

IN THE SUPREME COURT OF FLORIDA

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SID J. WHITE

JUN 18 1998

CLERK, SUPREME COURT

By _____
Chief Deputy Clerk

THE FLORIDA BAR RE
PETITION TO AMEND RULES
REGULATING THE FLORIDA BAR

CASE NO. 92,841

**FRANKEL'S REPLY TO THE FLORIDA BAR'S RESPONSE TO COMMENTARY OF
RESPONDENT DAVID P. FRANKEL**

Florida Bar member David P. Frankel ("Frankel") hereby respectfully submits this reply to The Florida Bar's Response to Commentary of Respondent David P. Frankel (the "Response"). Frankel has made numerous attempts over more than a decade to solicit the perspective of The Florida Bar (the "Bar") on the subject of disproportionately-low representation of nonresident Bar members on the Board of Governors. The Bar, through its Response, has finally attempted to justify its position. As should be apparent to this Court, the emperor has no clothes and there is no legitimate constitutional justification for the disproportionate treatment accorded nonresident Bar members. Thus, in reply to the Bar, Frankel offers the following brief rebuttal points:

(1) The Bar seeks to highlight "the tremendous amount of member study and the extreme depth of judicial review directed to the issue of appropriate nonresident apportionment of the Bar's governing board." *See* Response at 2 (citing five decisions of this Court). However, not one of those five decisions concerning nonresident representation on the Bar's Board of Governors contains any discussion of the Privileges and Immunities Clause of the United States Constitution. U.S. Const. art. IV, § 2. It is primarily this undecided Privileges and Immunities

Clause issue that is now before this Court. *See* Comments of Florida Bar Member David P. Frankel, pp. 6-11 ("Frankel's Comments").¹

(2) The Bar strongly implies that nonresident Bar members and nonresident Bar leaders are virtually unanimous in their support of their existing allotment of seats on the Board of Governors. For example, the Bar writes: "As noted by the Bar in last year's rules filings, the requested increase in out-of-state board seats was a concept universally endorsed by all nonresident board members, as well as by the executive council of the Out-of-State Practitioners Division of The Florida Bar." *See* Response at 2. *See also id.* at 11.

Even if the Bar were correct on its facts -- a point Frankel disputes -- no amount of nonresident concurrence may cure a violation of the United States Constitution. Frankel simply does not recognize any purported attempt by nonresident Bar leaders to accede to a waiver of Frankel's constitutional privilege to proportionally-equal representation on the Board of Governors. Nevertheless, in 1987 when this Court was considering Chesterfield Smith's petition to adopt a one-person, one-vote apportionment scheme for the Board of Governors, the Out-of-State Practitioner Committee of The Florida Bar "stressed the inherent unfairness in [not extending the one-person, one-vote] position" to nonresident Bar members. *See* Minutes of the

¹ Similarly, the Bar claims that Frankel's comments are "essentially devoid of any argument that has not already been well considered throughout the evolution of this organization's governance processes." *See* Response at 3. Also, the Bar asserts: "Indeed, The Florida Bar would like to think that all of the issues raised in Respondent's comments, have been quite adequately considered." *Id.* To this Frankel asks: When, by whom, and how? These questions are not answered in the Bar's Response.

Out-of-State Practitioner Committee of The Florida Bar, at 4 (Jan. 24, 1987) (Exhibit 1).² The Out-of-State Practitioners Committee, acting from a position of weakness, with only two nonresident Bar members on the Board of Governors at that time, passed a compromise resolution supporting representation by five nonresident members on the Board of Governors. In its brief, the Bar has quoted only a small portion of the compromise resolution, taken out of context. *See* Response at 7. Certainly, this political compromise should not be used as an excuse to deny Frankel and other nonresident Bar members their just representation on the Board of Governors.

(3) The Bar argues: "If Mr. Frankel is dissatisfied with the performance of his nonresident representatives or the out-of-state division, he has adequate opportunity to address those separate concerns through the Bar's existing political process." *See* Response at 11. This argument misses the whole point of Frankel's longstanding efforts to obtain proportionately-equal representation for nonresident Bar members on the Board of Governors. Frankel is not challenging the *quality* of the nonresident representation he receives on the Board of Governors. Rather, he is concerned with the *quantity* of his representation. It is precisely because Frankel has disproportionately-low representation on the Board that he is dissatisfied with its organization. No amount of voting by the four existing, under-representative nonresident Board members can change its composition. Whether Frankel is satisfied or dissatisfied with his nonresident Board representatives is therefore completely irrelevant.

² Those same minutes report that "President-elect Ray Ferrero stated that he had trouble with Chesterfield Smith's petition on one-man, one-vote reapportionment because it treated out-of-staters differently than in-state members of The Florida Bar." *See* Exhibit 1 at 1.

(4) The Bar acknowledges that Frankel "pays the same amount of compulsory membership fees as Floridians, is subject to the same disciplinary rules, and must observe trust account and pro bono reporting requirements that are also imposed upon resident Bar members." *See* Response at 5. Yet, the Bar argues that Frankel "cites no actual discriminatory treatment by the Bar." *See id.* Of course, demonstrating the causality between disproportionately-low representation on the Board of Governors and discriminatory treatment against nonresident Bar members is no simple task. Nor, for that matter, is it a task that is required under the Privileges and Immunities Clause. Nevertheless, Frankel can provide at least one example of discriminatory treatment by the Bar against nonresident members that may not have persisted (as it still does) absent disproportionately-low nonresident representation on the Board.

Beginning in the late 1980's, nonresident Bar members sought an exception to a Florida statutory provision concerning the administration of estates that would permit nonresident Bar members to serve as personal representatives.³ *See* Fla. Stat. § 733.304. This proposed additional exception was advocated by the Out-of-State Practitioner Committee and opposed by the Real Property, Probate, and Trust Law Section. From a political standpoint, the Out-of-State Practitioner Committee was no match for the Real Property, Probate, and Trust Law Section.⁴ At

³ This proposed exception would have been in addition to existing exceptions for a legally adopted child or adoptive parent of the decedent; a person related by lineal consanguinity to the decedent; a spouse or a brother, sister, uncle, aunt, nephew, or niece of the decedent; or someone related by lineal consanguinity to any such person; or the spouse of a person otherwise qualified under this section. The idea behind the proposed exception was that nonresident Bar members were at least as qualified to serve as personal representatives as non-lawyers who fit into the existing exceptions.

⁴ *See, e.g.*, Exhibit 1 at 3 ("Florida Probate - Out-of-Staters as Personal

(continued...)

least one nonresident member of the Board of Governors at that time, Frederick J. Bosch, attempted to obtain the Board of Governors' support for an amendment to Fla. Stat. § 733.304 to permit nonresident Bar members to serve as personal representatives.⁵ Mr. Bosch's efforts were not successful. Had nonresident Bar members been afforded proportionally-equal representation on the Board at the time, Mr. Bosch might have been successful in securing the Board's efforts to work with the Florida legislature to modify the statute.

Thus, the Bar's assertion that nonresident Bar members' opportunity to practice law in Florida is equal to those of resident attorneys is not correct. The goal of equality of opportunity would be furthered if nonresident Bar members were accorded proportionally-equal representation on the Board of Governors.

(5) Notably absent from the Bar's Response is any discussion of the decisions of the Supreme Court of the United States that were cited in Frankel's Comments. The Bar, for example, has completely ignored that Court's admonition that in deciding whether discrimination against nonresidents bears a substantial relation to the State's objective, it considers whether less restrictive alternatives are available. *See Barnard v. Thorstenn*, 489 U.S. 546, 552-53 (1989) (citing *Supreme Court of New Hampshire v. Piper*, 470 U.S. 274, 284 (1985)). The Florida Bar has less restrictive alternatives available to it that would not run afoul of the Privileges and Immunities Clause. *See Frankel's Comments* at 9-10.

⁴(...continued)
Representatives").

⁵ *See* Frederick J. Bosch & John F. Licari, *Is Florida's Personal Representation Statute Constitutional?: No.*, 66 Fla. B.J. 17 (Feb. 1992). *See also* Pamela O. Price & Tracy A. Borgert, *Is Florida's Personal Representation Statute Constitutional?: Yes.*, 66 Fla. B.J. 16 (Feb. 1992).

Instead, the Bar relies on a decision of the Court of Appeals for the Fourth Circuit, *Parnell v. Supreme Court of Appeals of West Virginia*, 110 F.3d 1077 (4th Cir. 1997). In *Parnell*, a nonresident member of the West Virginia bar sought to sponsor three other lawyers to appear with him in state court in West Virginia pro hac vice. These three lawyers were not members of the West Virginia bar. West Virginia's rules of practice required that any attorney sponsoring non-bar members pro hac vice was required to practice law in West Virginia on a daily basis from an office in the state. Parnell did not maintain such an office in West Virginia and the state court thereby denied his motion to admit his three colleagues pro hac vice. Parnell filed a declaratory judgment action in U.S. district court against the West Virginia Supreme Court and the State Bar, arguing that the local office maintenance requirement violated the Privileges and Immunities Clause of the U.S. Constitution. The U.S. district court rejected Parnell's argument and he appealed to the Fourth Circuit, which affirmed.

The Fourth Circuit made the following significant finding: "Because [the challenged rule] accords equal treatment to nonresidents and residents and because nonresidents can qualify as local counsel under the rule, there is no residency classification that requires scrutiny under the Privileges and Immunities Clause." *Id.* at 1081. Unlike the rule challenged in the *Parnell* case, allocation of seats on The Florida Bar's Board of Governors does not accord "equal treatment to nonresidents and residents." This is a significant distinction between the *Parnell* case and the issue presently before this Court.

The *Parnell* court also held that the sponsorship of pro hac vice applicants is not a fundamental component of the right to practice law. *Id.* at 1081-82. This too is easily distinguishable from the right of compulsory bar members to vote for their representatives. To

discriminate against nonresident bar members in their ability to elect representative on the same terms as resident bar members is a grave interference with the nonresidents' ability and right to practice law. One example of the types of discriminatory results that may accrue from such unequal treatment can be seen in Florida in point (4) *supra*.

(6) The Bar cites two additional federal court decisions for the proposition that "malapportionment of representation on a state bar governing body is not violative of fourteenth amendment rights." *Brady v. State Bar of California*, 533 F.2d 502, 502-03 (9th Cir. 1976) (citing *Sullivan v. Alabama State Bar*, 295 F. Supp. 1216 (M.D. Ala.), *aff'd*, 394 U.S. 812 (1969)). See Response at 5. These two cases have no application to this matter for at least two significant reasons. First, unlike Frankel's Comments, neither case involved the Privileges and Immunities Clause. Indeed, the quote makes it crystal clear that the decisions concern the fourteenth amendment and not the Privileges and Immunities Clause.⁶ Second, while it is not clear, it appears that the plaintiff lawyers in *Brady* and *Sullivan* (unlike Frankel) resided and practiced within the states whose rules they challenged.

(7) The Bar cites *Tolchin v. Supreme Court of the State of New Jersey*, 111 F.3d 1099 (3d Cir. 1997), for the proposition that the Privileges and Immunities Clause is not violated by a rule that requires attorneys to maintain an office and attend continuing education courses conducted in the state. See Response at 6. Like the *Parnell* case discussed in point (5) *supra*, the

⁶ Unfortunately, this fatal flaw did not deter The Florida Bar from arguing in its brief that "[t]he *Brady* court apparently saw no arguable Privileges and Immunities aspect of this issue either, adding: 'There is, thus, no substantial unsettled federal question on such malapportionment' 533 F.2d 502 at 503." See Response at 5. By reading this quoted language as somehow implicating the Privileges and Immunities Clause in a case where that Clause was not at issue, the Bar has obviously gone too far.

Privileges and Immunities Clause aspect of the *Tolchin* case is equally inapplicable to the matter before this Court. The Third Circuit in *Tolchin* concluded that both the office and the continuing legal education requirements "similarly affect residents and nonresidents. Resident and nonresident attorneys alike must maintain a New Jersey office. . . . Similarly, the mandatory attendance requirement applies equally to residents and nonresidents." 111 F.3d at 1113. Unlike the rules challenged in the *Tolchin* case, allocation of seats on The Florida Bar's Board of Governors does not "similarly affect residents and nonresidents." This is a significant distinction between the *Tolchin* case and the issue presently before this Court.

(8) It is not until page 8 of its brief that the Bar finally attempts to offer *any* justification for treating nonresident Florida Bar members differently (and worse off) than resident Bar members. There the Bar states that "because in-state practice and disciplinary matters are the more significant component of The Florida Bar's regulatory activity, an apportionment scheme that addresses this reality -- further shaped by actual membership distribution and the ideals of unification -- has a rational basis." *See* Response at 8. It is here that the emperor's nakedness is most apparent.

This "justification" may be challenged on many levels. First, according to the Bar's statistics, there are approximately 11,000 nonresident members and 58,000 resident members. *See* Response at 12. Thus, if and when this Court implements a true one-person, one-vote system, the Board will still have approximately five resident Board members for every one nonresident Board member. If voting on the Board were to ever break down along in-state versus out-of-state lines, the resident members would have nothing to fear. Alternatively, if this

Court adopts an at-large system, the Board may be composed of any mix of resident and nonresident members as the general membership sees fit.

Second, one could make exactly the opposite argument than that made by the Bar about the significance of the development of in-state practice in discussing the make-up of the Board. Nonresident Board members bring to their work perspectives and experiences from other states that inform and assist resident Board members. Assuming Board members from big firms learn from those from small firms and that Board members from Florida cities learn from those from rural areas, there is no reason to doubt that resident Board members may learn from the experiences of nonresident Board members. Since most nonresident Board members are likely to be licensed in different jurisdictions and perhaps be active in those jurisdictions, one would think their expertise would be welcome and sought out.

Third, Frankel is somewhat unsure what point the Bar is trying to make with respect to the existence of disciplinary matters as a rational basis for disproportionately-low representation on the Board for nonresident members. To the extent the Board is involved in disciplinary matters, nonresident Board members (who are also by definition qualified members of The Florida Bar) bring as much wisdom to those discussions and decisions as resident Board members. Since the existing Board already consists of both resident and nonresident Bar members and routinely considers disciplinary matters, the Bar has failed to explain how a constitutionally-acceptable reapportionment of the Board will have any impact on Bar discipline.

Fourth, nonresident members have been represented on the Board of Governors now for approximately 18 years, albeit at grossly under-representative levels. With all that experience, the Bar has not identified a single problem (whether involving in-state practice, disciplinary

issues or otherwise) that has developed. The time has come for this Court to recognize that nonresident Bar members deserve to be treated with the same deference and respect as resident members.

CONCLUSION

For the foregoing reasons, Frankel respectfully requests that this Court reject both the existing and proposed apportionment schemes for the Board of Governors. In place thereof, Frankel respectfully requests that the Court adopt either an at-large representation system or a system that provides nonresident members of The Florida Bar with representation on the Board of Governors that is proportionally equal to representation provided to resident Bar members.

Dated: June 16, 1998

Respectfully submitted,



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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Comments of Florida Bar Member David P. Frankel was served via first class mail, postage prepaid, this 16th day of June, 1998, upon John F. Harkness, Jr., Executive Director, The Florida Bar, 650 Apalachee Parkway, Tallahassee, Florida 32399-2300.



David P. Frankel

EXHIBIT 1

MINUTES OF THE MEETING OF THE
OUT OF STATE PRACTITIONER COMMITTEE (OOSPC)
OF THE FLORIDA BAR

Saturday, January 24, 1987
Omni International Hotel, Miami, Florida

The formal portion of the meeting was preceded by a breakfast at which the following persons were in attendance: Chairman, William L. Guzzetti; Vice Chairpersons Alice Palmer Thomas and Peter Lousberg; and members, Harry W. Dahl, Joseph F. DeFelice, Daniel P. Gimmy, Michael H. Leeds and Ron Robins. Also in attendance were Board of Governors member Stephen N. Zack, Barry Greenberg, an out-of-stater from Oakbrook, Illinois; and R. Bruce Patterson, an out-of-stater from Springfield, Illinois.

Persons Present: Chairman, William L. Guzzetti; Vice Chairpersons, Alice Palmer Thomas and Peter Lousberg; and members, Harry W. Dahl, Joseph F. DeFelice, Daniel P. Gimmy, Michael H. Leeds, Norman J. Mattar, Ron Robins, and Russell H. Volkema. Out-of-state visitors included E. Barry Greenberg and R. Bruce Patterson.

Distinguished Visitors: Florida Bar President, Joseph J. Reiter, Florida Bar President-Elect, Ray Ferrero, Jr., Florida Bar President-Elect Designate, Board of Governors member and Liaison to the OOSPC, Rutledge Richardson Lyles and Board of Governors member, Stephen N. Zack.

Staff: Paul F. Hill, Communications Director, Florida Bar (in spirit only). Mr. Hill made a noteworthy effort to be present but was unavoidably deterred by the soon to be forthcoming arrival of his second child. All of our best wishes went with Paul and his wife Mollie.

1. Distinguished Visitor's Remarks: Chairman Bill Guzzetti recognized the distinguished visitors named above. Board of Governors member Stephen Zack discussed our interest in a membership attitude survey and suggested that the OOSPC investigate the costs and effectiveness of telephone surveys as a means of obtaining rapid and more frequent reactions of the Bar membership to significant Bar issues. President-Elect Ray Ferrero expressed concern over the use of surveys, remarking that the OOSPC is perhaps better informed than its constituency on the key issues before The Florida Bar and the Board of Governors at this time. He added, however, that Bar leaders, including himself, are prepared to cooperate with the OOSPC in obtaining a survey if we determine that a survey is the best course of action. For example, President-Elect Ferrero stated that he had trouble with Chesterfield Smith's petition on one-man, one-vote reapportionment because it treated out-of-staters differently than in-state members of The Florida Bar. He suggested our Committee has the opportunity to file briefs in court opposed to the petition, and if Committee sentiments dictated the filing of a petition, then perhaps a

survey wouldn't be needed to do so. He closed his remarks by expressing his continued support for out-of-staters and his willingness to back us in which ever course of action we choose.

2. Minutes: The Minutes of the September 6, 1986 meeting in Tampa were approved as mailed.
3. Out-of-State Practitioners Attitude Survey: Sub-committee Chairman Alice Palmer Thomas reported that Dr. Harry McGinnis of the Bar staff expected this year's attitude survey to be distributed in June or July. It was further reported that the Long Range Planning Committee, Sub-committee on Alternative Member Status, intended to report its findings to its committee in March rather than waiting for the July survey. It was further discussed generally that the alternative member status issue, the Board reapportionment issue, the OOSPC division status issue and other important issues would probably reach the Board of Governors and be subject to potential actions prior to the receipt of results from the July survey. Member Norman Mattar initiated a lengthy discussion on the subject of whether the OOSPC should attempt to rush ahead with a survey in time to include its results in OOSPC positions taken with respect to these issues or whether the Committee should express its positions without benefit of the survey.
4. Status of CLER/Mandatory Bridge the Gap: It was reported that the Board of Governors approved a Mandatory Bridge the Gap plan submitted by the Young Lawyers and the MCLE Committee of The Florida Bar which did not include any means of delivering the program other than live attendance within the State of Florida. President-Elect Ferrero advised the OOSPC that Fred Bosch represented the out-of-staters at the Young Lawyers meetings and approved of the plan submitted by the Young Lawyers. Bill Guzzetti remarked that he sat on the MCLE Committee and argued for alternative means of delivery such as the use of video tapes, but was in the minority. President-Elect Designate Rut Lyles indicated he would attempt to have the issue of alternative delivery revisited prior to submitting the proposed rule on Mandatory Bridge the Gap to the Supreme Court.
5. Committee Versus Division Status/Relationship of Committee to OOSPC Board of Governors Members: Vice Chairperson Peter Lousberg presented a report (see attached) on the out-of-stater division status experience in the State of Wisconsin, which has a non-resident lawyer division. A full discussion ensued on the relative merits of division status. After discussion, a majority of the Committee (one member dissenting) adopted the following resolution:

Resolved that the Out-of-State Practitioners Committee advise the leaders of The Florida Bar, including the Long Range Planning Committee, that the OOSPC has determined that it is premature for out-of-staters to seek division

status, and that the OOSPC recommends against the change of its status from a committee to a division at this time.

Chairman, Bill Guzzetti was instructed to communicate this resolution to the appropriate parties.

6. Florida Bar News Column: In the absence of Staff Coordinator Paul Hill, and Vice Chairperson Renee Kastanakis, a discussion of this topic was deferred until the June meeting.
7. Status of Reimbursement of Expenses for Board of Governors Members and Officers of the Committee: Bill Guzzetti reported that despite President Reiter's support of reimbursement, the Board of Governors voted against the reimbursement of expenses. No further action is required regarding this subject.
8. Application of New Contingency Fee Rules to Out-of-Staters: Chairman Bill Guzzetti reported that, largely as a result of the efforts of out-of-state Board of Governors member Tom Benham, the new contingency fee rules adopted by the Supreme Court will not generally apply to out-of-staters handling non-Florida matters outside the State of Florida, assuming Court approval of new amendments which address this issue. Questions arose with respect to shared fee arrangements which were referred to The Florida Bar staff.
9. Florida Probate - Out-of-Staters as Personal Representatives: Committee member Mike Leeds reported on the effects of Florida Statutes, Section 733.304 which basically requires a personal representative to be a resident of Florida or a blood relation of the decedent. He advised the statute had been subject to constitutional attack over the last few years without any change resulting. In reply to his inquiry to the Real Property, Probate, and Trust Law Section of The Florida Bar, Mr. Leeds received a rather abrupt response from attorney Ed Koren of that section strongly opposing any change in the statute. Mr. Koren advised the restrictions were necessary to protect Florida creditors of Florida decedents who risk assets departing the state if non-residents were allowed to serve as personal representatives. He explained further that there was no sympathy in their section to expand the class of non-residents who could act as personal representatives further than the use of blood relatives. Mr. Leeds debated the logic of this position and recommended to the Committee that he propose an alternative position in our behalf. It was agreed that Mr. Leeds would contact Mr. Koren again and request consideration of the proposition that members of The Florida Bar might qualify as personal representatives even though they reside outside the State of Florida and are not blood relatives of the decedent. These members of The Florida Bar remain subject to the jurisdiction of Florida courts by virtue of their membership. Mr. Leeds will follow up with Mr. Koren and report at our next regular meeting in June.

10. Reapportionment for Board of Governors' Elections: Chairman Bill Guzzetti and Vice Chairperson Alice Palmer Thomas reported that a petition was filed by Chesterfield Smith and others requesting that The Florida Bar and the Supreme Court of Florida adopt a one-man, one-vote approach to electing representatives to the Board of Governors. It was explained that the petition did not extend one-man, one-vote privileges to out-of-staters, but that it did request the retention of the two seats on the Board now reserved for out-of-staters. The discussion which followed stressed the inherent unfairness in this position. Vice Chairperson Alice Thomas, who sits on a special Reapportionment Committee created by The Florida Bar to study this issue and chaired by Bob Pleus of Orlando, stated that she had little support before the Board of Governors to argue for increased representation for out-of-staters. The Committee held a long discussion and determined that it should lend its support to increasing its representation within the present Board of Governors framework without requiring full one-man, one-vote representation. After a lengthy discussion, the following resolution was adopted:

Resolved that in the event one-man, one-vote representation on the Board of Governors is mandated by the Supreme Court or The Florida Bar, then the OOSPC will petition the Supreme Court to have five out-of-state representatives on the Board of Governors (or if the total number of seats changes on the Board, then approximately the same percentage of representatives as five members bears to the current total of Board of Governors members) which represents approximately 50% of the number of members of the Board of Governors to which out-of-staters would be entitled given a strict one-man, one-vote electoral process. The Committee recognized the distinction between an in-state member of The Florida Bar with daily contacts in the State of Florida and an out-of-stater with limited contacts with the State of Florida. It was further resolved that the Chairman of OOSPC, Bill Guzzetti, be given the discretion to negotiate with Florida Bar leadership to arrive at a mutually agreeable position allowing the OOSPC to participate in a joint petition with The Florida Bar, which petition would include a recommendation for five out-of-state members (or the equivalent) to the Board of Governors. Chairman Guzzetti was given further discretionary powers to negotiate reasonable concessions to arrive at a unified position with The Florida Bar.

This resolution was adopted by a majority of the members of the Committee (one member dissenting).

11. Oversight for the '90's Committee Questionnaire: Bill Guzzetti reported that he completed an oversight questionnaire on behalf of the OOSPC and copies were made available to other Committee members. In addition, Staff Liaison Paul Hill prepared a separate response to the questionnaire and copies of this

report were also made available to Committee members. The Committee was advised that in the event they desired additional or different responses to the questions, then Chairman Guzzetti would transmit additional or corrected responses to the Oversight Committee of which he is a member. Bill Guzzetti stated that the purpose of the Oversight Committee was to prioritize the activities of The Florida Bar in the face of projected dues increases in the near future.

12. Discussion: What is the Proper/Most Utilitarian/Beneficial/Effective Role for the OOSPC? Bill Guzzetti stated that the Long Range Planning Committee may suggest that out-of-staters be elevated to a division status. In addition, they might recommend that out-of-staters be appointed to all other significant sections and committees within The Florida Bar to act as a liaison representing the interests of out-of-staters. If out-of-staters were afforded division status, it would then be expected that the President and present President-Elect of the Out-of-State division would serve on The Florida Bar Board of Governors. A discussion followed concerning the relative merits of division status. The Committee had previously resolved that division status was premature in part because of the limited participation by out-of-staters at the current time in out-of-state committee activities. For the same reason, it did not appear wise to expect out-of-staters to serve on all of the committees and sections of The Florida Bar. Member Ron Robins pointed out that there may be a number of key committees or sections on which it would be useful to have a permanent out-of-state liaison. Ron Robins volunteered to undertake a review of the existing committees and sections and to make a recommendation concerning permanent out-of-state liaisons to key entities at our next regular meeting in June.
13. Committee Position on Sales Tax on Legal Services: Bill Guzzetti reported that on behalf of the Committee he submitted a letter to the Legislative Committee expressing OOSPC opposition to the sales tax on legal services within the State of Florida. After discussion, the following resolution was adopted unanimously:

Resolved that the Out-of-State Practitioners Committee is opposed to a sales tax on legal services within the State of Florida.
14. Distribution of MCLE Materials to Out-of-Staters: Bill Guzzetti reported that it is not clear whether the methods for the distribution of video tape materials to out-of-staters set out in the MCLE plan proposed to the Florida Supreme Court is workable in all states. Some voluntary bars may not be willing to handle the video tapes on behalf of out-of-state members of The Florida Bar. In Paul Hill's absence, it was determined to defer further discussion of this issue until our next regular meeting in June 1987.

15. Additional Committee Actions: Additional discussions were held regarding whether the Committee should adopt positions on other significant issues prior to the general survey of its membership contemplated in July 1987. A majority of the OOSPC in a straw vote supported adopting other OOSPC positions on key matters at this meeting. The subject of mandatory bridge-the-gap was discussed again, and the OOSPC determined to adopt the following resolution:

Resolved that the OOSPC opposes mandatory bridge-the-gap unless alternative methods of delivering the program to out-of-staters are adopted to include one or a combination of the following methods;

1. Video tape instruction;
2. Satellite simulcast of live bridge-the-gap presentations to other states; or
3. Live bridge-the-gap presentations made on an annual basis to regional centers around the country thereby facilitating attendance by out-of-staters.

This resolution was adopted by a majority of the members of the Committee (one member opposed).

The Committee also discussed whether it should take a position regarding alternative member status. It was determined by the Committee that it did not have enough knowledge of the recommendations soon to be forthcoming from the Long Range Planning Committee. The Committee also felt that the Board of Governors of The Florida Bar would not act on such an issue in haste. Therefore, it was determined to table any action on alternative member status until the next regular meeting of the Committee in June 1987, thereby giving us more time to study the subject. Bill Guzzetti indicated he would contact the Committee members by phone if events outstripped this proposed schedule.

It was determined that the Committee would request a Saturday morning meeting and breakfast at the Annual Convention in June 1987 in Orlando, Florida.

The meeting was adjourned.