership survey. The board voted unanimously to recommend approval.

5. **Florida Bar Committee Awards**: Group Professionalism Award; Law Faculty/Administrator Award; William M. Hoeveler Judicial Professionalism Award; Parker Thomson Awards for Outstanding Legal Journalism in Florida; Susan Spender-Wendel Lifetime Achievement Award; Justice Harry Lee Anstead Award – Board Certified Lawyer of the Year; Award for Excellence in the Promotion of Board Certification; Justice Teaching Awards, (Judge of the Year, Volunteer of the Year, Teacher of the Year); Florida Bar Journal & News Excellence in Writing Award; Consumer Protection Lawyer of the Year Award, resulted in the following recommendations – conducting Florida Bar disciplinary history checks of potential recipients; having committees and sponsoring groups review the award process every three years for fairness; changing the criteria for the award for promotion of board certification and checking compliance with Bar advertising rules; reviewing Parker Thomson and Susan Spencer-Wendel Lifetime Achievement Awards in 2021-2022. The Board voted unanimously to recommend approval.

6. **Military Affairs Committee**: Redefining the Military Affairs Committee mission to include veterans’ affairs; changing the name to Military and Veterans Affairs Committee; establishing a Veterans Affairs Subcommittee. The Board voted unanimously to recommend approval.
7. **Section Leadership Conference:** Creating breakout sessions for smaller and larger section leaders; providing conference attendees with reference materials; focusing on increasing membership; allowing YLD leadership to present special programming; and encouraging sections to send upcoming officers to the conferences prior to the beginning of their section year. The board voted unanimously to recommend approval.

8. **Council of Sections:** Moving COS meetings to a day other than Saturday; streamlining standing board policy for bylaw amendments; conducting quarterly meetings, (two in-person and two by telephone); creating in-depth content on a quarterly basis; incorporating networking for COS members into in-person events. The board voted unanimously to recommend approval.

9. **Proposal to Create a Standing Committee on Criminal Justice:** Creating a 10 to 15-member special committee to provide a forum and act as subject-matter experts to work with legislative and criminal justice stakeholders on legislation without advocating for a particular legislative position. Tasking the special committee to begin work in July and setting a June 30, 2020 deadline. The Board voted unanimously to recommend approval.

10. **CLE Credit Expansion:** A review of requests to expand CLE credit for service on various Bar divisions, sections, committees and other groups resulted in the committee voting not to expand CLE credit. However, the vote was without prejudice regarding service on the 2037-2038 Constitution Revision Commission, which could be reviewed at that time. No board action was required.

11. **Proposal for Creating a Program for Disruptive and Unruly Lawyers:** The committee voted unanimously not to recommend creating a program. No board action was required.

12. **Former Bar President Report**
Former President Edward Blumberg of Miami, who served in 1997, thanked President Suskauer for her service.

13. **Tax Section Report**
Chair Michael D. Minton reported that section membership stands at 2,100, a 2% increase from the previous year. The U.S. Treasury Department adopted comments recently submitted by section leaders regarding the federal tax code. Section members raised $60,000 for a scholarship honoring a former chair.

14. **Investment Committee Report**
Chair Comisky reported that the Long-Term Fund totaled $51.9 million on April 30. He recommended that the Board approve the addition of two new investment
funds to be used in the long-term investment portfolio, Cohen and Steer Real Estate Securities, a Real Estate Investment Trust (REIT) fund and Oppenheimer Developing Market, an Emerging Markets Equity Fund. Additionally, Chair Comisky recommended selling the entire Invesco REIT fund, currently in the portfolio, to purchase the Cohen and Steer Real Estate Securities for $763,800 as well as selling one-half ($1,580K) of the Lazard Emerging Markets fund to purchase Oppenheimer Developing Markets fund. The Board voted unanimously to approve the four-part motion.

15. Legislation Committee Report
Co-Chair Lesser urged participation in the Key Contacts Program. Legislative consultant Amie Diaz Lyon reported that the Legislature approved Chief Justice Charles Canady’s top spending priority, $10 million in pay incentives for non-judicial court workers.

16. Family Law Rules Committee Report
Committee member Robert Merlin moved, pursuant to Florida Rules of Judicial Administration 2.140(e)(2), out-of-cycle approval of proposed new collaborative law forms 12.985(a)-(g). The forms are needed to serve as a general guide for attorneys that may be newly engaged in the Collaborative Law Process for Dissolution of Marriage since adoption of the statutes and procedure. The Board voted 39-0 to recommend approval.

17. Election of Executive Committee Members
The Board elected Melissa VanSickle of Tallahassee, Wayne LaRue Smith of Key West, and Lorna E. Brown-Burton of Fort Lauderdale.

18. Special Appointments
2. ABA House of Delegates – (2 lawyers to serve 2-year terms, commencing August 2019 at the conclusion of ABA Annual meeting; 1 lawyer to serve remainder of 2-year term, commencing immediately and ending August 2020 at conclusion of ABA Annual meeting) – The Board nominated John F. Harkness, Jr., Tallahassee and Scott M. Dimond, Miami, for two-year terms and Richard P. Lawson, New York, to fulfill the unexpired term.
3. Florida Board of Bar Examiners – (6 lawyers for 2 vacancies for 5-year terms commencing November 1, 2019) – The Board nominated Robert J. Alwine, II, Key Biscayne; Melinda L. McNichols, Miami; Bonnie Phillips-Williams, Miami; Paul J. Schweip, Miami; Caryn D. Shaw, Orlando and Stanley Wakshlag, Miami.

19. Trial Lawyers Section Report
Section Chair Mindy McLaughlin reported that the Trial Lawyer Summit successfully hosted the Chester H. Bedel Mock Trial Competition and the Teacher’s Law Symposium, attracting 12 Florida law school teams and 152 teachers from 22 counties, respectively.

20. Communications Committee Report
Chair-elect Myrtetus reported that the Florida Bar received the 2019 LexisNexis Community Outreach and Education Award for its Protect Florida Democracy campaign. The committee oversaw a Bar website redesign and a LegalFuel redesign and rebranding. The committee is compiling a database of non-lawyers available for Bar service.

21. Citizens Advisory Committee Report
Chair Tyree praised immediate past Chair Brown-Burton and committee members for their service. Vice Chair Sylvia Fernandez Carra-Hahn reported that the committee focused on promoting awareness of opportunities for non-lawyers to serve the legal profession.

22. Audit Committee Report
Chair Myrtetus reported that the committee met with Bar auditors to discuss the procedures and objectives of the 2019 audit, which begins in June. The Bar’s disaster response plan is being updated with a focus on IT. The committee has scheduled an update on the 2015 Five-Year IT Transition Plan in July. The project is under budget and “effectively” on schedule.

23. Appellate Court Rules Committee Report
Committee Chair Courtney Brewer moved, pursuant to Florida Rules of Judicial Administration 2.140(f), that the Board consider the following out-of-cycle amendments to the Florida Rules of Appellate Procedure:
   1. 9.120 Creates a new subdivision (f) to address notices of cross-review.
       Renumbers existing subdivision (f) as subdivision (g) and adds a reference to briefs on cross-review.
2. 9.210 Amends subdivision (a)(5)(B), (c) and (e) to address briefs on cross-review.
The Board voted 26-0 to recommend approval.

24. Disciplinary Procedure Committee Report
1. Chair Smith reported proposed amendments to Rule 3-6.1, Suspended and Disbarred Attorneys, on first reading. No Board action was required.
2. Chair Smith moved that the Board of Governors respond in support of a proposed petition by 50 Florida Bar members to delete Rule 1-3.2(b) in its entirety and create new rule, Rule 3-4.8, which would: provide that The Supreme Court of Florida may admit a person to membership in The Florida Bar under a consent agreement as provided in the Rules Relating to Admissions to the Bar; the consent agreement will be monitored by The Florida Bar, the Supreme Court of Florida may require that the member admitted under the consent agreement pay monitoring costs; failure to observe the conditions of the consent agreement or a finding of probable cause as to conduct of the member committed during the period of consent agreement may terminate the agreement and subject the member to all available disciplinary sanctions; and proceedings to determine compliance with conditions of admission will be processed in the same manner as matters of contempt. Florida Bar member Matthew Dietz will submit petition to the Supreme Court on behalf of 50 members on August 7, 2019. The Board voted unanimously to approve the recommendation.

The Board voted unanimously to recommend approval.

25. Board Review Committee on Professional Ethics Report
Board Review Committee on Professional Ethics Chair, Lawrence E. Sellers gave the committee report:

5b(i). Advertising Appeals 19-01372 and 19-01375
The Board Review Committee on Professional Ethics voted 6-4 to recommend that the Board of Governors affirm the Standing Committee on Advertising decision that the following statements in the television advertisements in file 19-01372 does not comply with Rule 4-7.13(b)(1), which prohibits statements that can be reasonably interpreted by a consumer as a prediction of success: “That play doesn’t work when we’re on your case. We know soft tissue injuries are serious, and we know how to prove it.” The Board of Governors approved the recommendation on a voice vote with objection.
The Board Review Committee on Professional Ethics voted 7-3 to recommend that the Board of Governors reverse the Standing Committee on Advertising decision regarding the television advertisement in file 19-01375, determining that it does comply with Rule 4-7.13(b)(1), which prohibits statements that can be reasonably interpreted by a consumer as a prediction of success, but that it is misleading in violation of Rule 4-7.13 because it uses “fault” to refer to the insurance company, when the tortfeasor is the party at fault: “But we know how to prove that your injuries are their fault.” The Board of Governors approved the recommendation on voice vote with objection.

5b(ii). Advertising Appeals 19-01896 and 19-01897
The Board Review Committee on Professional Ethics voted 9-1 to recommend that the Board of Governors reverse the decision of the Standing Committee on Advertising that the use of “multistate law firm” in the direct mail advertisements in files 19-01986 and 19-01987 is misleading and instead determine that the use of “multistate law firm” to describe a virtual law firm in which the 2 law firm owners have a mailing address but no physical address in Lake Worth, Florida, and who are licensed Alaska, Florida, District of Columbia, Maine, Missouri, North Dakota, New Hampshire, New York, Vermont and Wisconsin, is permissible in these advertisements because the advertisements state “Ice Legal attorneys and staff work in an office-free environment to keep its services affordable.” The Board of Governors approved the recommendation on voice vote without objection.

25a. Proposed Amendments to Rule 4-7.13 (Google AdWords) – Final Action
The Board Review Committee on Professional Ethics voted 10-0 on December 13, 2018, to recommend that the Board of Governors approve amendments to Rule 4-7.13 that the committee presented for final Board of Governors action. The proposed amendments would prohibit a lawyer from stating or implying that another lawyer is currently part of the advertising lawyer’s firm when that is not the case. New proposed commentary provides examples and guidance on compliance with the new proposed rule. Although it would not prohibit the purchase of a competitor’s name in Google AdWords (now GoogleAds), any resulting advertising could not state or imply the person whose name is purchased is part of the advertising lawyer or law firm. The Board of Governors approved the recommendation on voice vote without objection.

25b. Proposed Amendments to Rule 4-5.8 – Information Report
The chair reported that the Board Review Committee on Professional Ethics has been considering amendments to Rule 4-5.8 to address obligations regarding client files at the request of bar leadership. No Board of Governors’ Action was taken.
25c. Request for Formal Advisory Ethics Opinion on Guardian Ad Litem Program
The chair reported that the request by a member of the Special Committee on Child and Parent Representation, Tim Stevens of the Legal Aid Society of Palm Beach, that the Board of Governors direct the Professional Ethics Committee to issue an advisory ethics opinion on certain aspects of the Guardian Ad Litem Program was deferred due to lack of time after hearing from numerous commenters at the meeting. No Board of Governors action was taken.

25d. Rule 4-7.22 Amendments Order – Informational Report
The chair reported that the Supreme Court of Florida entered an order on April 15, 2019, declining to adopt amendments to Rule 4-7.22 on Qualifying Providers (also known as referral services). The proposed amendment was reluctantly filed by the bar at the direction of the Supreme Court of Florida, after the bar had resisted filing the amendment in prior cases. The amendment would have prohibited a lawyer from participating with qualifying provider/lawyer referral service if that provider/service referred consumers to multiple providers from the same event (e.g., referring a client to both a doctor and lawyer from the same car accident). No Board of Governors action was taken.

26. Young Lawyers Division Report
President George reported that the YLD: recruited more than 200 volunteers for a Hurricane Michael hotline; hosted more than 300 voluntary bar leaders at the affiliate outreach conference; added more than 400 videos to the Legal Accelerator website; conducted 13 technology roadshows; abolished the Law Student Division; launched a financial literacy campaign, and promoted health and wellness.

Committee Chair Matthew Wilson moved, pursuant to Florida Rule of Judicial Administration 2.140(e)(2), the following amendments to Rule 1.310, Rule 1.451, Rule 2.530, Rule 7.140, Rule 8.100, Rule 8.257, Rule 12.310, and adoption of new Rule 3.116, to allow remote testimony by communication equipment. The board voted unanimously to table the motion.

28. Executive Session
The board went into executive session to discuss disciplinary and other confidential matters.
29. Executive Director’s Report
Director Doyle reported that the general counsel is standardizing vendor contracts and travel policies have recently been modified. A new staff lecture series featured former Gov. Bob Martinez. Bar staff attorneys are performing pro bono work with local legal aid and non-lawyer staff are volunteering at a local food bank. A contract with a new financial institution could generate $70,000 in savings and rebates on company credit cards could total $250,000.

30. Annual Convention Committee Report
Chair Katherine Hurst Miller urged board members to attend a free CLE program, “How She Did It,” featuring prominent women lawyers, and the Judicial Luncheon, featuring Governor Ron DeSantis and Supreme Court members.

31. Remarks, Outgoing Board Member Margaret Diane Mathews
Board Member Mathews thanked Bar staff for their dedication and support.

32. Remarks, Outgoing Board Member Michael P. Dickey
Board Member Dickey thanked Bar staff and urged Board members to remember Hurricane Michael victims in the 14th Judicial Circuit.

33. Remarks, Judge Scott Bernstein, Conference of Circuit Court Judges
Judge Bernstein thanked Bar staff and urged the Board to continue inviting contributions from judicial liaisons.

34. Remarks, Outgoing Board Member Lawrence W. Tyree
Board Member Tyree dedicated his service as a public member to his late brother, a former solo practitioner.

35. President-elect’s Report
President-elect Stewart moved the following items for final action:
   1. 2019-2022 Strategic Plan. The board voted unanimously to recommend approval.
   2. The 2019-2020 Standing Committee Officers. The board voted unanimously to recommend approval.

36. President’s Report
President Suskauer thanked fellow Board members and Bar staff for their friendship and support.
37. **Time and Place of Next Meeting**

There being no further business before the board, President Suskauer adjourned the meeting at 4:23 p.m. The next Board meeting is July 19, 2019, at the Ocean Reef Club in Key Largo.
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