

Florida Bar Board of Governors
May 21, 2021
Duck Key, Florida
(And via Videoconference)

1. Roll Call

Dori Foster-Morales, President
Michael G. Tanner, President-Elect
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
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
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 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

Jeremy C. Branning, 1st Circuit
Kenneth G. Turkel, 13th Circuit

2. Staff in Attendance

Joshua Doyle, Executive Director
Allison Sackett, Director, Legal Division
Gypsy Bailey, General Counsel and Director, Division of Ethics & Consumer Protection
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
Francine Walker, Director, Public Information and Bar Services
Mike Garcia, Director, Research, Planning and Evaluation

Mikalla Davis, Attorney Liaison, Rules
Roselyn Scott, Assistant to the President
Leslie Reithmiller, Assistant to the President
Jim Ash, Senior Editor, Florida Bar News

3. Invocation and Pledge of Allegiance

Board member Sia Baker-Barnes delivered the invocation and Young Lawyers Division President Adam White led the Pledge of Allegiance.

4. Guests

President Dori Foster-Morales recognized the following guests:

Florida Supreme Court Justice John D. Couriel
Florida Supreme Court Justice Alan Lawson
Sixteenth Judicial Circuit State Attorney Dennis Ward
Sixteenth Judicial Circuit Public Defender Robert Lockwood
Andy Sasso, Parliamentarian
A. Dax Bello, Cuban American Bar Association
Kimberly E. Hosley, Florida Association for Women Lawyers
Kevin Nash, Virgil Hawkins Florida Chapter, NBA
Karen Ladis, Legal Aid Representative
Vivian Cortes Hodz, Voluntary Bar Representative
Altanese P. Phenelus, Government Lawyer Representative
Citizens Advisory Committee Vice-Chair Vincent Cuomo
Citizens Advisory Committee Member Patience Burns
Citizens Advisory Committee Member Karen Cespedes
Citizens Advisory Committee Member Maggie Davis
Citizens Advisory Committee Member Jordan Dresnick
Citizens Advisory Committee Member Lawrence Gordon
Citizens Advisory Committee Member Hong Potomski
Citizens Advisory Committee Member Wilhelmina Tribble
Citizens Advisory Committee Member Holly Tyrrell

5. Introduction of New Board Members

Board member Steven Davis introduced the Honorable Leslie B. Rothenberg, Governor-elect, 11th Judicial Circuit. Board member Gary Lesser introduced Michael J. Gelfand, Governor-elect, 15th Judicial Circuit. Board member Renée Thompson introduced Gordon J. Glover, Governor-elect, 5th Judicial Circuit. Board

member Ian Comisky introduced Out-of-State Governor-elect Donald J. Workman of Washington, D.C. Young Lawyers Division President Adam White introduced Young Lawyers Division President-elect designate Iris Elijah.

6. Welcome, Sixteenth Circuit Chief Judge Mark Jones

Chief Judge Jones welcomed the board to the “fabulous Florida Keys” and praised the legal community’s resilience during the COVID-19 pandemic.

7. Remarks, Florida Supreme Court Justice Alan Lawson

Justice Lawson said President Dori Foster-Morales’ “exceptional leadership during such a difficult and challenging year is greatly appreciated by the entire court.”

8. Minutes Approval

The board approved minutes from its March 5, 2021, regular meeting and from its April 29, 2021, interim meeting. That included ratifying the following actions taken by the Executive Committee:

- On March 4, 2021, the committee voted without objection to approve a Business Law Section request to submit comments on proposed amendments to Rule of Civil Procedure 1.510.
- On March 25, the committee voted 11-0 by email ballot to approve the proposed Elder Law Section legislative position: “Opposes legislation that amends any statutes relating to the presumptively reasonable compensation for attorneys for personal representatives and trustees in Florida Probate Code and the Florida Trust Code unless proposed legislation preserves the standards currently reflected in each of those codes.”
- On April 6, 2021, the committee voted 12-0 by email ballot to approve a request by the Pro Bono Legal Services Committee, Business Law Section, and Public Interest Law Section to join the Florida Civil Legal Aid Association’s reply to the response of the IOTA Task Force to comments regarding Rule 5-1.1(g). The groups indicated that a notice of rejoinder would be filed with the court, making clear that each entity’s joinder was approved by the Board of Governors, but did not speak on behalf of The Florida Bar.
- On May 12, 2021, the committee met via videoconference, and after review and consideration, voted without objection to send recommendations from the Program Evaluation Committee Subcommittee on Board Member Diversity back to the subcommittee for further review.

9. Consent Calendar

After removing item 5b(i), (advertising appeals 21-01747 - 21-01751), the board approved the consent agenda, including the following items:

- Appointing David J. Brunell as an attorney member to UPL Committee 10; Tamara Joi Williams as an attorney member to UPL Committee 12; and Azuree Ashby as a public member to UPL Committee 13A.
- Appointing Richard Berry Collins, Antonette Patrice Russell and Gary M. Singer as attorney members, and Michelle Merilus as a public member, to the Standing Committee on the Unlicensed Practice of Law.
- Agreeing not to oppose the Business Law Section from taking the following legislative position: That the Business Law Section oppose any amendment to Section 768.79 concerning offers of judgment that: (1) Would prolong litigation and increase costs; (2) would allow for the unilateral election of mandatory binding arbitration; (3) would shift the burden of compliance to the offeree resulting in the risk of waiver of rights; (4) is vague and ambiguous; and/or (5) is intended to apply to a narrow type of case within a specific industry unless explicitly so stated and set forth in a separate paragraph.
- Approving a Legislative Services Advising Agreement between The Florida Bar and the firm of Metz, Husband, & Daughton, P.A.

10. Budget Committee Report

Chair Melissa VanSickle presented.

Items on Final Action: A \$95,000 amendment to the FY 2019-2020 budget and rollover for repairs to a freight elevator at the Bar's Tallahassee headquarters. The board voted without objection to approve.

Final approval of proposed FY 2021-2022 budget, for submission to the Supreme Court. The board voted without objection to approve.

11. Citizens Advisory Committee Report

Chair Paige Greenlee presented.

The committee met May 20 and received a report from Legislation Committee Chair Julia Frey, Vice Chair Sandra Diamond, and Bar legislative counsel Jim Daughton. This year the committee helped to promote voter education for judicial races and merit retention and similarly will promote the rebranded Legal Survival Guide in their communities. The committee also promoted its resources

webpage to interest more nonlawyers in volunteering in the legal and court systems. The current committee project is focused on gathering resources for consumers on how to hire a lawyer. No board action was required.

12. Investment Committee Report

Chair Ian Comisky presented.

Items on Final Action:

A committee proposal to replace investment manager EV Atlanta with Jensen Quality Growth, the transfer of \$9.6 million managed by EV Atlanta to Jensen Quality Growth, and the intra-fund transfers of \$270,000, \$1,000,060, and \$805,000. The board voted without objection to approve.

The Long-Term Fund contained \$69 million on May 20, which is 600% to 700% above projections.

13. Communications Committee Report

Chair Steven Davis presented.

The Citizens Advisory Committee joined the Communications Committee meeting on May 20. President Dori Foster-Morales reached more than 3,000 members in a pandemic-themed series of virtual town halls in each of the 20 judicial circuits (and in a follow up statewide town hall) and completed almost 100 presentations, welcome remarks, and video communications during the year. Vivian Cortes Hodz, chair of the Voluntary Bar Liaison Committee, and Jeff Doran, staff liaison; Francine Walker, director of communications, and her entire staff; acting director Jennifer Krell Davis; and *Bar News* editor Mark Killian and his colleagues, should be commended for a successful communications program during the pandemic. No board action was required.

14. Legislation Committee Report

Chair Julia Frey presented.

Legislative consultant Jim Daughton reported that despite earlier projections of a \$3 billion budget shortfall, the Legislature funded many court spending priorities, including money for a new facility for the Second District Court of Appeal, new trial court judgeships, and money for the Trial Court Budget Commission's pandemic recovery plan. President Dori Foster-Morales' virtual town halls impressed legislative leaders. The next interim legislative committee meetings will convene in September, ahead of the January session. No board action was required.

15. Program Evaluation Committee Report

Chair Brian Burgoon presented.

Items on Final Action:

A series of proposed amendments to the bylaws of the International Law Section, Public Interest Law Section, and Health Law Section: The board voted without objection to approve.

A request to extend the COVID-19 Pandemic Recovery Task Force for an additional year: The board voted without objection to approve.

A request to create a Special Committee for the Review of Professionalism in Florida: The board voted without objection to approve.

A request to create a Special Committee on Opportunity in the Practice of Law in Florida: The board voted without objection to approve.

A request to extend the Special Committee on Criminal Justice for an additional year: The board voted without objection to approve, with two special conditions: (1) that no more extensions can be granted for the group to continue as a special committee in the future, and (2) that there will be no advocacy or legislation by the special committee.

Proposed recommendations by a Program Evaluation Committee subcommittee for improving the Foreign Legal Consultant's Program: The board voted without objection to approve.

Items on First Reading:

A Board of Legal Specialization and Education proposal to amend Rule 6-8.4 Criminal Trial Recertification: No board action was required.

A Board of Legal Specialization and Education proposal to amendment Rule 6-13.4 Recertification (Appellate Practice): No board action was required.

16. Executive Session

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

17. Rules Committee Report

Vice Chair Hilary Creary presented.

Items on Final Action:

Proposed amendments to Standing Board Policy 1.41 Delegates to the American Bar Association House of Delegates: The board voted without objection to approve.

Items on First Reading:

Proposed amendments to Bylaw 2-9.7 Insurance for members of Board of Governors, officers, Grievance Committee members, Unlicensed Practice of Law Committee members, Clients' Security Fund Committee members, and employees, (adding former members and employees): No board action was required.

Proposed amendments to Standing Board Policy 3.20 Insurance for members of the Board of Governors, officers, Grievance Committee members, Unlicensed Practice of Law Committee members, Clients' Security Fund Committee members, and employees (adding former members and employees): No board action was required.

18. Joint Rules of Court Committees Report

Krys Godwin, Director of Legal Publications, presented.

Items on Final Action:

Rule 2.110 Florida Rules of Judicial Administration became Rule 2.110 Florida Rules of General Practice and Judicial Administration, effective March 1, 2021, by order of the Supreme Court. In reaction, all rules of court committees reviewed their respective rule sets to determine where "Rules of Judicial Administration" was referenced and proposed amendments in either full or abbreviated text, as appropriate, to reflect the name change. (Some committees changed comments, some declined to do so, and some bracketed comment changes.) The board voted 34 to accept, 0 to reject, and 0 to amend.

19. Board Technology Committee Report

Chair Jay Kim presented.

A beta test of the proposed Florida Bar Tech Support Help Line concludes June 11. Bar consultant Law Tech Partners responded to 68 requests for service and is compiling data to determine the proposal's success. Responses have been overwhelmingly positive. The committee continues to update the Florida Bar Recommended Best Practices Guide for Remote Court Proceedings and a project to add lawyer recommended collaboration features to the Zoom videoconferencing platform. No board action was required.

20. Appellate Court Rules Committee Report

Vice Chair Laura Roe presented.

Items on Final Action:

Proposed amendments to Florida Rule of Appellate Procedure 9.143 (Crime Victims) in reaction to comments received and proposed amendments to Rules 9.190, 9.130, 9.146, 9.310, 9.420, 9.360, 9.900, 9.040, 9.100, 9.110, 9.120, 9.160, and 9.360. The board voted 35 to accept, 0 to reject and 0 to amend.

21. Nominations for Executive Committee

President Dori Foster-Morales called for nominations.

Board member Jorge Piedra nominated board member Paige Greenlee. Board member Roland Sanchez-Medina nominated board member Greg Weiss. Board member Laird Lile nominated board member Sia Baker-Barnes. Board member Duffy Myrtetus nominated board member Jay Kim. Board member Wayne Smith nominated Board member Robin Bresky. The board voted to appoint Paige Greenlee, Sia Baker-Barnes and Jay Kim.

22. Disciplinary Procedure Committee Report

Chair Ron Ponzoli presented.

Items on Final Action:

Proposed amendments to Rule 3-5.1 Generally; Rule 3-7.1 Confidentiality; Rule 3-7.4 Grievance Committee Procedures; Rule 4-8.6 Authorized Business Entities; and Fee Arbitration Rule IV Hearings: The board voted without objection to approve.

23. Board Review Committee on Professional Ethics Report

Chair Michael Orr presented.

Items on Final Action:

Advertising Appeals 21-01747 through 21-01751. The Board Review Committee on Professional Ethics voted 11-0 to recommend that the board reverse the Standing Committee on Advertising decision that the slogan “Better Off with Boohoff” is a comparison with other lawyer’s services under Rule 4-7.13(b)(3) in the television advertisements in files 21-01747, 21-01748, 21-01749, and 21-01751 because the statement “Better off with Boohoff” can be reasonably interpreted in the context of those advertisements as meaning that a consumer is better off with the Boohoff Law firm than being without a lawyer, but voted 11-0 to recommend that the board affirm the Standing Committee on Advertising

decision that the slogan “Better off with Boohoff” in the television advertisement in file 21-01750 is a comparison with other law firms that cannot be objectively verified because in the context of that advertisement, the firm’s client stated “If anybody that I know were to be involved in an accident, Boohoff Law would definitely be my first choice. Better off with Boohoff” and that advertisement therefore was comparing Boohoff Law with other law firms. The board voted without objection to approve.

Proposed Amendments to Rule 4-7.14 within subdivision (b)(6) into (b)(6) and (b)(7), and make disclaimers that an event is a dramatization and that an actor is being used required only when necessary to avoid misleading a reasonable viewer, and make specific wording of the disclaimer discretionary, because requiring a disclaimer in circumstances where it is clear a portrayal is a dramatization (such as a cartoon or illustration) or that an actor is being used is unnecessary, and the Standing Committee on Advertising had determined in some circumstances that a disclaimer is unnecessary. The Board Review Committee on Professional Ethics approved the amendments 8-3 on January 28, 2021. The board voted without objection to approve.

Proposed amendments to Rule 4-7.14 omit the requirement that lawyers certified by entities accredited by the American Bar Association, but not The Florida Bar, contain a disclaimer that the lawyer is “Not Certified as a Specialist by The Florida Bar” because the rule already requires that the certifying organization name be included in the advertisement. The Board of Legal Specialization and Education approved 14-0 on January 15, 2021. The Board Review Committee on Professional Ethics approved 11-0 on January 28, 2021. The board voted without objection to approve.

Proposed amendments to Rule 4-7.16 would within subdivision (a)(1) add social media contact information including social media icons or logos. Lawyers frequently add social media icons for Facebook or Twitter to their advertisements and, in electronic media, the icon also often contains a link to the lawyer’s social media site. As in a URL to a lawyer’s website, this information is common and presumptively non-misleading such that the lawyer should not have to file the advertisement merely because social media icons and links are included. The Board Review Committee on Professional Ethics approved 11-0 on January 28, 2021. The board voted without objection to approve.

Proposed Amendments to Rule 4-7.19 within subdivision (a) change the location of filing from the Bar’s headquarters address in Tallahassee to “in the manner specified by The Florida Bar as posted on its website.” The Bar is moving from

paper filing to electronic filing via the portal. The change will allow the Bar to require that members filing advertisements for review use the portal and file electronically. The Board Review Committee on Professional Ethics approved 11-0 on January 28, 2021. The board voted without objection to approve.

24. Special Appointments

President Dori Foster-Morales presented.

The Florida Board of Bar Examiners. (Three lawyers to serve a five-year term commencing November 1, 2021.) The board voted without objection to nominate **Angeline Attila** of Bradenton; **Rodney A. Edwards** of Palm Bay; and **Cristina E. Groschel** of Margate.

ABA House of Delegates. (Two lawyers to serve two-year terms commencing August 2021 at the conclusion of the ABA Annual Meeting through 2022. ABA Midyear meeting in February will be the first meeting attended.) The board voted without objection to appoint **Jack F. Harkness, Jr.**, of Tallahassee and **Scott M. Dimond** of Miami.

Florida Lawyers Assistance, Inc. Board of Directors. (Three lawyers and two non-lawyers to serve three-year terms commencing July 1, 2021.) The board voted without objection to appoint **Thomas L. Edwards** of Gainesville; **Nannette J. Rudolf Olsen** of Fort Lauderdale; and **Joy Smith-McCormick** of Tampa to the lawyer positions and **Jill O. Kaplan** of Miami and **Alexis Polles** of Fernandina Beach to the non-lawyer positions.

Florida Legal Services, Inc., board of directors. (One lawyer to serve a three-year term commencing July 1, 2021.) The board voted without objection to appoint **Farah L. Nerette** of West Palm Beach.

25. Young Lawyers Division President's Report

President Adam White presented.

The YLD created a webpage to match law school graduates with mentors for the Supreme Court's temporary supervised practice program, created the #YLDIsME program to highlight diverse attorneys, and produced seven CLEs digitally. The virtual Affiliate Outreach Conference reached 300 participants and the Young Lawyers Division is sponsoring a virtual moot court competition for the Annual Convention.

26. President-Elect's Report

President-elect Michael Tanner presented.

Items on Final Action:

Standing committee officers for the 2021-2022 Bar year. The board voted without objection to approve.

Board member Amy Farrior delivered the final recommendations of the COVID-19 Pandemic Recovery Task Force. Board member Jorge Piedra described the results of a member survey to determine which court proceedings to continue conducting remotely after the pandemic subsides. The taskforce will pursue several projects next year under the leadership of co-chairs Sia Baker-Barnes and Jay Kim.

27. Executive Director's Report

Bar staff will return to the office full-time on July 6, 2021. Bar staff productivity increased during the pandemic. President Dori Foster-Morales' leadership has made the Bar a stronger institution. Francine Walker, director of public information and Bar services, and Rosalyn Scott, assistant to the president, are retiring after years of dedicated service.

28. Annual Convention Committee Report

Chair Robin Bresky presented.

Virtual and in-person sponsorships are still being accepted for the June 9-12 Annual Convention. Board members are urged to continue promoting attendance through social media.

29. President's Report

President Dori Foster-Morales thanked board members and Bar staff for their friendship and service to the legal profession.

30. Time and Place of Next Meeting

There being no further business before the board, President Dori Foster-Morales adjourned the meeting at 2:59 p.m. The next board meeting will convene in person and virtually July 21-25, 2021, in Miami Beach.

SUBJECT INDEX

ANNUAL CONVENTION COMMITTEE REPORT	12
APPELLATE COURT RULES COMMITTEE REPORT	9
BOARD REVIEW COMMITTEE ON PROFESSIONAL ETHICS REPORT.....	9
BOARD TECHNOLOGY COMMITTEE REPORT	8
BUDGET COMMITTEE REPORT	5
CITIZENS ADVISORY COMMITTEE REPORT	5
COMMUNICATIONS COMMITTEE REPORT	6
CONSENT CALENDAR	5
DISCIPLINARY PROCEDURE COMMITTEE REPORT	9
EXECUTIVE DIRECTOR’S REPORT	12
EXECUTIVE SESSION	7
GUESTS	3
INTRODUCTION OF NEW BOARD MEMBERS.....	3
INVESTMENT COMMITTEE REPORT	6
INVOCATION AND PLEDGE OF ALLEGIANCE	3
JOINT RULES OF COURT COMMITTEES REPORT	8
LEGISLATION COMMITTEE REPORT.....	6

MINUTES APPROVAL.....	4
NOMINATIONS FOR EXECUTIVE COMMITTEE	9
PRESIDENT’S REPORT.....	12
PRESIDENT-ELECT’S REPORT	12
PROGRAM EVALUATION COMMITTEE REPORT	7
REMARKS, FLORIDA SUPREME COURT JUSTICE ALAN LAWSON	4
ROLL CALL	1
RULES COMMITTEE REPORT	7
SPECIAL APPOINTMENTS	11
STAFF IN ATTENDANCE	2
TIME AND PLACE OF NEXT MEETING	12
WELCOME, SIXTEENTH CIRCUIT CHIEF JUDGE MARK JONES	4
YOUNG LAWYERS DIVISION PRESIDENT’S REPORT	11