

The Florida Bar Board of Governors  
January 31, 2020  
The DoubleTree Hotel  
Tallahassee, Florida

**1. Roll Call**

John M. Stewart, President  
Dori Foster-Morales, 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  
Roland Sanchez-Medina, Jr., 11th Circuit  
Jordan A. Dresnick, 11th Circuit  
Jorge L. Piedra, 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  
J. Carter Andersen, 13th Circuit  
Paige A. Greenlee, 13th Circuit  
Clifford C. Higby, 14th Circuit  
R. Sia Baker-Barnes, 15th Circuit  
Ronald P. Ponzoli, Jr., 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  
John D. Agnew, 20th Circuit  
E. Duffy Myrtetus, Out of State  
Ian. A. Comisky, Out of State  
Eric L. Meeks, Out of State  
Santo DiGangi, YLD President  
Adam White, YLD President-Elect

**Members Absent**

Sam Nicholas Masters, 7th Circuit  
C. Richard Nail, 10th Circuit  
Nikki L. Simon, 11th Circuit  
Robin I. Bresky, 15th Circuit  
Diana Santa Maria, 17th Circuit  
Brian D. Burgoon, Out of State  
Joseph “Jody” D. Hudgins, Public Member  
Sharon B. Middleton, Public Member

**2. Staff in Attendance**

Joshua Doyle, Executive Director  
Gypsy C. Bailey, Director and General Counsel  
Allison Sackett, Director, Legal Division  
Terry Hill, Director, Program Division  
Rick Courtemanche, Deputy General Counsel  
Francine Walker, Director, Public Information and Bar Services  
Cynthia Jackson, CFO & Director, Administrative Division  
Elizabeth Clark Tarbert, Ethics Counsel  
Patricia A. Savitz, Staff Counsel  
Heather Savage Telfer, Senior Attorney, Ethics and Advertising  
Chase Early, Director, Professional Development  
Shanéé L. Hinson, Senior Attorney, Lawyer Regulation

Beth Kirkland, Program Coordinator  
Karla Eckardt, Practice Management Advisor  
Jessica Malloy, Membership Records Manager  
Brandon Gonzalez, IT Operations Manager  
Holly Brooks, Digital Communications Specialist  
Joni Hooks, Administrative Support IV  
Audra Morgan, Administrative Support II  
Arlee Coleman, Circulation Manager  
Rosalyn A. Scott, Assistant to the President  
Gary Blankenship, Senior Editor, Florida Bar News

### **3. Invocation and Pledge of Allegiance**

Board member Bruce Robinson delivered the invocation and board member Larry Sellers led the Pledge of Allegiance.

### **4. Welcome, Chief Judge Jonathan Sjostrom, 2nd Judicial Circuit**

Judge Sjostrom welcomed the board to Tallahassee. Florida's 1,000 judges need the legal community's assistance to serve 21 million citizens.

### **5. Remarks, ABA Delegate, Former President Edith Osman (1999)**

Bar leaders are encouraged to promote ABA membership. The deadline for participating the ABA 2020-2021 appointments process is February 21. The ABA is considering an access-to-justice proposal.

### **6. Remarks, Former President Stephen Zack (1989)**

President Stewart deserves praise for his leadership. Florida should renew a 2016 stance against external ownership of law firms.

### **7. Guests**

Kyleen Ann Hinkle, Florida Association for Women Lawyers  
Karla Ellis, Virgil Hawkins Florida Chapter, NBA  
David Aronberg, Government Lawyer Representative  
Judge Angela Cowden, Florida Conference of Circuit Judges  
Andy Sasso, Parliamentarian  
John Tomasino, Clerk of the Florida Supreme Court  
Judge Ross Bilbry, First Appellate District American Inn of Court  
Jessica Yeary, Florida Association of Criminal Defense Lawyers

Magie Ozarowski, Tallahassee Women Lawyers  
Amanda McKibben, Florida Government Bar Association  
G. C. Murray, Florida Justice Association

### **8. Citizens Advisory Committee Report**

Vice Chair Maggie Davis reported that the committee received a briefing from the Board of Legal Specialization and Education Committee. The CAC is considering proposing that the Bar conduct a public opinion survey to gauge the knowledge of civics and perception of the legal profession. A database to enhance non-lawyer participation in the judicial/legal system will be completed April 1.

### **9. Minutes Approval**

The board approved the minutes from its December 6, 2019, meeting in Orlando, Florida. The approval ratified the following actions taken by the Executive Committee since that meeting:

- At a December 20, 2019, meeting the Executive Committee voted to approve the Business Law Section filing a brief in *Wilsonart, LLC v. Lopez*, SC19-1336, on whether the Florida Supreme Court should adopt the federal summary judgment standard. The committee also agreed not to oppose the Family Law Section supporting legislation to establish conditions for the transition of custody and the return of a child to a parent under F.S. Chap. 751 when necessary to prevent detriment to the child and provided the parents fundamental rights are protected. The Executive Committee approved both items 12-0.
- At a January 21, 2020, meeting, the Executive Committee reviewed the recommendations from the Judicial Nominating Commission Screening Committee for vacancies on the state's 26 judicial nominating commissions, with the exception of the Third Circuit, where the application deadline was extended. The board approved slates of three nominees for each vacancy and forwarded the list to the board for its January 31, 2020, meeting. The Sixth, 10th, and 16th circuits each have two vacancies, the remaining JNCs have one. The committee also agreed not to oppose the Animal Law Section supporting Senate Bill 1048 that provides for the appointment of advocates for the interests of an animal in certain court proceedings. The Executive Committee approved both items 12-0.

## **10. Consent Agenda**

The board unanimously approved the consent agenda, including:

- Appointing **Michael P. McNally** as an attorney member to UPL Committee 10, **Maria Isabel Casablanca** as an attorney member to UPL Committee 11D, and **N. Abraham Issa** as an attorney member to UPL Committee 11A.
- Approving on final reading two items recommended by the Rules Committee -- Rule 19-1.5 Relationship to the Supreme Court Commission on Professionalism: Deletes the rule in its entirety, and Standing Board Policy 6.21 Bar Division, Section and Committee Programs, Within subdivision (d), adds that Out of State Division CLE courses held out of state that are professionally recorded and available as a Florida Bar online course may be co-sponsored by the CLE committee.
- Agreeing not to oppose the Real Property, Probate and Trust Law Section supporting revisions to Section 736.081456, Florida Statutes, to grant a trustee discretionary authority to reimburse the deemed owner of a grantor trust for income taxes attributable to the deemed owner.
- Approving the Bar's draft audit for the 2018-19 fiscal year.
- Appointing **Travis Bright**, of the Escambia-Santa Rosa Bar Association and **Renée Gordon** of the Tallahassee Bar Association to the board of Legal Services of North Florida.

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

Committee Chair Thomas Bopp presented the committee's report:

### **Final Action, Rule 4-7.18 Director Contact with Prospective Clients**

The committee voted 7-0 to recommend that the board approve proposed amendments to the commentary to Rule 4-7.18 to state that a lawyer may initiate the mutual exchange of contact information at a business-related event or on business-related social media (such as LinkedIn) without violating the prohibition against in-person solicitation, because these events are usually at least in part to facilitate networking, the initiation of exchange of contact information is expected at these events, the lawyer normally would not know the prospective client has the need for specific legal services, and the prospective client would normally be a sophisticated user of legal services and less likely to be unduly influenced by the request. The Board of Governors approved the recommendation on a voice vote without objection.

### **Advertising Review 20-01771**

The committee voted 7-2 to recommend that the board reverse the staff opinion on a billboard advertisement, which states “ambulances chase us” together with the prominent disclaimer “not really” and the disclaimer “images not based on actual events” is not misleading and complies with applicable lawyer advertising rules. The board approved the recommendation on a voice vote with objection.

### **Advertising Inquiry 39477**

The committee voted 9-0 to recommend that the board reverse the Standing Committee on Advertising determination that the advertisements must meet only the general requirements for all advertisements, and instead determined that the advertisements constituted targeted direct solicitation that must comply with the rules for targeted direct solicitation based on the facts that: the inquirer has indicated that the inquirer can target prospective members of a class action through their social media; the advertisements would appear in the social media feed only to individuals who self-identify in their social media as meeting specifications of the particular class; and the advertisements are not marketed via mass media to the general public. The board approved the recommendation on a voice vote without objection.

## **12. Legislation Committee Report**

Chair Lawrence Sellers reported that the committee was briefed on the state court system’s legislative priorities. The January 28 legislative reception was well attended. Legislative consultant Jim Daughton reported that Florida Bar priorities are advancing in the session. Ethics counsel Elizabeth Tarbert testified at a January 16 workshop of the House Civil Justice Subcommittee.

## **13. Investment Committee Report**

Chair Ian Comisky reported that as of December 31, the long-term fund contained \$55.367 million, a record. A strong stock market is propelling the investment portfolio to outperform established benchmarks.

## **14. Program Evaluation Committee Report**

Chair Scott Westheimer presented the following items on first reading:

- BLSE Policy 2.13, Grading, Review, and Petition Process (time for review and dissemination of materials).
- Rule 6-3.5 Standards for Certification (practice of law).

No board action was required.

Chair Westheimer presented the following PEC reviews for final action:

- The Animal Law Section review determined that the section has done an “exemplary job” and recommended, among other things, periodic membership drives, a website update, outreach to the Young Lawyers Division and joint functions with the Solo and Small Firm Section. The board approved the recommendation on a voice vote without objection.
- The Governmental and Public Policy Advocacy Committee review determined that GPPAC is doing “remarkably well” and recommended, among other things, that more meetings be held outside of Tallahassee, the committee work with Bar leaders to develop a more convenient re-enrollment strategy and consider a joint podcast with the Young Lawyers Division. The board approved the recommendation on a voice vote without objection.
- Chair Westheimer moved a recommendation from the Constitutional Judiciary Committee to terminate the Judicial Evaluation Program. The board approved the recommendation on a voice vote without objection.
- Chair Westheimer moved amendments to the Bylaws of the Animal Law Section. The board approved the amendments on a voice vote without objection.

### **15. Florida Commission on Access to Justice Request for Input: Advanced Florida Registered Paralegals**

President Stewart reported that after receiving comments from three Bar sections, he is referring a Commission on Access to Civil Justice request for input regarding Advanced Florida Registered Paralegals to the Rules Committee for further review.

### **16. Executive Session**

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

### **17. Communications Committee Report**

Chair Duffy Myrtetus reported that the Board of Legal Specialization and Education is working with Sachs Media Group on a contract addendum to promote board certification. A joint subcommittee with the Budget Committee is working to develop standards and guidelines to effectively integrate website advertising for the Bar.

## **18. Disciplinary Procedure Committee Report**

Chair Ron Ponzoli presented the following proposed rule amendments on first reading:

- Rule 1-7.3 Membership Fees (Notice from The Florida Bar instead of Executive Director).
- Rule 3-5.2 Emergency Suspension and Interim Probation or Interim Placement on the Inactive List for Incapacity Not Related to Misconduct ((g) avoiding retrial).
- Rule 4-6.1 Pro Bono Public Service (Deleting specific wording requirement).
- Rule 5-1.2, Trust Accounting Records and Procedures (Delinquency Notices to Members).

No board action was required.

## **19. Young Lawyers Division Report**

President Santo DiGangi reported that YLD leaders met in Tallahassee with the Governor's Deputy General Counsel, Nick Primrose, Agriculture Commissioner Nikki Fried, Attorney General Ashley Moody and legislators during YLD Legislative Day. The division observed 38 presentations and donated more than \$50,000 in grants at the Affiliate Outreach Conference in January. The "Stigma Free YLD" campaign is being updated with new videos.

## **20. Executive Director's Report**

Executive Director Joshua Doyle asked division directors to introduce the following Bar staff: **Chase Early**, Director, Professional Development; **Shaneé L. Hinson**, Senior Attorney, Lawyer Regulation; **Beth Kirkland**, Program Coordinator, Center for Professionalism; **Karla Eckardt**, Practice Management Advisor, Practice Resource Center; **Brandon Gonzalez**, IT Operations Manager; **Jessica Malloy**, Membership Records Manager, Membership Records; **Holly Brooks**, Digital Communications Specialist, Communications; **Joni Hooks**, Administrative Support IV, Office of General Counsel; **Audra Morgan**, Administrative Support II, Attorney Consumer Assistance Program; **Arlee Coleman**, Circulation Manager, Florida Bar Journal & News.



## **21. Special Committee on Non-Voting Board Appointments Report**

Committee member Lorna Brown-Burton urged board members to attend a February 7 town hall meeting at the Winter Meeting in Orlando to discuss proposed updates to Standing Board Policy regarding the appointments of non-voting board members.

## **22. Trial Lawyers Section Report**

Chair Clifford Sanborn III reported that the section's 5,500 members represent every practice area. The section sponsors the Teacher's Law School, the Chester Bedell Mock Trial Competition, and the Advanced Trial Advocacy Forum.

## **23. Special Appointments**

After reporting that appointments to the Florida Bar Foundation Board of Directors are being tabled, President Stewart moved the following appointments:

- Florida Rural Legal Services Board of Directors (1 lawyer for a 3-year term beginning immediately. The board voted to appoint **John Webb** of Fort Myers.

## **24. Budget Committee Report**

Chair-elect Melissa VanSickle thanked board members for attending the annual budget workshop on January 29. The proposed budget for Fiscal Year 2020-2021 will be little changed from the current year and submitted for first approval at the March meeting.

## **25. President-elect's Report**

President-elect Foster-Morales urged board members to submit committee assignment requests and to promote section work.

## **26. Civil Procedure Rules Committee Report**

Pursuant to Florida Rule of Judicial Administration 2.140(f), Chairman Mike Orr moved final action on proposed Out-of-Cycle Amendments to Florida Rules of Civil Procedure, as requested by the Supreme Court to address concerns regarding the eviction process. The committee proposed the following three new forms:

- A Residential Eviction Summons.
- A Summons Action for Back Rent.
- An Answer to Residential Eviction.

The board voted 40-0 to recommend approval.

### **27. President's Report**

President Stewart reported that he did not anticipate the board adopting a position related to the ABA access-to-justice proposal, but if the board did, the decision would be vetted by the Executive Committee.

### **28. Audit Committee Report**

Chair Eric Meeks reported that at a meeting the previous day, auditors had “nothing but positive things to say” about the CFO and Director, Administrative Division, Cynthia Jackson and her staff.

### **29. Leadership Academy Committee Report**

Committee member Judge Pauline Drake reported that six academy graduates are members of the Florida judiciary, four graduates are current board members and two graduates recently received Pro-Bono Awards. Class VII includes, among others, prosecutors, public defenders, and presidents of local affiliates.

### **30. Remarks, Chief Justice Charles Canady, Florida Supreme Court**

Chief Justice Canady reported that he was pleased by preliminary budget proposals in the House and Senate that would fund new facilities for the Second District Court of Appeal, and more court interpreters and court staff to speed resolution of cases. The Chief Justice said he was encouraged with the progress of proposed legislation that would allow county court appeals to flow directly to the district courts of appeal.

### **31. Time and Place of Next Meeting**

There being no further business before the board, President Stewart adjourned the meeting. The next board meeting is March 18-21 at the Colonial Williamsburg Inn and Lodge, Williamsburg, Virginia.

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