



## SUMMARY THE FLORIDA BAR BOARD OF GOVERNORS MEETING PALM BEACH JULY 2011

At its July 29, 2011 meeting in Palm Beach, The Florida Bar Board of Governors:

- Heard from Bar President Scott Hawkins that Gov. Rick Scott had rejected two of the 26 slates of judicial nomination commission candidates submitted by the Bar in May. Scott rejected the slates for the 17<sup>th</sup> Circuit JNC (although he appointed one nominee on the 2011 slate to a 2010 position) and the Fourth District Court of Appeal JNC. Hawkins said the governor's general counsel did not give a reason for the rejection but did note F.S. §43.291 gives the governor authority to reject a Bar-nominated slate. Hawkins said the Bar would advertise for new applicants and the Executive Committee would select another slate for those two JNCs.

- Heard Supreme Court Justice Charles Canady warn that the courts still face money shortfalls because funding remains heavily reliant on foreclosure filing fees. He said foreclosures have increase slightly from earlier in the year but not enough to meet the revenue projections that legislators used in setting the courts budget. Without a further significant increase in those filings, the courts will have to go back to lawmakers and the governor for additional loans to make it through the 2011-12 fiscal year, which began with a \$54 million loan from the state. "This is an intolerable situation for our branch and we have got to in this next session of the Legislature get . . . a funding arrangement that is reliable," the chief justice told the board.

- Approved, upon the recommendation of the Legislation Committee, allowing the Legal Needs of Children Committee to advocate for legislation allowing children sentenced in adult criminal court for more than 10 years to have a meaningful opportunity for early release based on demonstrated maturity and rehabilitation.

- Approved, upon the recommendation of the Board Review Committee on Professional Ethics expressing concerns to the ABA on changes to two preliminary proposals from the ABA Commission on Ethics 2020 affecting outsourcing of legal services and on technology, largely because the suggested changes were less strict than current Supreme Court rules. Upon recommendation of the Standing Committee on the Unlicensed Practice of Law the board voted to object to three proposed changes from the ABA ethics commission. Those are to allow attorneys from other states to practice for a certain amount of time, to be determined by the Supreme Court, either as attorneys or authorized house counsel while their petition to join The Florida Bar or to become an authorized house counsel is pending; to allow a lawyer licensed in another country to appear pro hac vice in Florida; and to allow attorneys licensed in other countries to become authorized house counsel in Florida. The board, on the recommendation of the Standing Committee on UPL, voted to support the ABA ethics commission's recommendation that attorneys from other countries can engage in limited and temporary practice in Florida, since that tracks the Supreme Court's rule on multijurisdictional practice.

- Heard former Bar President Herman Russomanno, a member of the ABA Commission on Ethics 2020, report on the commission's activities. He said the commission welcomed any input and would not be making any recommendation to the House of Delegates before the ABA's August 2012 annual convention.

- Heard Florida Bar Foundation President Michele Cummings report that Florida IOTA income has declined 88 percent because of low interest rates, with little improvement expected until late next year at the

OFFICERS	GOVERNORS						
<b>PRESIDENT</b>	Stephen H. Echsner (1)	Carl B. Schwait (8)	Juliet M. Roulhac (11)	Michelle Renee Suskauer (15)	Laird A. Lile (20)		
Scott G. Hawkins	Lawrence E. Sellers, Jr. (2)	Mary Ann Morgan (9)	John H. Hickey (11)	Gary Shepard Lesser (15)	Scott Weinstein (20)		
West Palm Beach	William H. Davis (2)	Paul L. SanGiovanni (9)	L. Norman Vaughan-Birch (12)	Edwin A. Scales, III (16)	Richard Arthur Tanner (OOS)		
<b>PRESIDENT-ELECT</b>	Clay Alan Schnitker (3)	Scott Ramsey McMillen (9)	William J. Schifino, Jr. (13)	Walter G. Campbell, Jr. (17)	Ian M. Comisky (OOS)		
Gwynne A. Young	S. Grier Wells (4)	C. Richard Nail (10)	Lansing C. Scriven (13)	Adele I. Stone (17)	Eric L. Meeks (OOS)		
Tampa	Michael G. Tanner (4)	Ramón A. Abadin (11)	Margaret Diane Mathews (13)	Eugene K. Pettis (17)	Brian D. Burgoon (OOS)		
<b>EXECUTIVE DIRECTOR</b>	Lawrence Scott Kibler (5)	Dori Foster-Morales (11)	Michael S. Hooker (13)	Jay Cohen (17)	Sean T. Desmond (YLD)		
John F. Harkness, Jr.	Andrew B. Sasso (6)	Leslie J. Lott (11)	John W. Manuel (14)	Timothy L. Bailey (17)	Paige Adonna Greenlee (YLD)		
Tallahassee	Sandra Fascell Diamond (6)	Michael J. Higer (11)	David C. Prather (15)	Clifton A. McClelland, Jr. (18)	Winston W. Gardner, Jr. (PM)		
	Sandra C. Upchurch (7)	Dennis G. Kainen (11)	Gregory Coleman (15)	John M. Stewart (19)	Alvin V. Alsobrook (PM)		

**SUMMARY  
THE FLORIDA BAR BOARD OF GOVERNORS MEETING  
PALM BEACH JULY 2011**

soonest. The Foundation has used most of its reserves set aside for difficult economic times, she said, and is now exploring working with banks and capital markets on getting a loan to help continue funding legal aid programs, with the loan to be repaid when interest rates recover.

- Heard Investment Committee Chair Ian Comisky report that the committee is closely monitoring federal debt ceiling extension negotiations because of the potential impacts a deadlock could have on Bar investments. He also reported the Bar's investment funds, after another positive quarter ending in June, are at an all time high.

- Recommended the Supreme Court approve expedited amendments from the Civil Procedure Rules Committee. Committee Chair Kevin Johnson said the rules are the first codification in Florida procedural rules for handling electronic discovery and are based, with some changes, on federal rules. The board also recommended approval of three-year cycle rules amendments for Juvenile Procedure Rules, Traffic Court Rules, and Criminal Procedure rules.

- Heard a lunchtime address from Prof. Thomas Morgan of the George Washington College of Law on changes in the legal profession. He said the rapid growth in the number of lawyers, a difficult economy, technology, and the lack of control by bar associations over the legal marketplace are combining to put new pressures on the practice and also leading to rapid changes. Lawyers are likely to have to become more specialized to deal with those changes and be expected to deliver "Wal-Mart efficiency with a Neiman-Marcus feel."

- Heard Program Evaluation Committee Chair Jay Cohen report the committee would be examining in the coming year a designated seat for government lawyers on the Board of Governors or alternative way of bringing government lawyers into the operations of the Bar and board. Other committee projects are a review of the Lawyer Referral Service Committee, study of what is being done to help the perception of lawyers and judges including relating to next year's merit retention elections, renaming the Judicial Independence Committee, and looking at the role of the procedural rule committees.

- Heard Communications Committee Chair Greg Coleman report that the committee is working at improving all levels of Bar communications. He noted President Hawkins has sent a short video to all Bar members and which is also posted on the Bar's website. He said a similar video is planned quarterly. The committee is looking at how to effectively communicate both with Bar members and board members during legislative sessions, and with Bar committees, sections, and divisions and with local bars. He said the committee also will be looking at how technology is affecting the practice of law. The committee also recommended and the board approved adding two new areas to the profiles members can post on their member page on the Bar's website. One is to allow lawyers to list their certification in civil and/or family law by the National Board of Trial Advocacy and their status as a civil law notary, which allows lawyers to assist in Hague Convention issues worldwide.

- Heard Disciplinary Procedure Committee Chair Clif McClelland report the committee will be recommending a change to trust accounting regulations to require law firms to have written policies spelling out who in the firm is responsible for trust accounts and the duties of other partners and associates. He said the committee is soliciting sample policies from lawyer and law firms so one can be included in the rules. The change recognizes the reality that in many firms, especially large firms, associates and some partners have little effective control or oversight of trust funds.

- Heard Executive Director John F. Harkness, Jr., report that 3,500 people – the largest number every – were taking the next bar exam. He said typically 75 to 78 percent pass and become Bar members. He added that the Bar used to get around 2,000 new members annually, but that is now running 2,500 and is combined with another trend of fewer older lawyers choosing to retire, leading to a rapid growth in Bar membership.

Sandra Fascell Diamond  
Sixth Circuit, Seat Two

Andrew B. Sasso  
Sixth Circuit, Seat One