

Florida Bar Board of Governors  
October 24  
Meeting Virtually

**1. Roll Call**

Gary S. Lesser, President  
F. Scott Westheimer, President-elect  
Jeremy C. Branning, 1st Circuit  
Melissa VanSickle, 2nd Circuit  
Michael Fox Orr, 4th Circuit  
W. Braxton Gillam, IV, 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  
Tad A. Yates, 9th Circuit  
Victor Smith, 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  
Judge Leslie B. Rothenberg, 11th Circuit  
Alice Sum, 11th Circuit  
Jesse Butler, 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  
Adam G. Rabinowitz, 17th Circuit  
James G. Vickaryous, 18th Circuit  
Gregory S. Weiss, 19th Circuit  
Laird A. Lile, 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  
Iris A. Elijah, YLD President  
Anisha Patel, YLD President-elect  
Joseph “Jody” D. Hudgins, Public Member  
Linda Goldstein, Public Member

**Members Absent**

Lawrence E. Sellers, Jr., 2nd Circuit  
Kris B. Robinson, 3rd Circuit  
Julia L. Frey, 9th Circuit  
John Schifino, 13th Circuit  
John D. Agnew, 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  
Jonathan Grabb, Ethics Counsel  
Kelly N. Smith, Senior Attorney  
Patricia A. Savitz, Staff Counsel  
Jennifer Krell Davis, Director of Communications  
Leslie Reithmiller, Assistant to the President

Jim Ash, Senior Editor, Florida Bar News

### **3. Invocation and Pledge of Allegiance**

Board member Hilary Creary delivered the invocation and board member Thomas Wert led the Pledge of Allegiance.

### **4. Guests and Liaisons**

President Gary Lesser recognized the following guests and liaisons.

Andy Sasso, parliamentarian

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

Carlos Martinez, Miami-Dade Public Defender

Craig Shoup, Jacksonville Bar Association

### **5. Opening Remarks, President Gary Lesser**

Board members were urged to remember Florida disaster victims. YLD President Iris Elijah and YLD President-elect Anish Patel were applauded for leading Hurricane Ian relief efforts.

### **6. Non-Roll Call Grievance Agenda Items**

Item 6g.

### **7. Minutes Approval**

The board approved the July 28, 2022, grievance minutes and the minutes from its July 29, 2022, regular meeting. That included ratifying the following actions taken by the Executive Committee:

- On July 28, 2022, the Executive Committee voted without objection not to approve a Criminal Law Section request to send a letter to the U.S. Senate regarding recent U.S. Supreme Court confirmation hearings.
- On August 18, 2022, the Executive Committee voted to approve JNC Screening Committee recommended slates for the First, Second, Fifth, and Sixth district courts of appeal.
- On October 17, 2022, the Executive Committee voted to approve a request from President Gary Lesser to submit the following request to the Supreme

Court in conjunction with The Florida Bar's annual certification of membership and apportionment of Board of Governors seats, which resulted in the addition of one seat in the 11th Circuit, and the loss of one seat in the 20th Circuit: (1) that the Board of Governors study the current formula for calculating apportionment as outlined in Bylaw 2-3.3 to ensure it remains the most effective calculation and (2) that the Court maintain the current apportionment of board seats while the Board of Governors conducts such study.

## **8. Consent Calendar**

The board approved the consent agenda, including the following:

- Proposed amendments to BLSE Policy 1.02 (Administrative Procedure), BLSE Policy 2.14 (Applicant Review Process for Certification), 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), and BLSE Policy 7.06 (Procedures on Noncompliance and Appeal).
- The 2022-2023 Legislative Advisor Contracts between the Elder Law Section and the Academy of Florida Elder Law Attorneys and Waypoint Strategies; the Real Property, Probate and Trust Law Section and Dean Mead; the Workers' Compensation Law Section and Converge Public Strategies; and the Animal Law Section and Ralph A. DeMeo.
- Proposed voluntary bar group legislative position requests for the Public Interest Law Section; Real Property, Probate and Trust Law Section; and Business Law Section.
- UPL Circuit Committee Nominations – 11B, **Steven Lewis Beiley**, attorney member; 13B, **William Alexander**, public member; 15A, **Rod. H. McCallum, Jr.**, public member; 15B, **Amy Alison Hinkler**, attorney member; and 15B, **Nicholas Patrick Passantino**, attorney member.
- Supplemental Agenda, UPL Circuit Committee Nominations – 2, **Brenton H. Cooper**, attorney member; 9A, **Leanna O'Sullivan**, public member; 15A, **Yelizaveta Batres Herman**, attorney member; 15A, **Ryan M. McCarthy**, attorney member; 15B, **Haydee Nascimento**, public member; 17C. **Paul D. Turner**, attorney member.

### **9. Correction of Rules Petition Mistake**

President Gary Lesser presented.

Pursuant to Standing Board Policy 1.60(b)(4), President Gary Lesser moved to waive strategic plan reviews that were accidentally omitted for proposed amendments to Rule 3-7.16 and Rule 3-5.2. The proposed amendments are contained in a petition filed October 3, 2022, with the Supreme Court in *In Re: Amendments to Rules Regulating The Florida Bar – Chapters 3 and 14*, Case No. SC22-193. The board voted without objection to waive the strategic plan reviews.

### **10. Rules of General Practice and Judicial Administration Committee Report**

The Hon. Steve Jewett, Chair, presented.

Items for Final Action: Proposed amendments to Rule 2.420 (Public Access to and Protection of Judicial Branch Records). The board voted 41 to accept, 0 to reject, and 0 to amend.

Proposed amendments to Rule 2.533 (Oaths and Affirmations in Court). The board voted 41 to accept, 0 to reject, and 0 to amend.

### **11. Civil Procedure Rules Committee Report**

Committee member Paul R. Regensdorf presented.

Items for Final Action: Proposed amendments to Rule 1.650 (Medical Malpractice Pre-suit Screening Rule). The board voted 42 to accept, 0 to reject, and 0 to amend.

Proposed amendments to Rule 1.110 (General Rules of Pleading). The board voted 41 to accept, 1 to reject, and 0 to amend.

Proposed amendments to Rule 1.820 (Non-binding Arbitration). The board voted 41 to accept, 0 to reject, and 0 to amend.

Proposed amendments to Form 1.923(a) (Eviction Summons/Residential), Form 1.923(b) (Summons Action for Back Rent or Other Damages), and Form 1.947(b) (Answer – Residential Eviction). The board voted 41 to accept, 0 to reject, and 0 to amend.

### **12. Juvenile Court Rules Committee Report**

Vice Chair Cheo A. Reid presented.

Items on Final Action: Proposed amendments to Rule 8.350 (Placement of Child into Residential Treatment Program). The board voted 41 to accept, 0 to reject, and 0 to amend.

Proposed amendments to Rule 8.013 (Detention Petition Order). The board voted 32 to accept, 10 to reject, and 0 to amend.

### **13. Appellate Court Rules Committee Report**

Vice Chair Sarah T. Weitz presented.

Items for Final Action: Proposed amendments to Rule 9.400 (Costs and Attorneys' Fees). The board voted 42 to accept, 0 to reject, and 0 to amend.

### **14. Family Law Rules Committee Report**

Chair Michael V. Andriano presented.

Items for Final Action: Proposed amendments to Form 12.975(a) (Petition for Grandparent Visitation with Minor Children), new Form 12.975(b) (Petition for Grandparent Visitation with Minor Children When One Parent Has Been Found Criminally or Civilly Liable for the Death of the Other Parent), and proposed renumbering of existing Form 12.975(b) (Order on Grandparent's Petition for Visitation With Minor Children) to Form 12.975(c). The board voted 42 to accept, 0 to reject and 0 to amend.

### **15. Special Committee on Mentoring New Lawyers Report**

Co-Chair Zackary T. Zuroweste presented.

The committee is designing a program for lawyers within their first three years of practice and who work in firms of three or fewer attorneys. The committee has identified a vendor that offers corporate clients an app-based mentoring platform that facilitates progress monitoring, and communication. The committee is designing a curriculum based on four milestones: Career planning and professional development; lawyer/client relationship; lawyer/bar relationship; and client development and community involvement. Mentees will be required to complete five of 16 "real world" activities. More details will be presented at the December board meeting.

### **16. Disciplinary Procedure Committee Report**

Chair Ronald Ponzoli presented.

Items for Final Action: Proposed amendments to Rule 3-7.4 (Grievance Committee Procedures), and Rule 3-7.5 (Procedures Before the Board of Governors). The board voted without objection to approve.

Proposed amendments to Rule 3-7.10 (Reinstatement and Readmission Procedures), and Rule 3-7.12 (Disciplinary Revocation of Admission to The Florida Bar). The board voted without objection to approve.

Proposed amendments to Standing Board Policy 15.75 (Review of Closed Inquiries and Disciplinary Cases). The board voted without objection to approve.

Items on First Reading: Proposed amendments to Rule 3-7.2 (Procedures on Criminal or Professional Misconduct; Discipline on Determination or Judgment of Guilt of Criminal Misconduct; Discipline on Removal from Judicial Office); Rule 7-1.4 (Definitions); Rule 7-2.3 (Payments); Rule 7-2.4 (Prerequisites to Payment); Standing Board Policy 15.56 (Case Processing Goals); and Standing Board Policy 15.76 (Review of Grievance Committee Action by Designated Reviewers).

### **17. Budget Committee Report**

Chair Melissa VanSickle presented.

Items for Action: Five budget amendments

1. (14b Exam consultant - \$15,245 addition to the Certification Fund Budget) The board voted without objection to approve.
2. (14c Inventory attys fees - \$57,500 addition to the TFB General Fund Budget) The board voted with objection to approve.
3. (14d MentorcliQ - \$30,000 addition to the TFB General Fund Budget) The board voted without objection to approve.
4. (14e YLD Grants – Rollover \$14,000 from prior year earnings into current year budget for YLD) The board voted without objection to approve.
5. (14f Leadership Academy – 0 net impact authorizing the Leadership Academy to obtain sponsorships and ticket sales to support an anniversary reception. The final plans are to be based on the level of sponsorships obtained as of December 5<sup>th</sup>.) The board voted without objection to approve.

Two moderate fiscal impact statements for the expected savings related to changes in the elections process, Bylaw changes 2-3.6 and 2-4.6. The budget committee did agree, unanimously approved, with the \$50,000 savings.

### **18. Legislation Committee Report**

Chair Braxton Gillam presented.

Items on Final Action: Pursuant to Standing Board Policy 9.20(e), proposed sunseting of the 2020-2022 legislative positions for the Out of State Division and

the 2020-2022 legislative positions of the Government Lawyers Section. The board voted without objection to approve.

Pursuant to Standing Board Policy 9.20(e), proposed adoption of the 2022-2024 legislative positions of the Out of State Division and the 2022-2024 legislative positions of the Government Lawyers Section. The board voted without objection to approve.

Chair Gilliam proposed board approval for the Out of State Division and Government Lawyer Section to advocate for their renewed legislative positions. The board voted without objection to approve.

Legislative advocate Jim Daughton reported that the November 8 election could result in as many as 30 new members of the Florida House and Senate. Gov. Ron DeSantis will call a special session to address Hurricane Ian recovery after the election but before the end of the year. The judicial branch legislative budget request will include funding for a third year of the Pandemic Recovery Plan, and salary increases for court reporters, court interpreters, trial court staff attorneys, and court specialists.

### **19. Board Review Committee on Professional Ethics**

Chair Michael Orr presented.

Advertising Appeal 22-02565: The Board of Governors voted without objection to reverse Standing Committee on Advertising decision in advertisement file 22-02565 and affirm staff's April 27, 2022, opinion that the preliminary advertisement's depiction of children as insurance agents intimidated by the advertising law firm is a comparison of the lawyer's services that is not objectively verifiable in violation of Rule 4-7.13(b)(3) and is deceptive or inherently misleading in violation of Rule 4-7.13(a). Clifford Higby was recused from this item.

Chair Michael Orr reported that proposed amendments to Rules 4-7.13, 4-7.15, will appear on first reading on the December agenda.

Chair Michael Orr reported that proposed amendments to 4-3.4 were considered by the Board Review Committee on Professional Ethics but that no further action was taken on this item.



## **20. Rules Committee Report**

Chair Amy Farris presented.

Items on First Reading: Proposed amendments to Rule 1-3.7 (Reinstatement to Membership); Bylaw 2-3.6 (Election); Bylaw 2-4.6 (Election of President-Elect); Standing Board Policy 1.80 (General Recusal Policy); Standing Board Policy 8.10 (Amicus Curiae Filings); Standing Board Policy 8.20 (Responses to Bar Rules Petitions); Standing Board Policy 9.30 (Legislation Committee); and Standing Board Policy 9.50 (Legislative and Political Activities of Voluntary Bar Groups).

## **21. Program Evaluation Committee Report**

Chair Sia Baker-Barnes presented.

Items on First Reading: Proposed amendments to Rule 6-18.2 (Definitions); Rule 6-18.3 Minimum Standards; and Rule 6-29.2 (Definitions).

## **22. Audit Committee Report**

Chair Jeremy Branning presented.

Chair Branning reported that the audit is underway. A more thorough report will be presented in December.

## **23. Communications Committee Report**

Chair Joshua Chilson presented.

The Life's Legal Moment Subcommittee expects to make a presentation soon to a South Florida business group. Board members are urged to promote Bar activities and programs on social media. President Gary Lesser urged board members to promote Hurricane Ian relief.

## **24. Technology Committee Report**

Chair Gordon Glover presented.

The committee is working with Bar staff on potential enhancements to the Bar Member Portal that will provide greater personalization and customization. The committee will be recommending additional fields to the online lawyer directory, including limited scope representation and virtual representation. Cybersecurity project development continues, including articles and original content for the Bar News and LegalFuel. The committee is developing a best practices-guide for such things as cybersecurity risk assessment and prevention. The committee is planning a series of free, Bar-wide cybersecurity related CLE webinars and the

first is scheduled for November 17, 2022. The Tech Help Line continues to generate positive feedback.

### **25. Young Lawyers Division President's Report**

President Iris Elijah thanked President-Elect Scott Westheimer and board member Jody Hudgins for facilitating a Florida Bar Foundation sponsorship. The D. W. Perkins Bar Foundation will assume control of YLD social media in the next YLD "Takeover Tuesday" event. President Elijah challenged board members to participate in the "Pay Up or Push Up" promotion benefiting Florida Lawyers Assistance, Inc. Lawyers are challenged to perform 20 pushups or donate \$20. The YLD is sponsoring financial wellness seminars. Florida lawyers are urged to participate in the YLD's Hurricane Ian relief efforts, including helping storm victims address landlord-tenant issues.

### **26. President-Elect's Report**

President-elect Scott Westheimer reported that the schedule for next year's Board of Governors meeting is being finalized. The Supreme Court continues to review the final report from the Special Committee for the Review of Professionalism in Florida. The Center for Professionalism is implementing some of the recommendations.

### **27. Investment Committee Report**

Chair Jeffrey Rynor presented.

On September 19, 2022, the Short-Term Fund contained \$26,837,307 and the Long-Term Fund contained \$61,132,330.

### **28. President's Report**

President Gary Lesser reported that he convened an emergency meeting of the Executive Committee to address concerns raised by the latest membership certification and board apportionment. The Executive Committee voted to ask the Supreme Court to maintain the current apportionment pending a review of the process. A new process is being implemented for the management and distribution of board materials. This year's out-of-state meeting is scheduled for St. Louis.

**29. Executive Session**

The board went into executive session to discuss disciplinary and other confidential matters.

**30. Time and Place of Next Meeting**

There being no further business before the board, President Gary Lesser adjourned the meeting. The next board meeting is December 1-3 at the Ritz Carlton on Amelia Island.

SUBJECT INDEX

APPELLATE COURT RULES COMMITTEE REPORT .....	6
AUDIT COMMITTEE REPORT .....	9
BOARD REVIEW COMMITTEE ON PROFESSIONAL ETHICS.....	8
BUDGET COMMITTEE REPORT.....	7
CIVIL PROCEDURE RULES COMMITTEE REPORT .....	5
COMMUNICATIONS COMMITTEE REPORT .....	9
CONSENT CALENDAR .....	4
CORRECTION OF RULES PETITION MISTAKE .....	5
DISCIPLINARY PROCEDURE COMMITTEE REPORT .....	6
EXECUTIVE SESSION .....	11
FAMILY LAW RULES COMMITTEE REPORT.....	6
GUESTS AND LIAISONS.....	3
INVESTMENT COMMITTEE REPORT .....	10
INVOCATION AND PLEDGE OF ALLEGIANCE .....	3
JUVENILE COURT RULES COMMITTEE REPORT.....	5
LEGISLATION COMMITTEE REPORT .....	7
MINUTES APPROVAL.....	3
NON-ROLL CALL GRIEVANCE AGENDA ITEMS.....	3
OPENING REMARKS, PRESIDENT GARY LESSER .....	3

PRESIDENT’S REPORT ..... 10

PRESIDENT-ELECT’S REPORT ..... 10

PROGRAM EVALUATION COMMITTEE REPORT ..... 9

ROLL CALL..... 1

RULES COMMITTEE REPORT ..... 9

RULES OF GENERAL PRACTICE AND JUDICIAL ADMINISTRATION COMMITTEE REPORT ..... 5

SPECIAL COMMITTEE ON MENTORING NEW LAWYERS REPORT ..... 6

STAFF IN ATTENDANCE ..... 2

TECHNOLOGY COMMITTEE REPORT ..... 9

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

YOUNG LAWYERS DIVISION PRESIDENT’S REPORT..... 10