

Florida Bar Board of Governors
March 25, 2022
Via Videoconference

1. Roll Call

Michael G. Tanner, President
Gary S. Lesser, 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
Gordon J. Glover, 5th 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
Jordan A. Dresnick, 11th Circuit
Jorge L. Piedra, 11th Circuit
Jeffrey Rynor, 11th Circuit
Judge Leslie B. Rothenberg, 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
Michael J. Gelfand, 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
John D. Agnew, 20th Circuit
E. Duffy Myrtetus, Out of State
Donald A. Workman, Out of State
Eric L. Meeks, Out of State
Brian D. Burgoon, Out of State
Todd L. Baker, YLD President
Iris A. Elijah, YLD President-elect
Joseph "Jody" D. Hudgins, Public Member
Linda Goldstein, Public Member

Members Absent

Joshua T. Chilson, 6th Circuit
Nikki L. Simon, 11th Circuit
Kenneth G. Turkel, 13th Circuit
Adam G. Rabinowitz, 17th Circuit
Laird A. Lile, 20th Circuit

2. Staff in Attendance

Joshua Doyle, Executive Director
Elizabeth Clark Tarbert, Director, Lawyer Regulation Division
Gypsy Bailey, General Counsel & Director, Division of Ethics & Consumer Protection
Terry Hill, Director, Programs Division
Cynthia Jackson, CFO & Director, Administrative Division
Rick Courtemanche, Deputy General Counsel
Jonathan Grabb, Ethics Counsel
Patricia A. Savitz, Staff Counsel
Jennifer Krell Davis, Director of Communications
Mike Garcia, Director, Research, Planning and Evaluation
Mikalla Davis, Attorney Liaison, Rules

Leslie Reithmiller, Assistant to the President
Jim Ash, Senior Editor, Florida Bar *News*

3. Invocation and Pledge of Allegiance

Board member Linda Goldstein delivered the invocation and board member Larry Sellers led the Pledge of Allegiance.

4. Guests

President Michael Tanner recognized the following guests:

Andy Sasso, Parliamentarian

Michael T. Davis, Virgil Hawkins Florida Chapter, NBA

Karen Ladis, Legal Aid Representative

Jenny Scavino Sieg, Florida Association for Women Lawyers

Miriam Soler Ramos, Cuban American Bar Association

Jesse R. Butler, Governor-elect, 12th Circuit

John A. Schifino, Governor-elect, 13th Circuit

5. Non-Roll Call Grievance Agenda Items

No items were reported for discussion.

6. Minutes Approval

The board approved the minutes from its January 21, 2022, meeting. That included ratifying the following actions taken by the Executive Committee:

- On February 3, 2022, the Executive Committee voted 9-1 to approve two Business Law Section legislative position requests: 1. Mergers & Acquisitions – Opposes legislation, including without limitation, currently proposed legislation to amend Section 542.275, Florida Statutes, that directly or indirectly requires pre-closing notice and/or providing information to the Office of the Florida Attorney General as to certain merger and acquisition transactions and/or requires post-closing filing of a notice and/or providing information to the Office of the Florida Attorney General without reasonable exemption for Florida’s Sunshine Laws. 2. Business Litigation – Opposes codification of tortious interference claims that: (a) creates uncertainty in commercial transactions; (b) stifles competition; (c) imposes treble or punitive damages; (d) allows for one-sided attorney’s fees; and (e) is vague and ambiguous.

- Two Elder Law Section legislative position requests: 1. Data Collection – Opposes any legislation that would permit expanding the collection of data in guardianship cases without proper safeguards to ensure the data collected is narrowly tailored to meet the purpose and to ensure the protection of the data collected, and the identity of the vulnerable adult whose data is at issue. 2. Trusts – Supports legislation that protects, and opposes legislation that erodes, current statutory protections for all possible beneficiaries of estates and trusts for receiving annual, comprehensive, and understandable accountings and required notices by personal representatives and trustees.
- Two Family Law Section legislative position requests: 1. Coercive Control – Opposes legislation that includes the concept of coercive control in any domestic relations statute or legislation. 2. Hague Convention – Opposes any legislation that by application or implication or otherwise hampers the applicability of the Hague Convention of the Civil Aspects of Child Abduction to any family or case in Florida.
- Tax Law Section legislative advisor Stephen Shiver, Cardenas Partners.
- On February 23, 2022, the Executive Committee voted 12-0 to approve a Business Law Section legislative position request: Supports the original version of SB 528 providing for an increase in the exemption for a debtor's interest in a personal motor vehicle set forth in Florida Stat. §222.25 that is applicable equally to all debtors and opposes any legislation providing for a higher exemption amount solely applicable to debtors in bankruptcy.
- On March 1, 2022, the Executive Committee voted, without objection, to accept as timely an application for reappointment to the Judicial Ethics Advisory Committee by incumbent Charles Reynolds. The committee also voted 11-0 to approve two requests from the Family Law Section: 1. To amend language on an existing legislative position – Supports legislation that promotes the active and equal involvement of both parents in parenting issues with no presumption for or against any timesharing schedule so long as courts are provided with discretion to create specific timesharing schedules on a case-by-case basis and the court is required to make written findings pursuant to the best interest factors in the Florida Statutes. 2. To rescind an existing position: ~~Opposes any presumption regarding timesharing as each family is unique and a timesharing schedule should be considered on a case-by-case basis.~~

- On March 9, 2022, the Executive Committee voted without objection to request that the Supreme Court of Florida defer consideration of proposed amendments pending in *In Re: Amendments to Rules Regulating The Florida Bar – Chapter 23 Registered Online Service Provider Program*, Case No. SC19-2077, in light of the court’s request that the Bar provide alternative proposals to those recommended by the Special Committee to Improve Delivery of Legal Services in its 2021 report to the court, or alternatively, to adopt the Bar’s proposal in the case.
- On March 14, 2022, the Executive Committee voted 11-0 to approve Family Law Section executive level advisor Scott Ross, of Capital City Consulting, LLC, for a \$50,000 fee. Terms: March 9, 2022, through the end of executive action relating to SB 1769 or HB 1395, Acts Relating to the Dissolution of Marriage, or similar legislation enacted during the 2022 Legislative Session.

7. Consent Calendar

The board approved the consent agenda, including the following items:

- A Member Benefits Committee proposal to add Member Options property and casualty insurance to The Florida Bar Member Benefits Program, to replace the GEICO member benefit that expired February 28, 2022.
- The following appointees to UPL Circuit Committees: Committee 11-A, **Kyrsten Melander**, attorney member; Committee 13-A, **Juanita C. Serrano**, public member; Committee 13-B, **Daniel P. Dietrich**, attorney member.

8. Legislation Committee Report

Chair Sandra Diamond presented.

Lawmakers extended the 2022 session three days and adjourned sine die March 14. The Legislature approved most Supreme Court spending priorities, including Phase II of the Pandemic Recovery Plan, pay raises for county court and circuit judges, and to subsidize Bar fees and CLE for government lawyers. Lawmakers approved a new Sixth District Court of Appeal. The Legislature will convene a special session to redraw congressional districts. Senate President-elect Kathleen Passidomo, a Naples attorney, and House speaker-elect Paul Renner, a Jacksonville attorney, will select committee chairs in the coming months. The Bar must make additional appointments to Judicial Nominating Commissions.

9. Program Evaluation Committee Report

Chair Roland Sanchez-Medina presented.

Items on Final Action: Adoption Law Certification Committee proposed amendments to Rule 6-28.2 Definitions (Adoption Law); Rule 6-28.3 (Minimal Standards); and Rule 6-28.4 Recertification (Adoption Law). The board voted without objection to approve.

A Program Evaluation Committee proposal to extend the COVID 19 Pandemic Recovery Task Force an additional year as the “Special Committee on Changes to the Practice of Law.” The special committee will continue a task force mission to make recommendations to the courts regarding the feasibility of an online dispute resolution platform for civil disputes and make recommendations, and also will draft comments for consideration by the board concerning areas of law that are being monitored for changes. The board voted without objection to approve.

A Program Evaluation Committee proposal to create a “Special Committee on Greater Public Access to Legal Services.” The special committee is charged with improving the delivery of legal services to Florida consumers and assuring that Florida lawyers play a proper and prominent role, as the Supreme Court directed in a March 3, 2022, letter. The board voted without objection to approve.

Program Evaluation Committee recommendations for increasing Board of Governors diversity. The board voted without objection to approve.

A Program Evaluation Committee recommendation to discontinue disseminating letterhead, note cards, business cards, and electronic letterhead templates to past presidents that refer to the “Office of the Past President” or “Office of the Immediate Past President.” The board voted without objection to approve.

Program Evaluation Committee recommendations for The Florida Bar’s Consumer Pamphlets Program, including increased Spanish and Creole translation and promotion. The board voted without objection to approve.

Chair Roland Sanchez-Medina reported that a subcommittee voted 7-1 not to recommend imposing term limits due to a lack of evidence that it would increase board diversity. All Program Evaluation Committee evaluations will be completed by the end of the Bar year.

10. Civil Procedure Rules Committee Report

Chair Jason Stearns presented.

Pursuant to Florida Rules of General Practice and Judicial Administration 2.140(b), Civil Procedure Rules Committee proposed new Rule 1.351 (Jury Request to Review Testimony). The proposed rule, like a similar rule of criminal procedure, would provide guidance when a jury requests to review trial testimony.

Civil Procedure Rules Committee Proposed amendments to Rule 1.351 (Production of Documents and Things without Deposition). The Bar proposed amending subdivision (b) to allow for additional time to object to a notice of production from a non-party when the subpoena is served with the original process. The board voted 34 to recommend acceptance, 1 to recommend rejection, and 0 to recommend amendment.

11. Family Law Rules Committee Report

Chair Ashley Taylor presented.

Pursuant to a Florida Rules of General Practice and Judicial Administration 2.140(b), Family Law Rules Committee proposed amendments to Rule 12.200 (Case Management and Pre-Trial Conferences). Suggested by a judge, the proposed amendment would delete the last sentence of subdivision (c) and conform the rule to current practice regarding pretrial conferences and allow for judicial discretion for pre-trial orders. The board voted 36 to recommend acceptance, 2 to recommend rejection, and 0 to recommend amendment.

Proposed amendments to Rule 12.026 (Communications Technology). The proposed amendments are in response to the Supreme Court's invitation for comment in Case No. SC22-122. The board voted 29 to recommend acceptance, 3 to recommend rejection, and 4 to recommend amendment.

Proposed amendments to Rule 12.310 (Depositions Upon Oral Examination) (b)(4)(D). The board voted 31 to recommend acceptance, 4 to recommend rejection and 3 to recommend amendment.

Proposed amendments to Rule 12.310 (Depositions Upon Oral Examination) (b)(7). The board voted 34 to recommend acceptance, 2 to recommend rejection and 1 to recommend amendment.

12. Juvenile Court Rules Committee Report

Chair Candice Brower presented.

Pursuant to Florida Rule of General Practice and Judicial Administration 2.140(b), Juvenile Court Rules Committee proposed amendments to Rule 8.010 (Detention Hearing) and Rule 8.255 (General Provisions for Hearings). The amendments are related to communications technology and the Supreme Court's invitation to comment in Case No. SC22-122. The board voted 37 to recommend acceptance, 2 to recommend rejection, and 0 to recommend amendment.

13. Small Claims Rules Committee Report

Chair Kevin Stone presented.

Pursuant to Florida Rule of General Practice and Judicial Administration 2.140 (b), the Small Claims Rules Committee proposed amendments to the Supreme Court's Workgroup on Improved Resolution of Civil Cases' proposed amendment to Small Claims Rule 7.020 (Applicability of Rules of Civil Procedure) and Small Claims Rule 7.070 (Method of Service of Process), in Case No. SC22-122. The board voted 37 to recommend acceptance, 2 to recommend rejection, and 0 to recommend amendment.

14. Rules Committee Report

Vice-Chair Amy Farris presented.

Agenda Item 12(a)(i), proposed amendments to Rule 4-7.22 (Referrals, Directories and Pooled Advertising), was removed pending further review.

Items on First Reading: Rules Committee proposed amendments to Rule 1-7.3 (Membership Fees). Within subdivision (a), changes inactive under 3-7.13 to incapacitated. The change reflects the way a member is reflected in the Bar's records. Currently, if inactive due to incapacity, the Bar's records just show that the member is incapacitated, no inactive.

Rules Committee proposed amendments to 1.80 General Recusal Policy, Standing Board Policy. Within subdivision (a)(2), further defines recusal. Items will be up for final action at the May board meeting.

15. Special Appointments

President Michael Tanner presented.

Supreme Court's Judicial Ethics Advisory Committee: One lawyer to serve a four-year term commencing July 1, 2022. Applicants: Charles E. Reynolds* II, Tampa; Michael Andriano, Orlando; Jonathan Lee Blackmore, Ft. Lauderdale; Jody Lamar Finklea, Tallahassee; Judy L. Hoffman, Plant City; Marcus Russell Kelly II, West Palm Beach; Gertrude M. Novicki, Boca Raton; the Honorable James Hardin Peterson III, Tallahassee; Richard C. Valuntas, West Palm Beach; Ethan A. Way, Tallahassee. (*Denotes incumbent eligible to serve.) The board voted to appoint the **Honorable James Hardin Peterson III**, Tallahassee.

16. Technology Committee Report

Chair Paige Greenlee presented.

The committee is updating The Florida Bar Recommended Best Practices for Remote Court Proceedings. The committee is working with Bar staff to promote the Florida Bar Tech Helpline. The committee continues to work with Bar's IT staff on proposed updates to The Florida Bar Member Portal.

17. Communications Committee Report

Chair Amy Farrior presented.

The committee is vetting 10 nominations to fill four vacancies on the Citizens Advisory Committee and will present recommendations to President-elect Gary Lesser in April. *Bar Journal* and *News* Editor Mark Killian introduced Associate Editor Rawan Bitar to the committee. Sachs Media reported 200,374 media posts and nearly 3 million social media impressions between January and March. The News & Journal All-Member Email recorded the second-highest open rate in March at more than 41%. In Fiscal Year 2021-2022, the Bar has commitments for \$90,000 in digital web advertising revenue, and \$32,000 for the first three months of 2022. The committee will develop promotional campaign for Florida Bar Consumer Pamphlet Program. The committee is working with the Lou Frey Institute of Politics and Government at the University of Central Florida and Sachs Media to develop a civics curriculum for Bar members to present to community groups.

18. Investment Committee Report

Chair Jeffrey Rynor presented.

War in Ukraine, inflation, and supply chain shortages have disrupted financial markets, the impact on Bar investment income will hopefully be mitigated by the diversity in the portfolio and the long-term investment strategy. As of February 28, 2022, the Long-Term Fund contained \$67.5 million, down 5% from the same time last year.

19. Audit Committee Report

Chair Duffy Myrtetus presented.

Regulatory compliance and related filings for The Florida Bar and its affiliates are current. A consolidated disaster recovery plan is being reviewed. The transition to a new auditor is going smoothly.

20. Budget Committee Report

Chair Jeremy Branning and Chair-elect Melissa VanSickle presented.

Items on Final Action: A Budget Committee recommendation to allocate a required cancellation penalty resulting from the delayed decision to cancel an Elder Law Event between TFB and the Elder Law Section. The recommendation allocated the penalty between TFB's general fund and the section as follows: 20% of the cancellation fee of \$41,085, the fee at the time of first discussions, be allocated to TFB. That amount is \$8,217 and the balance of the penalty \$97,736 be allocated to the Elder Law Section. The board voted without objection to approve.

A Budget Committee recommendation that the board reaffirm its policy to assess a \$45 application fee for local (including voluntary) bar associations that submit applications for course approval for any CLE course that is two hours or less and charges a fee. The board voted without objection to approve.

A Budget Committee proposal to approve the Florida Bar FY 2022-2023 proposed budget. The approximately \$45 million spending plan will be posted for member comment and a final budget will be reviewed in May and then forwarded to the Supreme Court by June 1.

21. COVID-19 Pandemic Recovery Task Force

Co-Chair Jay Kim presented.

The task force presented live demonstrations of fully automated platforms for resolving small-value civil claims from competing vendors, Matterhorn's "Turbo Court" and Tyler Technology's "Modria." The taskforce expects to make a final recommendation to the board in May. The taskforce will continue working on draft comments to rule amendments proposed by the Supreme Court's Workgroup on Improved Resolution of Civil Cases.

22. President-elect's Report

President-elect Gary Lesser said the Special Committee for the Review of Professionalism in Florida will deliver a final report and recommendations to the board at the May meeting.

23. President's Report

President Michael Tanner urged board members to attend the Supreme Court Historical Society's Annual Dinner in Tallahassee on April 7.

24. Time and Place of Next Meeting

There being no further business before the board, President Michael Tanner adjourned the meeting at 12:43 p.m. The next board meeting is May 20, 2022, at the JW Marriott Tampa Water Street.

SUBJECT INDEX

AUDIT COMMITTEE REPORT	10
BUDGET COMMITTEE REPORT	10
CIVIL PROCEDURE RULES COMMITTEE REPORT	7
COMMUNICATIONS COMMITTEE REPORT	9
CONSENT CALENDAR	5
COVID-19 PANDEMIC RECOVERY TASK FORCE.....	11
FAMILY LAW RULES COMMITTEE REPORT	7
GUESTS	3
INVESTMENT COMMITTEE REPORT	10
INVOCATION AND PLEDGE OF ALLEGIANCE.....	3
JUVENILE COURT RULES COMMITTEE REPORT	8
LEGISLATION COMMITTEE REPORT	5
MINUTES APPROVAL.....	3
NON-ROLL CALL GRIEVANCE AGENDA ITEMS.....	3
PRESIDENT’S REPORT	11
PRESIDENT-ELECT’S REPORT	11
PROGRAM EVALUATION COMMITTEE REPORT.....	6
ROLL CALL.....	1
RULES COMMITTEE REPORT.....	8
SMALL CLAIMS RULES COMMITTEE REPORT	8
SPECIAL APPOINTMENTS.....	9
STAFF IN ATTENDANCE	2

TECHNOLOGY COMMITTEE REPORT 9

TIME AND PLACE OF NEXT MEETING..... 11