

The Florida Bar Board of Governors
September 8, 2023
Austin, Texas

1. Roll Call

F. Scott Westheimer, President
Roland Sanchez-Medina, Jr., President-elect
Jeremy C. Branning, 1st Circuit
David W. Grimes, 2nd Circuit
Melissa N. VanSickle, 2nd Circuit
Michael Fox Orr, 4th Circuit
W. Braxton Gillam, IV, 4th Circuit
Philip J. Bonamo, 7th Circuit
Stephanie M. Marchman, 8th Circuit
Tad A. Yates, 9th Circuit
Victor R. Smith, 10th Circuit
Karl N. Klein, 11th Circuit
Jordan A. Dresnick, 11th Circuit
Jeffrey Rynor, 11th Circuit
Judge Leslie B. Rothenberg, 11th Circuit
Alice Sum, 11th Circuit
Sabrina Vora-Puglisi, 11th Circuit
Jesse R. Butler, 12th Circuit
John A. Schifino, 13th Circuit
Amy Stuart Fariior, 13th Circuit
J. Carter Andersen, 13th Circuit
Paige A. Greenlee, 13th Circuit
R. Sia Baker-Barnes, 15th Circuit
Manuel "Manny" Farach, 15th Circuit
Robin I. Bresky, 15th Circuit
Michael J. Gelfand, 15th Circuit
Jay Kim, 17th Circuit
Brian H. Koch, 17th Circuit
Lorna E. Brown-Burton, 17th Circuit
Hilary A. Creary, 17th Circuit
Gregory S. Weiss, 19th Circuit
Donald A. Workman, Out of State
Eric L. Meeks, Out of State
Brian D. Burgoon, Out of State
Anisha Patel, YLD President
Ashlea Edwards, YLD President-elect
Linda Goldstein, Public Member
Melanie Shore, Public Member

Members Absent

Kris B. Robinson, 3rd Circuit
Gordon J. Glover, 5th Circuit
Joshua T. Chilson, 6th Circuit

Sandra Fascell Diamond, 6th Circuit
Thomas P. Wert, 9th Circuit
Diego “Woody” Rodriguez, 9th Circuit
Nikki L. Simon, 11th Circuit
Jorge L. Piedra, 11th Circuit
Clifford C. Higby, 14th Circuit
Wayne LaRue Smith, 16th Circuit
Adam G. Rabinowitz, 17th Circuit
James G. Vickaryous, 18th Circuit
Laird A. Lile, 20th Circuit
E. Duffy Myrtetus, Out of State

2. Staff in Attendance

Joshua Doyle, Executive Director
Elizabeth Clark Tarbert, Director, Lawyer Regulation Division
Patricia A. Savitz, Staff Counsel
Rita Am, Assistant to the President

3. Invocation and Pledge of Allegiance

Board member Victor Smith delivered the invocation and board member Donald Workman led the Pledge of Allegiance.

4. Remarks, Texas Supreme Court Chief Justice Nathan L. Hecht

Texas tried 3,000 “minor” cases to verdict via remote technology during the COVID-19 pandemic. America’s state courts resolved 85 million cases in 2019. The profession should promote greater public trust in the judiciary. The Texas Legislature appropriated \$6 million to improve access to justice.

5. Remarks, State Bar of Texas President Cyndy Tisdale

A State Bar of Texas taskforce will review generative AI’s impact on the legal profession. The State Bar of Texas is creating an online portal for posting vacation letter notices to the court, promoting succession planning to senior lawyers, and raising awareness of vicarious trauma.

6. Minutes Approval

The board approved the minutes from the July 28, 2023, regular board meeting. That approval included the following actions taken by the Executive Committee:

- At a July 31, 2023, meeting, the Executive Committee voted 8-0, with one abstention, to voluntarily withdraw Supreme Court petition SC2019-2077.
- At an August 16, 2023, meeting, the Executive Committee voted 12-0 to approve four of six nominees recommended by a 2022 Supreme Court JNC: **Gordon A Dieterle**, Boca Raton; **Maria Dolores Garcia**, Coral Gables; **Thomasina Moore**, Tallahassee; and **William J. Schifino, Jr.**, Tampa. After further discussion, the committee voted 12-0 to approve two additional nominees: **Daniel E. Nordby**, Tallahassee, and **Michelle R. Suskauer**, Palm Beach Gardens.
- At an August 24, 2023, meeting, the Executive Committee voted 13-0 to take no action regarding an Elder Law Section request for approval to comment to the Agency for Health Care Administration regarding a proposed federal managed care pilot waiver request by Florida for a managed care system for persons with developmental disabilities.

7. Consent Calendar

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

- A Real Property, Probate & Trust Law Section legislative position request in support of legislation clarifying existing Florida law by statutorily exempting title disputes arising under the Florida Uniform Disposition of Community Property Rights at Death Act (“Act”) from Florida’s probate creditor claims procedure; creating a new dispute resolution mechanism and 2-year statute of repose specifically designed for title disputes arising under the Act, and making narrowly focused modifications to the Act and other related provisions of the Florida Probate Code to reduce the risk of unintended forfeitures of the property rights the Act is intended to preserve.
- Rules Committee proposed amendments to Rule 1-3.7 (Reinstatement to Membership); Rule 6-12.4 (Deferment and Exemption); Rule 20-3.1 (Requirements for Registration); Rule 20-6.1 (Generally); Rule 21-3.1 (Continuing Legal Education); BLSE Policy 5.09 (CLER Components Approval Guidelines); BLSE Policy 5.10 (Individual Credit Approval Guidelines); and BLSE Policy 6.02 (Reporting).
- UPLC Circuit Committee Nominations – Committee 11C, **Irma M. Tharp**, public member.

8. President’s Report

President Scott Westheimer presented.

A Young Lawyers Division hurricane hotline remains active. The Board of Governors sent a Sept. 1, 2023, letter updating Chief Justice Carlos Muñiz concerning The Florida Bar’s administration of the Phase 2 Basic Skills Course Requirements. The Board of Governors is negotiating in good faith with the Florida Bankers Association regarding FBA proposed amendments to Rule 5-1.1 (Trust Accounts). A taskforce has been formed to review the potential for The Florida Bar to issue a comment to the Judicial Circuit Assessment Committee. The free NOTA trust accounting software Member Benefit goes live next week. President Scott Westheimer and Executive Director Joshua Doyle plan to meet with each of Florida’s Supreme Court justices.

9. Rules Committee Report

Chair Philip Bonamo presented.

Items on Final Action: Proposed amendments to Rule 6-10.3 (Minimum Continuing Legal Education Standards), and Rule 6-12.3 (Requirements). The board voted without objection, which constituted a two-thirds majority, to waive first reading. The board then voted without objection to approve the proposed amendments.

Items on First Reading: Proposed amendments to Rule 1-3.2 (Membership Classifications); Bylaw 2-3.10 (Meetings); Chapter 4. Rules of Professional Conduct, (Preamble: A Lawyer’s Responsibilities); Rule 4-1.3 (Diligence); Rule 4-1.1 (Competence); Rule 4-1.6 (Confidentiality of Information); Rule 4-5.1 (Responsibilities of Partners, Managers, and Supervisory Lawyers); Rule 4-5.3 (Responsibilities Regarding Nonlawyer Assistants).

10. Program Evaluation Committee Report

Chair Melissa VanSickle presented.

Items on Final Action: Proposed amendments to Real Property, Probate & Trust Law Section bylaws. (The RPPTL Executive Committee voted 237-0 to approve on July 22, 2023.) The board voted without objection to approve.

Items on First Reading: Proposed amendments to Rule 6-4.3 (Minimum Standards); Rule 6-4.4 (Recertification); BLSE Policy 2.13 (Grading, Review, and Petition Process); and CLE Committee Policies.

11. Disciplinary Procedure Committee Report

Chair Tad Yates presented.

Items on First Reading: Proposed amendments to Rule 3-5.2 (Emergency Suspension; and Interim Probation; or Interim Placement on the Inactive List for Incapacity Not Related to Misconduct; and Freezing Trust Accounts); Rule 3-5.3 (Diversion of Disciplinary Cases to Practice and Professionalism Enhancement Programs); Rule 3-7.13 (Incapacity Not Related to Misconduct); Rule 3-__ (Frozen Trust Accounts); Standing Board Policy 15.55 (Deferral of Disciplinary Investigation During Civil, Criminal, and Administrative Proceedings); and Standing Board Policy 15.91 (Judicial Referrals and Complaints).

12. Criminal Procedure Rules Committee Report

Liaison Tad Yates presented.

Items on Final Action: Proposed amendments to Rules 3.211; 3.212; 3.704; and 3.992. The proposed revisions are in response to recent legislative changes. The board voted 33-0-0 to recommend acceptance of the amendments.

13. Technology Committee Report

Special Committee on AI Tools & Resources member Michael Orr presented.

Special Committee co-Chairs Duffy Myrtetus and Gordon Glover have directed the committee to broadly focus on how generative AI interacts with Florida Bar rules, how generative AI may change various aspects of the practice of law, and how generative AI may improve access to justice. The committee has formed an AI and the Regulation of Attorneys Subcommittee and an AI and Court Proceedings Subcommittee. President Scott Westheimer said he expects the special committee to present proposed rule amendments and a proposed ethics opinion to the board in December.

14. Legislation Committee Report

Chair Rosalyn "Sia" Baker-Barnes presented.

Hurricane Idalia forced the cancellation of a committee meeting two weeks ago. Board members are urged to submit key legislative contact forms. The committee will work with the task force reviewing the potential for The Florida Bar to issue a comment to the Judicial Circuit Assessment Committee. President Scott Westheimer announced that the annual Florida Bar legislative reception will be January 17, 2024, in Tallahassee.

15. Judicial Circuit Assessment Committee Report

Committee member Braxton Gillam presented.

The Supreme Court administrative order limits the assessment committee's review to the potential consolidation of judicial circuits, but The Florida Bar, in any potential comment, should consider broader recommendations. The assessment committee will conduct a public hearing October 13, 2023.

16. Young Lawyers Division President's Report

YLD President Anisha Patel presented.

The YLD recruited 17 lawyers to volunteer for the hurricane hotline. More are needed. A Practicing with Professionalism webinar launched yesterday. The annual Affiliate Outreach Conference distributed more than \$50,000 in grants. The next Affiliate Outreach Conference is scheduled for February 15-17, 2024. President Scott Westheimer addressed more than 100 participants at the last Council of Affiliates meeting. Since the last board meeting, the YLD has recorded or updated 43 CLE hours of webinars. An additional 56 CLE hours are pending.

17. President-elect's Report

President-elect Roland Sanchez-Medina presented.

President-elect Roland Sanchez-Medina asked board members to share announcements.

Board member Lorna Brown-Burton received the 2022 Russell E. Carlisle Advocacy Award for "actions that exemplify a personal and professional commitment to making justice available to the poor and disadvantaged." Board member Tom Wert in this summer completed an 11,500-mile motorcycle tour that included an 8,000-mile ride from Prudhoe Bay, Alaska, to Key West. Board member Sabrina Vora-Puglisi traveled to China and Southeast Asia. Board member Michael Gelfand is celebrating the birth of a granddaughter.

18. Time and Place of Next Meeting

There being no further business before the board, President Scott Westheimer adjourned the meeting. The next board meeting will be held November 29-December 2, 2023, at the Henderson Beach Resort in Destin.

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