

Florida Bar Board of Governors  
December 2, 2022  
Amelia Island

**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  
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  
Julia L. Frey, 9th Circuit  
Tad A. Yates, 9th 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  
John Schifino, 13th Circuit  
Amy S. Fariior, 13th Circuit  
J. Carter Andersen, 13th Circuit  
Paige A. Greenlee, 13th Circuit  
Clifford C. Higby, 14th Circuit  
R. Sia Baker-Barnes, 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

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  
Iris A. Elijah, YLD President  
Anisha Patel, YLD President-elect  
Joseph “Jody” D. Hudgins, Public Member  
Linda Goldstein, Public Member

**Members Absent**

Victor Smith, 10th Circuit  
Ronald P. Ponzoli, Jr., 15th 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 Braxton Gillam delivered the invocation and board member Michael Orr led the Pledge of Allegiance.

**4. Remarks, The Honorable James Daniel, Fourth Judicial Circuit**

Board members were welcomed to the Fourth Circuit, home of Nassau County, the fourth fastest-growing county in Florida.

**5. Remarks, The Honorable Gary Flower, Duval County Judge**

Board members were urged to participate in the newly revised “Benchmarks: Raising the Bar on Civics Education” program.

**6. Public Reprimand, William J. Cantrell**

President Gary Lesser delivered a public admonishment.

**7. Public Reprimand, Jose G. Oliveira**

President Gary Lesser delivered a public admonishment.

## **8. 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

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

Board members were urged to remember Hurricane Ian and Hurricane Nicole victims. Marcy Jackson and Leslie Reithmiller were applauded for successfully implementing Board Effect. Board member Jody Hudgins urged support for the Florida Bar Foundation's Children's Legal Services Campaign. The board observed a moment of silence for former Florida Bar President Jay White and Justice Renatha Francis' late husband, Phillip Fender.

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

(No items.)

## **11. Minutes Approval**

The board approved the minutes from its October 24, 2022, regular meeting and the October 24, 2022, grievance minutes.

## **12. Consent Calendar**

The board approved the consent agenda, including the following:

- Adding "Smoke Ball," the practice management software, to The Florida Bar Member Benefits Program.
- Adding "ezBriefs," the Microsoft Word add-in that automates the creation of a table of authorities in legal briefs, to The Florida Bar Members Benefits Program.

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

The Hon. Andrew D. Manko, Chair, presented.

Items for Final Action: Proposed amendment to Florida Rules of Appellate Procedure 9.030 (Jurisdiction of Courts), 9.040 (General Provisions), 9.100 (Original Proceedings), 9.110 (Appeal Proceedings to Review Final Orders of Lower Tribunals and Orders Granting New Trial in Jury and Nonjury Cases), 9.120 (Discretionary Proceedings to Review Decisions of District Courts of Appeal), 9.140 (Appeal Proceedings in Criminal Cases), 9.141 (Review Proceedings in Collateral or Postconviction Criminal Cases), 9.142 (Procedures for Review in Death Penalty Cases), 9.145 (Appeal Proceedings in Juvenile Delinquency Cases), 9.146 (Appeals Proceedings in Juvenile Dependency and Termination of Parental Rights Cases and Cases Involving Families and Children in Need of Services), 9.147 (Appeals Proceedings to Review Final Orders Dismissing Petitions for Judicial Waiver of Parental Notice and Consent or Consent Only to Termination of Pregnancy), 9.160 (Discretionary Proceedings to Review Decisions of

County Courts), 9.170 (Appeal Proceedings in Probate and Guardianship Cases), Appeal Proceedings to Review Workers' Compensation Cases), 9.200 (The Record), 9.210 (Briefs), 9.310 (Stay Pending Review), 9.320 (Oral Argument), 9.340 (Mandate), 9.360 (Parties), 9.420 (Filings; Service; Computation of Time), 9.430 (Proceedings by Indigents), 9.440 (Attorneys), 9.800 (Uniform Citation System), and 9.900 (Forms). The board voted unanimously to accept.

Proposed Amendments to Florida Rules of Appellate Procedure 9.148 and 9.210. The board voted 35 to accept, 1 to reject, and 0 to amend.

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

Board Liaison Jeffrey Rynor presented.

Items for Final Action: Family Law Rules Committee proposed amendments to Family Law Forms 12.900(a), 12.900(b), 12.900(c), 12.900(d), 12.900(e), 12.900(g), 12.900(h), 12.902(e), 12.910(a), 12.913(b), 12.913(c), 12.920(a), 12.920(c), 12.928, 12.930(a), 12.930(b), 12.930(c), and 12.932, and 12.945. The board voted 39 to accept, 0 to reject and 0 to amend.

Family Law Rules Committee proposed amendments to Family Law Form 12.945(a) (Emergency Relief). The board voted 34 to accept, 0 to reject, and 0 to amend.

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

Co-Chairs Katherine Hurst Miller and Zackary Zuroweste presented.

The special committee expects to launch a mentoring program for lawyers with three years or less experience, and who work in law firms with three or fewer lawyers, at the Annual Convention. A digital platform will match participants with a choice of mentors who must have five years of experience or more. The nine-month program will require participants to complete four milestones together and mentees to participate in five practical experiences, such as attending court proceedings, real estate closings and/or government meetings.

#### **16. Budget Committee Report**

Chair Melissa VanSickle presented.

Items for Final Action: A proposed \$10,000 budget amendment to promote and education members about the new mentoring initiative. The board voted without objection to approve.

Board members are urged to attend the January 25, 2023, budget workshop in Tallahassee conducted by Chair-Elect Michael Orr.

#### **17. Legislation Committee Report**

Chair Braxton Gillam presented.

Items for Final Action: A Legislative Committee proposal to not prohibit the Elder Law Section from opposing a rewrite of Florida Chapter 745 unless it includes certain provisions of the Uniform Adult Guardianship Jurisdiction Act. The board voted without objection to approve.

A Legislation Committee proposal to reduce the number of Florida Bar legislative positions from 14 to three. The board voted without objection to approve.

Florida Bar legislative advocate Aimee Diaz Lyon reported that 35 of 160 lawmakers are Florida Bar members, including House Speaker Paul Renner, Senate President Kathleen Passidomo, and House Democratic Leader Fentrice Driskell. A December special session will address property insurance. Gov. Ron DeSantis is expected to release a budget proposal in January. Board members are urged to attend The Florida Bar's January 26 legislative reception in Tallahassee.

### **18. Disciplinary Procedure Committee Report**

Vice Chair John Agnew presented.

Items for Final Action: 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), and Rule 7-2.4 (Prerequisites to Payment). The board voted with objection to approve.

Proposed amendments to Standing Board Policy 15.56 (Case Processing Goals) and Standing Board Policy 15.76 (Review of Grievance Committee Action). The board voted without objection to approve.

### **19. Rules Committee Report**

Chair Amy Farrior presented.

Proposed amendments to Standing Board Policy 8.10 and Standing Board Policy 8.20 were withdrawn from consideration.

Items on Final Action: Proposed amendments to Rule 1.73 (Membership Fees). The board voted without objection to approve.

Proposed Amendments to Bylaw 2-3.6 (Election) and Bylaw 2-4.6 (Election of President-Elect.) Board member Brian Burgoon moved to amend the amendment to add the words "Voting is by secret ballot." The board voted without objection to approve. The board voted without objection to approve the amendments as amended.

Proposed amendments to Standing Board Policy 1.80 (General Recusal Policy). Board Member Larry Sellers moved to remove the language "should leave the room" from the proposed amendment. The board voted without objection to approve. Board member Michael Gelfand moved to amend the motion by deleting the additional language to subsection (a)(1) and substituting existing language in subsection (b)(1), "if the member's participation in the matter may bring into question the integrity of the board proceedings." The motion failed 21-23. The board voted without objection to approve the amendment as amended.

### **20. Program Evaluation Committee Report**

Chair Sia Baker-Barnes presented.

Items for Final Action: Proposed amendments to Rule 6-18.2 (Definitions), Rule 6-18.3 (Minimum Standards), and Rule 6-29.2 (Definitions). The board voted without objection to approve.

Items on First Reading: Proposed Amendments to Rule 6-3.14 (Sunset of Certification Areas), Board of Legal Specialization and Education Policy 2.04 (Annual Fee), and Board of Legal Specialization and Education Policy 5.02 (Application Process).

The committee is conducting 12 reviews and anticipates adding one more. Florida Bar Director of Research, Planning & Evaluation Mike Garcia deserves special recognition for his expertise and dedication.

### **21. Investment Committee Report**

Chair Jeffry Rynor presented.

The long-term fund contained \$59.8 million on October 31, 2022. The short-term fund contained \$24.1 million on October 21, 2022.

### **22. Technology Committee Report**

Chair Gordon Glover presented.

The committee is pursuing enhancements to the Member Portal, and additions to member profiles, including adding social media links, billing, and paying options, and others. A cybersecurity subcommittee hosted an awareness and prevention webinar, two more planned this year. The technology helpline continues to generate positive feedback.

### **23. Audit Committee Report**

Committee member Duffy Myrtetus presented.

Items for Final Action: The Audit Committee proposed acceptance of the annual audit for The Florida Bar for the fiscal years ending June 30, 2022, and 2021. The board voted without objection to approve.

### **24. Executive Director's Report**

Executive Director Josh Doyle asked board members to note the adoption of a new procedure for managing complaints against Bar attorneys. Assistant to the President Leslie Reithmiller will be leaving for a new position with Florida State University. Director Doyle introduced Bar Comptroller Tracie Harley.

### **25. Communications Committee Report**

Chair Joshua Chilson presented.

The "Life's Legal Moments" campaign reminds middle-income Floridians that an investment in affordable legal services will prevent future hardship and unnecessary expense. A toolkit will be available in January to assist board members in promoting the campaign to their local communities.

### **26. Board Review Committee on Professional Ethics Report**

Chair Michael Orr presented.

Items for First Reading: Proposed amendments to Rule 4-7.13 (Deceptive and Inherently Misleading Advertisements), and Rule 4-7.15 (Unduly Manipulative or Intrusive Advertisements).

Advertising Appeal in File 22-02812: The Board Review Committee on Professional Ethics (BRC) recommends that the Board of Governors review a decision of the Standing Committee on Advertising in file 22-02812 and determine whether the following statements are deceptive or inherently misleading pursuant to Rule 4-7.13(a)

of the Rules Regulating The Florida Bar: “Insurance company bullies... bullying you into settling for peanuts They harass... they stall... then they DENY your claim.” The Board Review Committee on Professional Ethics voted unanimously December 2, 2022, to recommend that the board reverse the decision of the Standing Committee on Advertising and reinstate the staff opinion and determine that those statements are deceptive and inherently misleading as prohibited by the rule. The board voted without objection to approve.

Chair Michael Orr reported that a lawyer requested an opinion regarding whether a Florida lawyer may be a passive investor in an alternative business structure that allows non-lawyer owners and investors and operates as permitted by law in the State of Arizona. Bar staff has written a proposed opinion that will be presented to the Professional Ethics Committee meeting on January 20, 2023, and will be considered by the Board Review Committee on Professional Ethics on January 26, 2023.

### **27. Special Appointments**

President Gary Lesser presented.

Florida Judicial Qualifications Commission, (1 lawyer to serve a six-year term, commencing January 1, 2023). The board voted to appoint **Gregory W. Coleman** of West Palm Beach.

Florida Realtor-Attorney Joint Committee, (6 attorneys, one from each state appellate district, to serve 2-year terms commencing January 1, 2023.) The board voted to appoint **Colleen C. Sachs**, Pensacola; **John N. Redding**, Tampa; **Vanessa M. Bertran**, Coral Gables; **Liron Offir**, Lake Mary; **Patrick T. Christiansen**, Orlando; and **Erin M. Miller**, Naples.

### **28. Young Lawyers Division President’s Report**

President Iris Elijah reported that as of November 1, 2022, 230 attorneys have volunteered to serve on the disaster legal services hotline. The division conducted Part 2 of the “Money Matters” webinar on November 9, 2022. The YLD Yearbook was recently released and includes contributions from many affiliates. The new “Practicing with Professionalism” webinar will be interactive and required of all first-year lawyers.

### **29. President’s Report**

The Special Committee on Greater Public Access to Legal Services report will be forwarded to board members in a few days. The board will meet December 13, 2022, to consider final approval.

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

There being no further business before the board, President Gary Lesser adjourned the meeting at 1:50 p.m. The next board meeting is January 27, 2023, at the AC Hotel by Marriott in Tallahassee.

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