

Florida Bar Board of Governors
July 29, 2022
Palm Beach

1. Roll Call

Gary S. Lesser, President
F. Scott Westheimer, 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
Gordon J. Glover, 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
Victor Smith, 10th Circuit
Roland Sanchez-Medina, Jr., 11th Circuit
Jordan A. Dresnick, 11th Circuit
Jeffrey Rynor, 11th Circuit
Judge Leslie B. Rothenberg (Ret.), 11th Circuit
Alice Sum, 11th Circuit
Jesse Butler, 12th Circuit
John Schifino, 13th Circuit
J. Carter Andersen, 13th Circuit
Paige A. Greenlee, 13th 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
Laird A. Lile, 20th Circuit
John D. Agnew, 20th Circuit
E. Duffy Myrtetus, Out of State
Donald A. Workman, Out of State
Brian D. Burgoon, Out of State
Iris A. Elijah, YLD President
Anisha Patel, YLD President-elect
Joseph “Jody” D. Hudgins, Public Member
Linda Goldstein, Public Member

Members Absent

W. Braxton Gillam, IV, 4th Circuit
Nikki L. Simon, 11th Circuit
Jorge L. Piedra, 11th Circuit
Amy S. Farrior, 13th Circuit
Clifford C. Higby, 14th Circuit
Adam G. Rabinowitz, 17th Circuit
Eric L. Meeks, Out of State

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
Jonathan Grabb, Ethics Counsel
Patricia A. Savitz, Staff Counsel
Jennifer Krell Davis, Director of Communications
Leslie Reithmiller, Assistant to the President
Mark Killian, Editor, Florida Bar Journal & News

3. Invocation and Pledge of Allegiance

YLD President Iris Elijah delivered the invocation and board member Ron Ponzoli led the Pledge of Allegiance.

4. Remarks, Chief Judge Glenn Kelley, 15th Judicial Circuit and Palm Beach County Mayor Robert Weinroth

Chief Judge Kelley welcomed board members to Palm Beach and thanked them for their service. Mayor Weinroth welcomed the board and provided some history about the county.

5. Remarks, Supreme Court Justice Jorge Labarga

Justice Labarga swore in board members who were not at the June Annual Convention and thanked the board members for their services and, referencing a number of Supreme Court workgroups, said as the profession goes through “some changes” over the next few years, “we hope that you will work with us and we trust you will.” Board members taking the oath included:

- John Agnew
- Carter Andersen
- Philip Bonamo
- Jeremy Branning
- Brian Burgoon
- Linda Goldstein
- Jody Hudgins
- Duffy Myrtetus
- Leslie Rothenberg
- John Schifino

6. Public Reprimand and Admonishment

President Lesser administered a public reprimand to Robyn Lynn Szttyndor and an admonishment to Crane Allerton Johnstone.

7. Remarks, President Lesser

President Lesser provided the board with some Palm Beach County history, including that it was carved out of Dade County and became Florida's 47th county. He also told the board the Special Committee on Mentoring will report to the board at its September meeting.

8. Guests and Liaisons

President Lesser recognized the following guests and liaisons:

- Valeria I. Obi, Virgil Hawkins Florida Chapter, NBA
- Robert Johnson, Legal Aid Representative, Brevard Legal Aid
- Giselle Gutierrez, Cuban American Bar Association
- Donna Eng, Florida Association for Women Lawyers
- Cristina Alonso, Solo and Small Firm Section
- Carlos Martinez, Miami-Dade Public Defender
- Craig Shoup, Jacksonville Bar Association
- Whitney Baldwin Powell, F. Malcolm Cunningham, Sr. Bar Association
- Sandra Powery Moses, Palm Beach County Sheree Davis Cunningham Black Women Lawyers Association
- Lisa Selinger, Palm Beach County FAWL
- Ben Eisenberg, Palm Beach Association of Criminal Defense Lawyers

9. Non-Roll Call Grievance Agenda Items

Disciplinary Review Committee Chair Greg Weiss announced the committee's amendments to Item No. 6 (A) and Item No. 6 (C).

10. Minutes Approval

The board approved the minutes from its May 20, 2022, regular meeting. That included ratifying the following actions taken by the Executive Committee:

- On May 27, 2022, the Executive Committee voted to approve the submission of a comment from the Civil Procedure Rules Committee on the Report and Recommendations of the Workgroup on Improved Resolution of Civil Cases; made final edits to a proposed comment by The Florida Bar on the Report and Recommendations of the Workgroup on Improved Resolution of Civil Cases; appointed Jane Almy-Loewinger, Daytona Beach,

to the ABA House of Delegates, and approved the Fifth Circuit JNC nominee slate.

- On June 15, 2022, the Executive Committee approved the publication of a letter by the International Law Section in the *International Law Quarterly* (magazine); and appointed Asha Maharaj-Lucas of Tallahassee and Haley Moss of Coral Gables to the Florida Lawyers Assistance, Inc., Board of Directors and Carly D. Stein of Tampa to the Florida Legal Services, Inc., Board of Directors.
- On June 30, 2022, the Executive Committee voted 7-0 to approve the Clients' Security Fund claim 2021-12982 – Kuhn v. Roby to be paid from the 2021-22 fiscal year.
- On July 8, 2022, voted to allow LSE staff to remove CLER delinquency and accept a backdated retirement request from Murray Dubbin dated at the end of April 2022 to enable him to retire from The Florida Bar as a member in good standing, due to extenuating circumstances.

11. Consent Calendar

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

- Section Legislative Consultant Contracts for the Business Law Section – Aimee Diaz Lyon, Metz, Husband, and Daughton, P.A.; Trial Lawyers Section – Bob Harris, Messer Caparello, and Family Law Section – Smith, Bryan.
- Member Benefits Committee adding TripPlanet online travel platform to the lineup (discounted hotels and airfare currently available and vacation rentals and cruises launching soon).
- Nomination of UPL Circuit Committee members.

12. Young Lawyers Division President's Report

President Iris Elijah highlighted plans for the division's Affiliate Outreach Conference, enhancements to the Practicing with Professionalism program, an upcoming seminar on student loans, and plans to better connect with affiliate young lawyer groups.

13. Citizens Advisory Committee Report

Citizens Advisory Committee Chair Tad Yates had the members of the CAC introduce themselves to the board and said at their meeting a day earlier they had a good discussion on how the Bar's disciplinary system works and how the lawyer advertising rules are applied.

14. Communications Committee Report

Joshua Chilson, chair of the board's Communications Committee, said the panel is undertaking initiatives this year that include developing a "toolkit" to provide members of the Board of Governors more resources to help them communicate more often and more effectively with Bar members in their circuits. He also encouraged board members to become the Bar's "social media ambassadors" by amplifying the organization's messages.

15. Florida Probate Rules Committee Report

Co-Chair Grier Pressly presented.

Pursuant to Florida Rule of General Practice and Judicial Administration 2.140(b), the board voted to accept proposed amendments to Rule 5.040 (Notice), Rule 5.330 (Execution by Personal Representative), and to adopt new Form 5.930 (Affidavit of Qualified Custodian of Electronic Will).

16. Code and Rules of Evidence Committee

Chair Eric Hernandez presented.

Pursuant to Rule of General Practice and Judicial Administration 2.140(e), the board voted to accept the committee's recommendation to adopt section 90.0235, Florida Statutes (internet mapping rule), as amended by Chapter 2022-100, Laws of Florida, to the extent it is procedural.

17. Traffic Court Rules Committee

Liaison Philip Bonamo presented.

Pursuant to Florida Rule of General Practice and Judicial Administration 2.140(b), the board voted to accept the committee's recommendation to amend Florida Rules of Traffic Court 6.040 (Definitions), 6.130 (Case Consolidation), and 6.455 (Amendments and Voluntary Dismissals by Issuing Officers).

18. Legislation Committee Report

Chair-elect Sia Baker-Barnes presented.

Pursuant to Standing Board Policy 9.20(e), the board voted to sunset the 2020-2022 Voluntary Bar Groups' legislative positions. The board voted to reactivate the Voluntary Bar Groups' 2020-22 legislative positions as modified for the 2022-24 biennium and voted not to prohibit the advocacy of these positions for the

2022-24 biennium, after determining that the legislative positions are within their scope, are not contrary to any of the Bar's positions, and are not divisive.

19. Program Evaluation Committee Report

Chair Sia Baker-Barnes presented.

In final action, the board voted to approve proposed amendments to the following rules:

- Rule 6-22.1 Generally
- Rule 6-22.3 Minimum Standards
- Rule 6-22.4 Recertification
- Family Law Section Bylaws
- Workers' Compensation Section Bylaws.

Items on First Reading included:

- BLSE Policy 1.02 Administrative Procedure
- BLSE Policy 2.14 Applicant Review Process for Certification or Recertification
- BLSE Policy 5.08 Credit Approval Guidelines
- BLSE Policy 5.09 CLER Components Approval Guidelines
- BLSE Policy 5.12 Appearance Before the BLSE
- BLSE Policy 6.07 Ex Parte Communications
- BLSE Policy 7.06 Procedures on Noncompliance and Appeal

The PEC has also added a review of the Florida Lawyers Assistance, Inc., to its current activity schedule and plans to study the duration of voting periods for Florida Bar elections; better define board members' roles as liaisons to Bar sections and committees; and to enhance the recruitment process for Bar grievance committees. The committee also intends to study the process for designating an inventory attorney. The committee tabled a request by the Orange County Bar Association Lawyer Referral Service to expand into Seminole County.

20. Special Committee on the Changes to the Practice of Law Report

Co-Chair John Agnew presented.

The committee met in June for the first time since its name was changed from the COVID-19 Pandemic Recovery Task Force to get to know the new members and detail some of the committee goals, including monitoring FCTC's review of the Bar's proposed automated platform for the resolution of civil cases and monitor

the Supreme Court's seven current workgroups, and any others established over the next year. The committee has also created a page on the Bar's website to help track those Supreme Court workgroups.

21. Criminal Procedure Rules Committee Report

Governor Tad Yates presented.

The board accepted amendment to Florida Criminal Procedure Rule 3.790 (Probation and Community Control) to conform with newly enacted statutes.

22. Family Law Rules Committee Report

Liaison Jeffrey Rynor presented.

Pursuant to Rule of General Practice and Judicial Administration 2.140(b), the board voted to accept proposed new Form 12.9385(a) (Petition for Superseding Child Support Order, Parental Responsibility, and Child Support), Form 12.9385(b) (Petition for Superseding Child Support), and Form 12.9835(c) (Petition to Establish Parental Responsibility and Time-Sharing) to reflect changes to statutes.

23. Budget Committee Report

Chair Melissa VanSickle presented.

The board voted to approve proposed amendments to Standing Board Policy 3.12 Finances; Standing Board Policy 5.54 Section Disbursement Policies; Standing Board Policy 5.71 General Division Administrative Policies; and Standing Board Policy 6.31 Distribution of Proceeds. The board also approved a proposed budget amendment to rollover unused capital project funds associated with the Bar's headquarters in Tallahassee and branch offices to the FY 2022-2023 budget year.

24. Investment Committee Report

Chair Jeffrey Rynor presented.

The Florida Bar's long-term financial investments increased more than \$2 million since the beginning of the new Bar fiscal year in July. The fund has increased more than \$38 million since the Bar adopted a long-term investment strategy 20 years ago, not counting the initial capital outlay. The Long-Term Fund has decreased approximately 12% since the beginning of the fiscal year. The Bar's long-term fund contains approximately \$60 million.

25. Technology Committee Report

Chair Gordon Glover presented.

The committee updated and posted its Best Practices for Remote Court Proceedings guide on the Bar's website and plans to make enhancements to the Member Portal, including individual member profiles. The committee will work with the Standing Committee on Technology to promote cybersecurity.

26. Disciplinary Procedures Committee Report

Chair Ronald Ponzoli presented.

The board voted to approve proposed amendments to Rule 3-5.3 Diversion of Disciplinary Cases to Practice and Professionalism Enhancement Programs; Rule 3-7.3 Review of Inquiries, Complaint Processing, and Initial Investigatory Procedures; Rule 3-7.4 Grievance Committee Procedures; Electronic Filing amendments- Rules 3-5.2; 3-7.6; Rule 3-7.7; Rule 3-7.10; and Rule 3-7.12; Rule 3-7.7 Procedures Before Supreme Court of Florida; Rule 3-7.10 Reinstatement and Readmission Procedures; and Fee Arbitration Procedural Rules, Rule IV. Hearings and Grievance Mediation Policies, Rule IV. Procedures.

The board on first reading heard proposed amendments to: Rule 1-3.3 Official Bar Name and Contact Information; Rule 3-7.4 Grievance Committee Procedures; Rule 3-7.5 Procedures Before the Board of Governors; Rule 3-7.10 Reinstatement and Readmission Procedures; Rule 3-7.12 Disciplinary Revocation of Admission to The Florida Bar; and Standing Board Policy 15.75 Review of Closed Inquiries and Disciplinary Cases.

27. Special Appointments

President Gary Lesser presented.

The board voted to appoint Alexis Dion Deveaux of Tampa to serve a two-year term as an under-36 delegate to the ABA House of Delegates.

28. Audit Committee Report

Chair Jeremy Branning presented.

The FY 2020-2021 audit of The Florida Bar Retiree Health Plan has been completed and a final audit report issued. The Bar received an unqualified opinion, and no findings were noted. Based on previous actuarial study, no contribution is required for 2022.

The Florida Bar pension plan agreed upon procedures for the period of FY 20-21 were completed and a perspective report issued. One finding was reported, the facts were thoroughly discussed, and the committee adopted an action plan to ensure the issue is not repeated.

29. Rules Committee Report

Vice Chair Philip Bonamo presented.

The board voted to approve proposed amendments to Rule 4-3.8 Special Responsibilities of a Prosecutor; Chapter 11 Rules Governing the Law School Practice Program; and Rule 20-5.1 Generally.

30. Board Review Committee on Professional Ethics Report

Chair Michael Fox Orr presented.

The committee intends to study the use of celebrities in lawyer advertising with an eye toward rewriting the definition of what constitutes a celebrity and propose language “permitting lawyers and law firms to allow the use of celebrities so long as they were actual former clients.”

31. Special Committee on Greater Public Access to Legal Services Report

Co-Chairs Jay Kim and Wayne Smith presented.

The panel is studying the expanded use of certified legal interns; the use and promotion of prepaid legal services plans; simplifying and standardizing court divisions; acquiring more funding for civil legal aid; intensifying the use of court navigators; and leveraging technological assets to improve access. The co-chair emphasized these are only “early ideas” that are being fleshed out and nothing is yet settled.

32. Time and Place of Next Meeting

There being no further business before the board, President Lesser adjourned the meeting. The next board meeting convenes September 28-30, 2022, at the Ritz-Carlton, Amelia Island.

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