

Florida Bar Board of Governors  
January 27, 2023  
Tallahassee, Florida

**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  
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  
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 (Ret.), 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  
Ronald P. Ponzoli, Jr., 15th Circuit  
Robin I. Bresky, 15th Circuit  
Michael J. Gelfand, 15th Circuit  
Jay Kim, 17th Circuit  
Lorna E. Brown-Burton, 17th Circuit  
Hilary Creary, 17th Circuit  
Adam G. Rabinowitz, 17th Circuit  
James G. Vickaryous, 18th 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

**Members Absent**

Kris B. Robinson, 3rd Circuit  
Philip J. Bonamo, 7th Circuit  
Julia L. Frey, 9th Circuit  
Wayne LaRue Smith, 16th Circuit  
Diana Santa Maria, 17th Circuit  
Gregory S. Weiss, 19th Circuit  
Eric L. Meeks, Out of State  
Linda Goldstein, Public Member

**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 “Marcy” 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  
Rita Am, Assistant to the President  
Leroy Smith, Director, Professional Development  
Christine Bilbrey, Director, Practice Resource Center & LegalFuel  
Jim Ash, Senior Editor, Florida Bar News

**3. Invocation and Pledge of Allegiance**

Board member Lawrence Sellers delivered the invocation and board member Melissa VanSickle 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  
Thomasina Moore, Florida Association for Women Lawyers  
Carlos Martinez, Government Lawyer Representative  
Craig Shoup, Voluntary Bar Association Representative  
The Honorable Suzanne Van Wyk, Florida Bar Foundation

Cristina Alonso, Solo & Small Firm Section  
Kathleen McLeroy, Alternative Dispute Resolution Section  
Victoria Heuler, Elder Law Section  
Winifred Acosta, Tallahassee Women Lawyers  
Erin Tilton, Tallahassee Bar Association  
Joseph Bodiford, Tallahassee Bar Association  
The Honorable Megan Silver, Florida Government Bar Association  
Jeffrey Harvey, Community Legal Services of Mid Florida

#### **5. Admonishments/Reprimands**

President Gary Lesser admonished attorney Jay Kovar.

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

The annual out-of-state board meeting will be March 1-3 in St. Louis, Mo.

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

Item 11.

#### **8. Remarks, Carolyn Timmann, Florida Court Clerks & Comptrollers President**

The Florida Bar and court clerks share a mutual interest in advocating for an adequately funded and more efficient court system.

#### **9. Remarks, Second Judicial Circuit Chief Judge Jonathan Sjostrom**

Judge Sjostrom welcomed the board to Tallahassee. "It's hard to imagine wiser counsel" than Second Circuit board members Melissa VanSickle and Larry Sellers.

#### **10. Minutes Approval**

The board approved the December 2, 2022, regular minutes, the December 13, 2022, regular minutes, and the December 2, 2022, grievance minutes. That included ratifying the following actions taken by the Executive Committee:

- On December 16, 2022, the Executive Committee voted 12-0 to approve a request for a Criminal Law Section legislative advisor for \$10,500 for December 1, 2022 - June 30, 2023.

#### **11. Consent Calendar**

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

- A Legislation Committee recommendation to disapprove under policy 9.20 a Consumer Protection Law Committee request to send lawmakers an introductory letter offering technical assistance.
- UPL Circuit Nominations – Committee 11B, **Jack Levine**, public member; Committee 11D, **Jonathan Eleff**, public member; Committee 11D, **Barbara Warren Loli**, attorney member.

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

Chair Michael Orr presented.

Items on Final Action: Proposed amendments to Rule 4-7.13 (Deceptive and Inherently Misleading Advertisements), and Rule 4-7.15 (Unduly Manipulative or Intrusive Advertisements). The Board Review Committee on Professional Ethics voted unanimously to recommend approval. The board voted without objection to approve.

Ethics Inquiry 42792: The inquiry was jointly submitted by a lawyer in a public defender's office and a lawyer in a state attorney's office. The inquiry asks whether the public defender's office represents a criminal defendant in all criminal matters, including unrelated matters where the criminal defendant has been identified as an unrepresented witness or victim, for purposes of Bar Rule 4-4.2. Bar Rule 4-4.2 prohibits a lawyer from communicating with a person the lawyer knows to be represented by another lawyer regarding the subject matter of the representation without the consent of the represented person's lawyer. Staff's opinion concludes that the state attorney's office may communicate with a criminal defendant regarding unrelated matters where the defendant is unrepresented, that the state attorney should notify the defendant's counsel of their intent and may not discuss any information related to the criminal matter where counsel has been appointed. The opinion also states that whether the defendant is represented as a victim or witness in the unrelated matter is a question of law that is beyond the scope of an ethics inquiry. The Professional Ethics Committee affirmed staff's original opinion, and the inquirer sought review of that decision. On January 26, 2023, the Board Review Committee on Professional Ethics (BRC) voted unanimously to recommend that the board affirm staff's original opinion. The board voted without objection to approve.

Chair Michael Orr reported that a lawyer requested an opinion regarding whether Florida lawyer may be a passive investor in an alternative business structure that allows non-lawyer owners and investors to operate as permitted by law in the State of Arizona. Bar staff has drafted a proposed opinion and the inquirer's counsel has requested additional time to provide comments and edits. The Board Review Committee on Professional Ethics will further consider this matter at its next meeting.

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

The Hon. Andrew Manko, Chair, presented.

Items on Final Action: Proposed amendments to Florida Rule of Appellate Procedure 9.020 and 9.210. The board voted 38 to recommend acceptance, 0 to recommend rejection and 0 to recommend amendment.

## **14. Traffic Court Rules Committee Report**

Committee member Kareem Todman presented.

Items on Final Action: Proposed amendments to Florida Rules of Traffic Court 6.080 (Improper Disposition of Traffic Ticket), 6.090 (Direct and Indirect Criminal Contempt), Rule 6.180 (Sentencing Repeat Offenders), Rule 6.183 (Preemptory Challenges), Rule 6.190 (Procedure on Failure to Appear; Warrant; Notice), and Rule 6.300 (Driver License Revocation; Maintaining List). The board voted 35 to accept, 0 to reject, and 0 to amend.

### **15. Criminal Procedure Rules Committee Report**

Liaison Tad Yates presented.

Items on Final Action: Proposed amendments to Rule of Criminal Procedure 3.992 (Criminal Punishment Code Scoresheet). The board voted 31 to accept, 1 to reject, and 0 to amend.

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

Liaison Jeffrey Rynor presented.

Items on Final Action: Proposed amendments to Florida Family Law Rule 12.070 (Process), Rule 12.280 (General Provisions Governing Discovery), and Rule 12.340 (Interrogatories to Parties). The board voted 30 to accept, 0 to reject, and 0 to amend.

### **17. Communications Committee Report**

Chair Joshua Chilson presented.

A Life's Legal Moments subcommittee is preparing materials to facilitate presentations to chambers of commerce. Special Committee on Mentoring New Lawyers Co-Chairs Zackary Zuroweste and Katherine Hurst Miller presented an update to the committee. Public Member Jody Hudgins presented an IOTA proposal.

### **18. Citizens Advisory Committee Report**

Chair Tad Yates presented.

The committee received presentations from legislative advocates Jim Daughton and Aimee Diaz Lyon, Florida Bar Foundation Executive Director Donny MacKenzie, and Florida Bar Diversity Initiatives Manager Arnell Bryant-Willis. Chair Yates introduced Citizen Advisory Committee Vice Chair Karen Cespedes, and committee members Ron Cunningham, Jarrod Dawson, Kevin Gay, Lawrence Gordon, Robert Johnson, Don Kiselewski, David Mica, Orlando Rolón, Susan Rolston, James Sewell, Wilhelmina Tribble, and Nancy Vaughn.

### **19. Program Evaluation Committee Report**

Chair Sia Baker-Barnes presented.

Items on Final Action: Proposed amendments to Rule 6-3.14 (Sunset of Certification Areas), Board of Legal Specialization and Education Policy 2.04 (Annual Fee), Board of Legal Specialization and Education Policy 5.02 (Application Process). The board voted without objection to approve.

A Florida Bar Elections Review determined that there is no need to require candidates in Bar elections to report financial campaign contributions. A Florida Lawyers Helpline review determined The Florida Bar should continue offering the service. President Gary Lesser urged board members to promote the Florida Lawyers Helpline to raise awareness.

## **20. Executive Session**

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

## **21. Leadership Academy Committee Report**

Co-Chairs Lisa Capote and Nicholas Johnson presented.

Co-Chair Nicholas Johnson reported that 16 academy fellows have become judges and magistrates, two serve as state attorneys, and the following serve on the Florida Bar Board of Governors: Jesse Butler, Iris Elijah, Jay Kim, Nikki Lewis Simon, Alice Sum, Melissa VanSickle, and Gregory Weiss. The following Class VIII and Class X fellows introduced themselves: André Sesler, Natasha Khoyi, Lauryn Day, Katherine McGinnis, Kristen Palacio, Dominique Brown, Sharmin Hibbert, Sharlene Stanford, Winifred Acosta, Michael's Deborah Saint-Vil, Sherri-Ann Grant-Clarke, Loressa Felix, Jessica Saiontz, Michael Barber, Katrice Stubbs, Mikel Bradley, Juan Camacho, Michael Bracchi, Kyara Herard, Tiffany Hilton, Kimberly Woods, David Thompson, Marcus Isom, Jr., Andrej Milic, Lourdes Casanova, Ruby Green, Daniela Mendez, Keith Lorenze, Thomas Fossler, and Jordann Wilhelm.

## **22. Disciplinary Procedure Committee Report**

Chair Ron Ponzoli presented.

Items on Final Action: Proposed amendments to Rule 1-3.3 (Official Bar Name and Contact Information), Rule 3-3.4 (Grievance Committees), and Rule 4-8.6 (Authorized Business Entities). The board voted with objection to approve.

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

Executive Director Joshua Doyle introduced Bar Services Manager Jeff Doran and Florida Bar Journal Managing Editor Melinda Melendez. Programs Division Director Terry Hill introduced Programs Division Assistant Director Francisco-Javier P. Digon-Greer, and Professional Development Director Leroy Smith. CFO & Administrative Division Director Cynthia Jackson introduced IT Analyst I David Westmark and Creative Support Manager Clay Shaw. General Counsel & Ethics and Consumer Protection Division Director Gypsy Bailey introduced Henry Latimer Center for Professionalism Assistant Director Katie Young and Ethics and Advertising Paralegal Donna Hostutler. Lawyer Regulation Division Director Elizabeth Tarbert introduced Senior Attorney Mark Mason, Rules Attorney Michael Hodges, and Senior Attorney John D. Womack.

## **24. Rules Committee Report**

Chair Amy Fariior presented.

Items on First Reading: Proposed rewrite of Chapter 8 (Lawyer Referral Rule), and proposed amendments to Rule 1-3.7 (Reinstatement to Membership), Rule 11-1.9 (Continuation of Practice Program After Completion of Law School Program or Graduation), and Rule 20-3.1 (Requirements for Registration).

## **25. Technology Committee Report**

Chair Gordon Glover presented.

The committee is focusing on three major initiatives: Improvements to The Florida Bar member portal, enhancing cybersecurity education and resources for Florida Bar members, and identifying technology related services and products for inclusion in the Florida Bar Member Benefits Program. The committee's live webinar, "Cybersecurity and the Practice of Law: What Florida Lawyers Need to Know in 2023," has been selected for inclusion in the President's Showcase for the Annual Convention.

## **26. Investment Committee Report**

Chair Jeffrey Rynor presented.

The Long-Term Fund contains \$64,625,000. The Short-Term Fund contains \$19.3 million. The Long-Term Fund has added \$6,900,000 over the last three years, a 4.4% annualized rate.

## **27. Remarks, Florida Supreme Court Chief Justice Carlos Muñiz**

The Court received valuable feedback from the comments generated by the Workgroup on Improved Resolution of Civil Cases proposal. The Court will soon consider the Special Committee on Greater Public Access to Legal Services recommendations. The Court considers critical due process needs – interpreters, staff attorneys, case managers, and IT support – and raises for trial court judges, the priority for 2023 legislative session.

## **28. Legislation Committee Report**

Chair Braxton Gillam presented.

The Florida Bar legislative reception was a success. State Courts Administrator, Ali Sackett presented court system budget priorities to the committee. Lawmakers are beginning to shape policy and the FY 2023-34 state budget in interim committee weeks. Between 1,500 and 1,600 bills will be filed for the 2023 session that begins March 7, legislative advocate Jim Daughton reported.

## **29. Small Claims Rules Committee Report**

The Hon. Augustus Aikens, Jr., committee member, presented.

Items on Final Action: Proposed amendments to Florida Small Claims Court Rule 7.110 (Dismissal of Actions), and Form 7.310 (Caption). Board member Michael Gelfand offered an amendment to the proposed amendment to Rule 7.110 (c) that would substitute "filed" for the word "made" in the following sentence:

"If a counterclaim has been made by the defendant before the plaintiff dismisses voluntarily, the defendant's counterclaim shall remain pending unless the defendant agrees to the dismissal." The board voted 0 to accept, 0 to reject, and 25 to amend.

## **30. Remarks, The Honorable Suzanne Van Wyk, President, Florida Bar Foundation**

The Florida Bar Foundation will help promote "Life's Legal Moments." Total IOTA collections could reach \$40 million at the end of this year. The Foundation is implementing the new IOTA rule.

### **31. Budget Committee Report**

Chair Melissa Van Sickle presented.

Chair-elect Michael Orr reported that board members will receive an FY 2023-24 budget proposal before the March meeting. Board members Melissa VanSickle, Paige Greenlee, Sia Baker-Barnes, Lorna Brown-Burton, Duffy Myrtetus, John Agnew, Cliff Higby, Jody Hudgins, Alice Sum, Hilary Creary, Larry Sellers, Nikki Lewis Simon, Jeremy Branning, Jeff Rynor, Laird Lile, Irish Elijah, and Anisha Patel participated in the daylong budget workshop.

### **32. Special Appointments**

President Gary Lesser presented.

The Florida Bar Foundation Board of Directors: Two attorneys to serve three-year terms commencing July 1, 2023. The board voted without objection to approve **Sara Courtney Baigorri**, Coral Gables, and **Brian E. Currie**, Jacksonville.

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

President Iris Elijah reported that the YLD Yearbook was released January 27. The YLD Money Talk Road Maps initiative is a success. The Practicing with Professionalism CLE, with a live, interactive format, was conducted December 8, 2022. The YLD is sponsoring a new City, State & Local Government CLE. The YLD Affiliate Outreach Conference raised more than \$26,000 in sponsorships.

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

President-Elect Scott Westheimer thanked board members who attended the budget workshop. Board members are urged to return their committee preference forms. The September 6-10, 2023 meeting will be in Austin, Texas.

### **35. President's Report**

President Gary Lesser urged board members to present "Life's Legal Moments" to local community groups, including chambers of commerce. Kristen Wilson and Brandee Blake deserve special recognition for planning the board meeting.

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

There being no further business before the board, President Gary Lesser adjourned the meeting at 2:06 p.m. The next board meeting is March 1-3 at the St. Louis Union Station in St. Louis, MO.



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