

The Florida Bar Board of Governors
May 15, 2020
By Videoconference

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
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
Nikki L. Simon, 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
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
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
Brian D. Burgoon, Out of State
Santo DiGangi, YLD President
Adam White, YLD President-Elect
Joseph “Jody” D. Hudgins, Public Member
Sharon B. Middleton, Public Member

Members-Elect

Tad Allen Yates, 9th Circuit
Alice Sum, 11th Circuit
Linda Goldstein, Public Member

Members Absent

Adam G. Rabinowitz, 17th Circuit

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
Mike Garcia, Director, Research, Planning and Evaluation
Patricia A. Savitz, Staff Counsel
Ken Bryk, Bar Counsel
Rosalyn A. Scott, Assistant to the President
Jim Ash, Senior Editor, Florida Bar News

3. Remarks, Chief Justice Charles Canady, Florida Supreme Court

Chief Justice Charles Canady updated board members on COVID-19 and its impact on the courts. No date has been set for the resumption of jury trials. Based on the recommendations of health experts, and with the use of protective measures, Bar exams will be administered in Tampa and Orlando. A budget shortfall may force court clerks to furlough workers. Judges and lawyers deserve praise for their response to the pandemic.

4. Executive Session

Board members went into executive session to discuss disciplinary and other matters.

5. Invocation and Pledge of Allegiance

Board member Thomas Bopp delivered the invocation and Board member Jack Hickey led the Pledge of Allegiance.

6. Minutes Approval

The board approved the minutes from its Executive Committee/Board of Governors meeting on March 20, 2020. That included ratifying the following Executive Committee actions taken since then:

- On March 26, 2020, the Executive Committee voted 13-0 to approve a political position: If a stay at home (shelter in place) order is issued by a Florida state, regional or local governmental

entity, such Order should state that law firms are essential businesses either entirely or when “necessary to assist in compliance with legally mandated activities.” The committee also voted 13-0, after receiving a request, to authorize a recount of the 2020 president-elect election results as set out by the procedures of the Election Services Corporation.

- On April 24, 2020, the Executive Committee voted 13-0 to accept the Rules of Judicial Administration Committee’s suggestions following the rule changes approved by the Supreme Court in *In re: Amendment to Rule of Judicial Administration 2.140, SC19-2014*. The recommended changes would clarify the steps of the rule amendment process in a rule comment.

7. Consent Calendar

The board approved the consent calendar, including the following items.

- Appointing Anisha Patel and Susan Papagikos as new attorney members and Dr. Steve Maxwell as a public member to the Standing Committee on Unlicensed Practice of Law. Gilbert J. Alba was reappointed to the committee as a lawyer member and N. Abraham Issa, Paul Pelton, Jill Klaskin Press, and Brian M. Rubright were reappointed as public members.
- Approving on final reading an amendment to Rule 1-7.3 Membership Fees: Within subdivisions (c) and (e), changes notice of delinquency from the executive director to the bar.
- Approving on final reading an amendment to Rule 5-1.2 Trust Accounting Records and Procedures: Within subdivision (d)(5), adds that The Florida Bar will send a notice to delinquent bar members of the delinquency for failure to provide the trust account certificate.
- Approving on final reading an amendment to Fee Arbitration Rule IV, Hearings: Within Subdivision (d) adds requirements for parties who call expert witnesses in fee arbitration.
- Approving on final reading an amendment to BLSE Policy 2.13, Grading, Review, and Petition Process: Within subdivision (e) (2),

removes the statement that the review panel recommendation needs to be issued before the registration deadline for the following year's certification exam.

- Approving the legislative consulting contracts between The Florida Bar and Metz, Husband & Daughton, P.A.; between The Florida Bar and Matt Bryan, Jeff Harley, Jim A. Naff, David Daniel, and Andrea Becker; and between The Florida Bar and Pamela Burch Fort.

8. Special Committee on Non-Voting Board Appointments Report

Special committee chair and former President Eugene Pettis presented the special committee's recommendations. President Stewart directed the Rules Committee to consult with the special committee and report to the board in June on possible amendments to Standing Board Policy 1.20. No board action was required.

9. Guests

President Stewart recognized the following guests:

Dax Bello, Cuban American Bar Association

Kyleen Ann Hinkle, Florida Association for Women Lawyers

Grasford W. Smith, Virgil Hawkins Florida Chapter, NBA

David Aronberg, Government Lawyer Representative

Judge Joey Williams, Conference of County Court Judges of Florida

Judge Angela Cowden, Florida Conference of Circuit Judges

Andy Sasso, Parliamentarian

10. Legislation Committee Report

Legislative advocates Aimee Diaz Lyon and Jim Daughton presented updates. Governor Ron DeSantis could be forced to veto hundreds of millions of dollars from the FY 2020-2021 state budget that lawmakers approved in March. The court system could be vulnerable to staff reductions. No board action was required.

11. Budget Committee Report

Budget Chair Steven Davis presented an update. Current year expenses are projected to be lower than originally budgeted by approximately 15%, mostly through the cancellation of live events and other programs in the last quarter of the year that included travel and other on-site support. Fee revenues remain largely unchanged. The Short-Term Fund should cover operational needs through the end of the fiscal year. Chair-elect Melissa Van Sickle moved adoption of two objections to the proposed budget by Executive Director Joshua Doyle. The first would reduce next year's contribution to the Client Security Fund by \$500,000 but continue to authorize them to utilize accumulated reserves of \$1.5 million to claims and second was to eliminate two vacant FTE for an additional savings of \$101,020. The board voted unanimously to adopt the objections. Chair-elect Van Sickle moved final approval of the Fiscal Year 2020-2021 budget, as amended, with General Fund Revenues of \$42.5 million, expenses of \$44.7 million, an operating loss of \$2.2 million and a projected ending fund balance of \$26.2 million. The board voted unanimously to recommend approval of the Fiscal Year 2020-2021 budget, which will be forwarded to the Supreme Court for final approval.

12. Executive Committee Nominations

President Stewart asked for nominations to the Executive Committee. Board member Melissa Van Sickle nominated Michael Orr. Board member Sandra Diamond nominated Lorna Brown-Burton. Board member Duffy Myrtetus nominated Jay Kim. Board member Wayne Helsby nominated Paige Greenlee. Board member Roland Sanchez-Medina nominated Robin Bresky. Board member Jordan Dresnick nominated Wayne Smith. Board members voted by electronic ballot to elect: Paige Greenlee, Jay Kim and Michael Orr.

13. Rules Committee Report

Chair Amy Farris presented.

Final Action: Rule 4-1.14 Client Under a Disability -- Conforms Florida's rule to ABA Model Rule with some changes to address specific Florida authority, including changing terminology from "disability" to "diminished capacity," adds subdivision (c) regarding confidentiality and implied authority to disclose confidential information, and commentary regarding taking protective action and emergency legal assistance. The board voted 42-0 to waive first reading. The board voted 42-2 to recommend approval.

14. President's Report

President Stewart congratulated Mike Garcia, Florida Bar Director of Research, Planning & Evaluation, for his 30 years of service and Florida Bar Programs Division Director Terry Hill for his 15 years of service.

15. President-elect's Report

President-elect Dori Foster-Morales urged board members to watch for notice of the July meeting, tentatively scheduled for Jacksonville.

16. Special Appointments

- ABA House of Delegates: (Two lawyers to serve two-year terms, commencing August 2020 at conclusion of ABA Annual Meeting – 2021 ABA Midyear meeting in February will be first meeting attended.) John M. Stewart will automatically fill one two-year term as past president; Michael G. Tanner will automatically fill one two-year term as incoming president-elect. The board voted by electronic ballot to appoint **Richard Lawson**, Tampa, and **Warren Chin**, Sarasota.
- Florida Lawyers Assistance, Inc., Board of Directors: (Four lawyers and one non-lawyer to serve three-year terms commencing July 1, 2020.) The board voted by electronic ballot to appoint **Michael Alan Sneeringer**, Naples; **Catherine A. Cullen**, West Palm Beach; **Matthew Gissen**, Miami; **Mark Alan Journey**, Fort Lauderdale; and **Whitney George**, Jacksonville, non-lawyer.

- Florida Medical Malpractice Joint Underwriting Association Board of Governors: (One lawyer to serve a two-year term commencing July 1, 2020.) The board voted by electronic ballot to appoint **Rafael E. Martinez**, Orlando.

17. Time of Next Meeting

There being no further business before the board, President Stewart adjourned the meeting at 1:04 p.m. The next board meeting will be conducted via videoconference on June 17.

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