

Florida Bar Board of Governors
July 17, 2020
By videoconference

1. Roll Call

Dori Foster-Morales, President
Michael G. Tanner, President-Elect
Jeremy C. Branning, 1st Circuit
Lawrence E. Sellers, Jr., 2nd Circuit
Melissa VanSickle, 2nd Circuit
Kris B. Robinson, 3rd Circuit
Michael Fox Orr, 4th Circuit
W. Braxton Gillam, IV, 4th Circuit
Renée E. Thompson, 5th Circuit
Joshua T. Chilson, 6th Circuit
Sandra Fascell Diamond, 6th Circuit
Philip J. Bonamo, 7th Circuit
Stephanie M. Marchman, 8th Circuit
Thomas P. Wert, 9th Circuit
Julia L. Frey, 9th Circuit
Tad A. Yates, 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
Alice Sum, 11th Circuit
F. Scott Westheimer, 12th Circuit
Kenneth G. Turkel, 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 M. Comisky, Out of State
Eric L. Meeks, Out of State
Brian D. Burgoon, Out of State
Adam White, YLD President
Todd L. Baker, YLD President-Elect
Joseph “Jody” D. Hudgins, Public Member
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
Cynthia Jackson, CFO & Director, Administrative Division
Rick Courtemanche, Deputy General Counsel
Elizabeth Clark Tarbert, Ethics Counsel
Patricia A. Savitz, Staff Counsel
Krys Godwin, Director, Legal Publications
Francine Walker, Director, Public Information and Bar Services
Mike Garcia, Director, Research, Planning and Evaluation
Rosalyn A. Scott, Assistant to the President
Jim Ash, Senior Editor, Florida Bar News

3. Swearing In of New Members

President Dori Foster-Morales administered the oath to new members not sworn in during the Virtual Annual Convention.

4. Executive Session

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

5. Remarks, Chief Justice Charles Canady

Chief Justice Charles Canady reported that the courts are continuing to hear essential matters and conduct remote proceedings, but a resurgence of the COVID-19 pandemic has slowed a phased, regionally based plan for resuming normal court operations.

6. Invocation and Pledge of Allegiance

Board member Jeffrey Rynor delivered the invocation and board member Alice Sum led the Pledge of Allegiance.

7. Legislation Committee Meeting Report

Chair Julia Frey presented.

Items for Final Action:

- Sunsetting The Florida Bar's proposed legislative positions for the 2018-2020 biennium, including all sections, divisions and committees. The board voted without objection to approve.
- Reactivating The Florida Bar's proposed legislative positions, as modified, for the 2020-2022 biennium, including all sections, divisions and committees. The board voted without objection to approve.

Legislative advocate Jim Daughton reported that nearly \$1 billion in pandemic-related budget vetoes included spending for 10 new trial court judgeships and a Second District Court of Appeal facility. No board action was required.

8. Guests

President Dori Foster-Morales recognized the following guests:

A. Dax Bello, Cuban American Bar Association

Kimberly E. Hosley, Florida Association for Women Lawyers

Kevin Nash, Virgil Hawkins Florida Chapter, NBA

Karen J. Ladis, Dade Legal Aid

Vivian Cortes Hodz, Voluntary Bar Coordination Committee

Altanese P. Phenelus, Miami-Dade County Attorney's Office.

9. Minutes Approval

The board unanimously approved the minutes for its June 17, 2020, meeting. That approval included ratifying the Executive Committee action on June 15. The committee voted 10-0, with one abstention, to recommend acceptance of an amendment to Florida Rule of Judicial Administration 2.420(d)(1)(B)(vii) and several Florida Juvenile Rules of Procedure, as recommended by the Rules of Judicial Administration and Juvenile Court Rules Committees.

10. Consent Agenda

The board unanimously approved the Consent Agenda, including:

- Appointing Jan Jung as public member to UPL Circuit Committee 12 and Daniel F. Tordella as an attorney member of the Florida Registered Paralegal District Committee.
- Approving the legislative consulting contracts between the Business Law Section and Metz, Husband & Daughton, P.A., the Trial Lawyers Section and Messer Caparello P.A., and the Family Law Section and Smith, Bryan and Myers, Inc.
- Approved refunding a portion of the Bar's annual membership fees to a member who objected to the Bar's Legislative Position 14 supporting that any government entity that issues a stay-at-home order should include that law firms are essential services either entirely or as needed to comply with legally mandated activities.
- Approved accepting the annual audit of The Florida Bar Retiree Health Plan for the calendar years 2018-2019.

11. Investment Committee Report

Chair Ian Comisky presented.

The Long-Term Fund contained in excess of \$52 million on July 8, an increase from \$45.8 million in March. No board action was required.

12. Program Evaluation Committee Report

Chair Brian Burgoon presented.

Items for Final Action:

- Rule 6-3.14 Sunset of Certification Areas. The Board of Legal Specialization will petition the Supreme Court of Florida to close the certification area to new applicants if there have not been any applicants in five consecutive years. The recertification standards of the certification area would remain in effect. The board voted without objection to approve.

- Move placement of amendment from 6-3.3(b) to a new rule 6-3.14. The board voted without objection to approve.
- Bylaws, Council of Sections. Within Article II, Section 1, adds the Young Lawyers Division as a separate voting section in the council. Within Article IV, reorganizes and clearly separates the treasurer and secretary into two separate offices. Within Article VI, Section 1(b), eliminates the Legislative Committee. Within Article VII, Section 3, eliminates the reference to a specific dollar responsibility for each section.
- Bylaws, City, County and Local Government Law Section. In Article II, Section 5(b), restricts affiliate members to persons who have shown some dedication to paraprofessional practices by becoming certified by The Florida Bar or the National Paralegal Association and eliminates affiliate membership for law students registered to take the Bar Exam, (and a series of amendments to Articles III, IV and VI.) The board voted without objection to approve the proposed bylaw amendments.
- Proposal to Approve a Military and Veterans Affairs Committee Mentor Network Program. The Military and Veterans Affairs Committee is creating a new program within its committee entitled the “Military Spouse Attorneys’ Mentor Network Program.” The board voted without objection to approve.

13. Civil Procedure Rules Committee Report

Board Liaison Gregory Wiess presented.

Items for Final Action:

- Pursuant to Florida Rule of Judicial Administration 2.140(b), the Civil Procedure Rule Committee proposes amendments to Florida Rules of Civil Procedure 1.260 Survivor; Substitution of Parties. The board voted without objection, with one member absent, to accept.
- Pursuant to Florida Rule of Judicial Administration 2.140(b), the Civil Procedure Rules Committee proposes amendments to Florida Rules of Civil Procedure 1.650 Pre-suit Discovery. The board voted without objection, with one member absent, to accept.

14. Communications Committee Report

Chair Steven Davis presented.

The committee reviewed recent analytics reports. From May to June the Bar posted in excess of 945 social media posts generating 38,550 interactions and 2.8 million impressions. The Bar website in June received 3.5 million views, and 1.5 million views in July to-date, including 118,000 Find a Lawyer views. The COVID-19 page generated 68,000 views. President Dori Foster-Morales’ virtual town halls for

each of the 20 judicial circuits begins with the 11th Circuit on August 5 and concludes September 24 with the 3rd Circuit. The Voluntary Bar Liaison Committee began a “Restart, Rebound and Recover” campaign July 28 that will include virtual town halls and webinars. President Dori Foster-Morales’ “On the Docket with Dori” video series begins in August. No board action was required.

15. Technology Committee Report

Chair Jay Kim presented.

The committee will develop guidelines or proposed rule amendments addressing uniformity in remote proceedings. The committee will ask software vendors to add features designed for legal use to videoconferencing platforms. The committee will continue development of a rule amendment addressing the use of free email service and attorney/client privilege. The committee will ask the Standing Committee on Technology to develop instructional material for Zoom and other videoconferencing platforms; to study block chain technology and cryptocurrency and their implications for the legal profession; and to review Florida Bar advertising rules. No board action was required.

16. Young Lawyers Division Report

President Adam White presented.

The YLD’s Equality and Inclusion Committee is sponsoring a “#YLDIsMe” campaign featuring testimonials from diverse members of the legal profession. The YLD is sponsoring an August 7 webinar on diversity. The YLD’s Health and Wellness Committee will be updating programming. YLD board member Masimba Mutamba serves on The Florida Bar’s COVID-19 Pandemic Recovery Task Force. No board action was required.

17. Special Committee on Nonvoting Board Members Report

Special Committee Chair Eugene Pettis presented.

Items for Final Action:

- Rules Committee proposal to amend Standing Board Policy 1.20(d) State, Voluntary or Local Bar Association Groups. After discussion, the board voted without objection to reject the proposed amendments. President Dori Foster-Morales directed a subcommittee of the Program Evaluation Committee to consider the Board liaison role in connection with its review of ways to increase diversity among Board of Governors membership.

18. Criminal Procedure Rules Committee Report

Liaison Todd Baker presented.

Items for Final Action:

Pursuant to Florida Rule of Judicial Administration 2.140(b), the Criminal Procedure Rules Committee submits proposed amendments to the Florida Rules of Criminal Procedure. The amendments were developed over the past three years and anticipated to be part of the 2021 cycle report. The Florida Supreme Court has subsequently eliminated cycle reports. The board voted without objection, with one member absent, to accept.

19. Juvenile Procedure Rules Committee Report

Board Liaison Kenneth Turkel presented.

Items for Final Action:

- Pursuant to Florida Rule of Judicial Administration 2.140(e), the Juvenile Procedure Rules Committee submits for fast consideration: Rule 8.255 Process, Diligent Searches, and Service of Pleadings and Papers; Rule 8.345 Post-Disposition Relief; Rule 8.415 Judicial Review of Dependency Cases; and Rule 8.400 Case Plan Development. The board voted without objection, with one member absent, to accept.
- Pursuant to Florida Rule of Judicial Administration 2.140(b), the Juvenile Procedure Rules Committee submits proposed amendments to the Florida Rules of Juvenile Procedure. The amendments were made over the last three years and were anticipated to be part of the 2021 cycle report. The Florida Supreme Court has subsequently eliminated cycle reports. The board voted without objection, with one member absent, to accept.

20. Appellate Court Rules Committee Report

Liaison Amy Farrior presented.

Items for Final Action:

- Pursuant to Florida Rule of Judicial Administration 2.140(f)(1), the committee proposes amendments to previously approved new Florida Rule of Appellate Procedure 9.143 Crime Victims in Reaction to a Court Referral. In compliance with Florida Rule of Judicial Administration 2.140 (b)(3), the board voted without objection, with one member absent, to accept.

21. Special Appointments

Florida Legal Services, Inc. Board of Directors – One lawyer to serve a three-year term commencing immediately and ending June 30, 2023. Applicants: Andrew J. Chmelir, Winter Springs; Camille A. Frazer, Port St. Lucie; Amanda Singh Keller, Tampa; Carlos A. Lievano, III, Miami; Aaron M. Swift, St. Petersburg; *Shayla

Nicole Waldon, Miami. (*Recommended by Florida Legal Services, Inc.) By electronic ballot, board members voted to recommend Shayla Nicole Waldon.

22. President's Report

President Dori Foster-Morales praised Executive Director Joshua Doyle and Bar staff for a successful Virtual Bar Meeting. There were 8,700 total registrations, with 5,916 participants and 3,000 unique participants compared with 1,000 registrations for a traditional Annual Meeting. General Assembly generated 1,650 unique views, compared with 250-300 participants at traditional assemblies. The virtual event generated a small surplus compared with traditional convention costs, including staff time, of approximately \$250,000. Virtual town halls will create a greater opportunity for Bar leadership to interact with members. Virtual board meetings will be structured to limit Zoom fatigue.

23. President-elect's Report

President-elect Michael Tanner said the COVID-19 Pandemic Recovery Task Force that he chairs is developing a schedule for completing recommendations. The task force will focus on member benefits, CLEs, practice management, and development of proposed rule amendments. Board members are urged to submit recommendations.

24. Time and Place of Next Meeting

There being no further business before the board, President Dori Foster-Morales adjourned the meeting at 12:43 p.m. The next virtual board meeting is scheduled for Monday, August 24, at 3 p.m.

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