

Florida Bar Board of Governors
March 3, 2023
St. Louis, Missouri

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
Joshua T. Chilson, 6th Circuit
Philip J. Bonamo, 7th 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
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. Farrior, 13th Circuit
Paige A. Greenlee, 13th Circuit
Clifford C. Higby, 14th Circuit
R. Sia Baker-Barnes, 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
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

Members Absent

Gordon J. Glover, 5th Circuit
Sandra Fascell Diamond, 6th Circuit
Stephanie M. Marchman, 8th Circuit
J. Carter Andersen, 13th Circuit
Ronald P. Ponzoli, Jr., 15th Circuit
Robin I. Bresky, 15th Circuit
Gregory S. Weiss, 19th Circuit
Laird A. Lile, 20th Circuit
Adam G. Rabinowitz, 17th Circuit
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 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

Jim Ash, Senior Editor, Florida Bar News (Via Zoom.)

3. Invocation and Pledge of Allegiance

Board member Jeremy Branning delivered the invocation and board member Julia Frey 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

Craig Shoup, Voluntary Bar Association Representative

Giselle Gutierrez, Cuban American Bar Association

Carlos Martinez, Government Lawyer Representative

Christina Alonzo, Solo and Small Firm Section

5. Remarks, Megan Phillips, President-Elect, Missouri Bar

Phillips welcomed the board to St. Louis and explained the Missouri Supreme Court created the unified Missouri Bar in 1944. It has 31,000 members. Missouri state courts are organized into 45 judicial circuits and three appellate districts. Missouri's 197-member Legislature has 25 lawyers.

6. Opening Remarks, President Gary Lesser

President Gary Lesser requested a moment of silence to honor former President Terry Russell (2001-2002) who died February 28, 2023. Board member Iris Elijah led a chorus of "Happy Birthday" for board member Anisha Patel.

7. Non-Roll Call Grievance Agenda Items

None.

8. Non-Roll Call Advertising Appeal Agenda Items

None.

9. Minutes Approval

The board approved the January 27, 2023, regular minutes.

10. Consent Calendar

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

- A Family Law Section proposed legislative position that would state, “Supports legislation that affords unwed parents’ rights and responsibilities when they have signed an unchallenged voluntary acknowledgement of paternity or otherwise established paternity under law.”
- A legislative advisor agreement between the Tax Law Section and the Advocacy Group at Cardenas Partners, LLC., for a sum of \$5,000/month, (not to exceed \$20,000,) for the period between January 1, 2023, and June 30, 2023.
- A Member Benefits Committee proposal to add “eNotary” remote notarization to the Florida Bar Member Benefits Program.
- UPL Circuit Nominations -- Committee 10, **Bradley Wilson**, attorney member; Committee 11 “D,” **Steven Levine**, public member.
- An Investment Committee proposal to update the benchmark asset class index contained in the investment policy to reflect that “Bloomberg Barclays” is now “Bloomberg.”
- The appointment of **Kathryn Avila** as an attorney member to the Legal Services of North Florida, Inc., board for a term that commences immediately and expires December 31, 2025.
- Approval of one member objection, pursuant to Florida Bar Rule 2-9.3 (b) – (e), to The Florida Bar legislative positions adopted December 2, 2022, and published January 1, 2023, in the Florida Bar *News*, specifically, position numbers 1-3, and the refund of \$4.51 in prorated dues.

11. Family Laws Rules Committee Report

Magistrate Kristi Beth Luna, committee member, presented.

Proposed amendments to Rule 12.140 (Responses), and Rule 12.150 (Sham Pleadings). The board voted 25 to accept, 4 to reject, and 3 to amend.

12. Civil Procedure Rules Committee Report

Liaison Michael Fox Orr presented.

Proposed amendments to Form 1.933 (Account Stated). The board voted 30 to accept, 1 to reject, and 1 to amend.

Proposed new Rule 1.041 (Limited Appearance Attorneys). The board voted 27 to accept, 2 to reject, and 0 to amend.

13. Criminal Procedure Rules Committee Report

Liaison Tad Yates presented.

Proposed amendments to Rule 3.030 (Service and Filing of Pleadings and Documents). The board voted 33 to accept, 0 to reject, and 0 to amend.

Proposed amendments to Rule 3.704 (Criminal Punishment Code). The board voted 28 to accept, 1 to reject and 0 to amend.

14. Special Appointments

President Gary Lesser presented.

Florida Rural Legal Services, Inc., Board of Directors – One attorney to serve a three-year term, commencing immediately, and expiring December 31, 2025. The board voted to approve former 12th Judicial Circuit Chief Judge **Kimberly C. Bonner**.

15. Public Member Screening Committee Report

Liaison Tad Yates presented.

A screening committee comprised of Citizens Advisory Committee Vice-Chair Karen Cespedes, and board members Linda Goldstein, Paige Greenlee, Stephanie Marchman, Michael Fox Orr, and Jorge Piedra reviewed and scored nine applications and interviewed five candidates via Zoom. The committee voted unanimously to recommend Lori Catron, New Smyrna Beach; Melanie Shore, Gainesville; and Dr. Marni F. Stahlman, Winter Park. The board voted 32 to accept, 0 to reject, and 1 to amend.

16. Disciplinary Procedure Committee Report

Committee member Tad Yates presented.

Items on Final Action: A proposed comment to February 8, 2023, Supreme Court Order, *In Re: Amendments to Rule Regulating The Florida Bar 3-5.2*, Case No. SC23-108. After discussion, the board voted to file comments opposing the proposed amendments because of the board's continued concerns over whether respondents will obtain due process and ask the court that if the amendments are adopted to change the verbiage to instead state "when a lawyer is charged by information or indictment in state or federal court" to ensure that a lawyer would not be subject to emergency suspension solely for an arrest.

17. Rules Committee Report

Chair Amy Farrior presented.

Items on First Reading: Proposed amendments to Standing Board Policy 1.20 (Board Meetings).

18. Budget Committee Report

Chair-elect Michael Fox Orr presented.

Items on First Reading: Initial approval of the Proposed FY 23-24 Budgets for The Florida Bar General Fund, Client Security Fund, Certification, Litigation, Fixed Assets and Sections. The Budget Committee reviewed various department and program requests during the January meeting. The exercise resulted in the following proposed budgets for FY 23-24:

- TFB General Fund: Revenues \$43.6 M, Expenses \$45.3M, Operating Loss \$1.7M. Projected Ending Undesignated Fund Balance \$32M
- Certification Fund: Revenues \$1.4 M, Expenses \$1.4 M, Fund Income of \$2.7K. Projected Ending Fund Balance \$2M.
- Client Security Fund: Revenues \$2.23M, Expenses \$3.0 M, Fund Reduction \$828K Projected Ending Fund Balance \$581K.
- Litigation Fund: Revenues \$471K, Expenses \$350K, Fund Increase \$121K, Projected Ending Fund Balance \$2.9M.
- Fixed Assets Fund: Revenue \$794K, Project Expenses \$549K before capitalization, Fund Increase \$495K. Projected Ending Balance \$8.3M.
- Sections (Combined): Revenues \$8.4M, Expenses 8.7M, Fund Reduction \$363K. Projected Ending Fund Balances (Combined) \$10.6M.

The tentatively approved General Operating Budget for FY 2023-2024 will be published in the April Bar News. It will be back before the board in May for final consideration before being presented the Supreme Court for its review.

19. Program Evaluation Committee Report

Chair Rosalyn Baker-Barnes presented.

Items on Final Action: Proposed amendments to Florida Lawyers Assistance, Inc., bylaws. The extensive revisions would provide greater autonomy for the board that oversees Florida Lawyers Assistance, Inc. The board voted without objection to approve.

A proposal by the Executive Subcommittee of the Governmental and Public Policy Advocacy Committee to change the committee's name to "Government Advocacy Committee." The board voted without objection to approve the name change. Items on First Reading: Board of Legal Specialization and Education proposed amendments to Rule 6-4.2 (Definitions), and Board of Legal Education and Specialization Policy 2.13 (Grading, Review, and Petition Process).

A subcommittee continues to evaluate the formula for the apportionment of Board of Governors seats. A subcommittee evaluating Board of Governors liaison reporting will present recommendations at the May meeting. A merit retention polls subcommittee will present recommendations at the May meeting.

20. Legislation Committee Report

Chair Braxton Gilliam presented.

Today is the last day of interim committee meetings prior to the March 7, 60-day regular legislative session. Legislative leaders have expressed support for the Supreme Court's spending priorities.

21. Technology Committee Report

Vice-Chair Tad Yates presented.

The committee has received three proposals for enhancements to the Bar's member portal. A communications subcommittee is reviewing three optional proposed fields for the lawyer referral directory. The Bar *Journal* editorial board is reviewing articles for a June cybersecurity issue. The committee met February 21 to discuss concerns regarding chatbots and emerging technologies.

22. Young Lawyers Division President's Report

Ashlea Edwards is the new president-elect designate. The Affiliate Outreach Conference enjoyed record attendance and broke a contribution record. Board member Michael Gelfand hosted president Elijah at a Real Property, Probate and Trust Law Section meeting.

23. President's Report

The Supreme Court is reviewing the Special Committee on Greater Public Access to Legal Services recommendations and justices will meet with committee members March 22. Many governors-elect will attend the May meeting.

24. Time and Place of Next Meeting

There being no further business before the board, President Gary Lesser adjourned the meeting at 1:04 p.m. CST. The next board meeting is May 12 at the Naples Grand Beach Resort.

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