

APPENDIX D

BACKGROUND MATERIALS

OCTOBER 26, 2016

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Florida Board of Bar Examiners

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May 10, 2016

President Ramón A. Abadin
Sedgwick LLP 1 Biscayne Tower
2 S Biscayne Blvd., Ste. 1500
Miami, FL 33131-1822

Gordon J. Glover, Esq.
Glover Law Firm
1531 SE 36th Ave.
Ocala, FL 34471-4936

Dear President Abadin and Mr. Glover:

In Re: Revised CLI Rule Amendment

In the spirit of The Florida Bar and the Florida Board of Bar Examiners' focus on increased communication and collaboration, I am providing the following additional information about our board's consideration of the proposed amendment to Chapter 11 of the Rules Regulating The Florida Bar.

In January 2016, a special committee was appointed to consider, among other items, the proposed amendments to Chapter 11 of the Rules Regulating The Florida Bar ("CLI Rule"). Members of that committee, subsequently named Committee on Legal Education, included Chief Justice Labarga, Justice Canady, Justice Lewis (initially), members of The Florida Bar Board of Governors, members of the Florida Board of Bar Examiners (FBBE), members of the Young Lawyers Division (YLD) of The Florida Bar, and deans of several Florida law schools. The committee met on Tuesday, February 23, 2016. No recommendations were made by that committee for consideration regarding the CLI Rule. The committee has not had any subsequent meetings.

On March 11, 2016, prior to The Florida Bar Board of Governors meeting, FBBE Vice Chair Richardson and Executive Director Gavagni met with The Florida Bar Board of Governors leadership and YLD leadership to discuss the committee's report to the Board of Governors and the next steps for the committee. As Vice Chair Richardson indicated at the meeting and subsequently at the Board of Governors meeting on March 11, 2016, the FBBE remained committed to active participation on that committee to work on any proposed

President Ramón A. Abadin
Gordon J. Glover, Esq.
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amendments to the CLI Rule. At that meeting, a request was made that the FBBE consider whether substituting a Level 2 background check for the FBBE character and fitness investigation would be agreeable to our board.

As you are aware, I stated to you in my letter dated March 15, 2016, that the board unanimously opposed substituting a Level 2 background check for the character and fitness investigation FBBE currently performs, as the Level 2 background check is already a component of the character and fitness investigation, but it is only one component of the investigation. On April 8, 2016, the FBBE received notice of a proposed rule amendment to Chapter 11 of the Rules Regulating The Florida Bar. The part of that amendment referencing the Level 2 background investigation as proposed reads:

(b) Letter of Initial Clearance. As part of the registration required by subsection (a)(1) of this rule, the law student must furnish their fingerprints to the Florida Board of Bar Examiners to enable the Florida Board of Bar Examiners to conduct a Level 2 background investigation. The Florida Board of Bar Examiners will conduct the Level 2 background investigation as soon as possible after law student submits the registration and appropriate fee. The Florida Board of Bar Examiners will issue an initial letter of clearance to the law student if the results of the Level 2 background investigation do not demonstrate a lack of honesty, trustworthiness, diligence or reliability.

I enclose for your reference the board's letters dated September 22, 2015, January 20, 2016, and March 15, 2016. These letters were provided in response to the prior proposed CLI amendment that has now been modified to the current proposal. The historical and statistical information provided in the first two letters is still relevant in consideration of the new amendment.

The Florida Board of Bar Examiners reviewed and discussed the revised proposed CLI rule amendment that was received by email on April 8, 2016 at our board meeting on May 5, 2016. This letter is intended to further explain why the FBBE unanimously opposes that substitution.

The Supreme Court of Florida created the current CLI rule with its Corrected Opinion dated July 5, 2007. In that opinion, the Court stated the following:

President Ramón A. Abadin
Gordon J. Glover, Esq.
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While we realize that students who seek to become certified interns are not attorneys and have not taken or passed the bar examination, we nevertheless believe these students, who actually provide legal representation to others under the supervision of members of The Florida Bar, must have the requisite character and fitness for eventual admission, either to the Bar of this state or other state bar of their choice. We repose our trust for the accomplishment of this purpose in the Board. Those certified actually provide legal representation to others, albeit under the supervision of a member of the Bar.

* * * * *

We are cognizant that the discovery of negative, possibly disqualifying information in a student's background could cause unavoidable delays. These matters, if they arise, must be fully investigated.

* * * * *

We certainly anticipate that the Florida law schools, as well as the agencies and organizations that use interns to fulfill their staffing needs, will do their best to inform all incoming law students of these new requirements for planning purposes.

It is not possible to determine requisite character and fitness for eventual admission to The Florida Bar with just a Level 2 background check, because it will only address criminal activity and it does a poor job of doing so on its own, which I will discuss later.

At the March 11, 2016 Board of Governors meeting, Committee on Legal Education Chair Debra Moss Curtis stated, "While protecting the public is valid — such as ensuring a law student prosecuting cases in traffic court doesn't have 30 traffic tickets herself — there should be a quicker way to do background checks or allow the clearance to occur

concurrently with clinical enrollment, as is done in other states.” This very example is one that would not be identified in a Level 2 background check.

The FBBE is entrusted by the Supreme Court of Florida with the responsibility of ensuring that students have the requisite character and fitness for eventual admission, a responsibility the FBBE takes very seriously. The FBBE simply cannot accomplish this responsibility with the mere completion of a Level 2 background check. Rule 3-12 of the Rules of the Supreme Court Relating to Admissions to The Bar lists potential disqualifying conduct in 14 different areas. Only one of those areas would be addressed in a Level 2 background check—criminal background. The FBBE cannot certify that a student has the requisite character and fitness for eventual admission by ignoring the other 13 areas the Supreme Court’s rules relating to admissions set forth for consideration by the board.

The wording of the proposed rule amendment directs the FBBE to “issue an initial letter of clearance to the law student if the results of the Level 2 background investigation do not demonstrate a lack of honesty, trustworthiness, diligence or reliability.” How does someone “pass” the Level 2 background investigation as proposed in this amendment? If there is a record revealed by the Level 2 background investigation, does this mean the person is ineligible to participate in a certified legal internship? Is it any criminal charges, or just certain charges? If so, where do we set the bar?

While certain criminal charges have an apparent reflection on a person’s honesty (such as shoplifting or grand theft), the FBBE cannot make a determination about a person’s honesty, trustworthiness, diligence or reliability relying solely on a Level 2 background investigation. Approval of this proposed rule amendment would not be in the best interests of the public which interest the FBBE is charged with protecting. Nor would it be in the best interests of the student seeking clearance to participate in certified legal internships for the following reasons:

- 1) Some students may be excluded from participating in certified legal internships based on the results of the Level 2 background check that they would receive clearance from the FBBE following the completion of the character and fitness investigation.
- 2) Some students would be allowed to participate in certified legal internships who would not meet the character and fitness standard for eventual admission to The Florida Bar. It neither protects the public nor is it fair to the student to find him or her qualified for a certified legal internship but not eventual admission.

The FBBE anticipated that the Committee on Legal Education would work to identify possible solutions to the law schools’ goal that more students participate in experiential education opportunities, which include but are not limited to certified legal internships. One way is to continue to encourage students to file a CLI registration with the FBBE in the first

President Ramón A. Abadin
Gordon J. Glover, Esq.
May 10, 2016
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year of law school, as was anticipated by the Supreme Court of Florida in the Corrected Opinion dated July 5, 2007, when the current rule was adopted.

For the foregoing reasons, the Florida Board of Bar Examiners opposes the proposed rule amendment regarding clearance for certified legal internships. In the alternative, the Florida Board of Bar Examiners asks The Florida Bar Board of Governors to remand this issue back to their Committee on Legal Education for full consideration before any action is taken by The Florida Bar Board of Governors.

Sincerely yours,



Gregory A. Hearing, Chair
Florida Board of Bar Examiners

MC: Scott N. Richardson, Vice Chair, Florida Board of Bar Examiners
William J. Schifino, Jr. President-Elect, The Florida Bar
John F. Harkness, Jr., Executive Director, The Florida Bar
Michele A. Gavagni, Executive Director, Florida Board of Bar Examiners
Debra Moss Curtis, Chair, Committee on Legal Education

Members of the Committee on Legal Education (Chief Justice Labarga, Justice Canady, Katherine Hurst Miller, Dean Alexander Acosta, Dean Christopher Pietruszkiewicz, Dean Patricia White, Dean Laura Rosenbury)

Enclosures: Letters dated September 22, 2015, January 20, 2016, and March 15, 2016

GAH:mag:tm

Florida Board of Bar Examiners

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NICHELE A. GAVAGNI
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TARA L. NEWMAN
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September 22, 2015

John F. Harkness, Jr.
The Florida Bar
651 East Jefferson Street
Tallahassee, FL 32399-2300

Dear Mr. Harkness:

Proposed Amendments to Rule 11, Rules Regulating The Florida Bar

The Florida Board of Bar Examiners (FBBE) has considered the proposed amendments to rule 11, and I have been authorized to inform you that the FBBE opposes the amendments proposed by the Young Lawyers Division to Rule 11 of the Rules Regulating The Florida Bar. The board further recommends that no change to the rule be made as it relates to the character and fitness investigation that is currently completed by the FBBE.

Prior to the adoption of the present language of rule 11 in 2007, a law student's character and fitness certification to serve as a certified legal intern was the responsibility of the law school dean and the agency where the student had applied. At that time, the Supreme Court of Florida described their reason for asking The Florida Bar's Special Board Committee to Study the Law School Practice Program to propose changes to this rule:

Under the current versions of rules 11-1.3(a) and 11-1.9(b), the analysis of an applicant's character and fitness has been the responsibility of the applicant's law school dean and the agency or office where the applicant applies to serve. In the past, this has led to a wide disparity in the quality and quantity of the background investigations conducted and very serious problems. Not surprisingly, this resulted in some persons being approved for participation who, because of disqualifying or other negative incidents in the past, should not have been accepted if the background information had been otherwise disclosed. Accordingly, we asked the Committee to propose an amendment which would provide a plan for a uniform and high-quality background investigation to be conducted on every person prior to certification by this Court of authorization to become a certified intern for acceptance into a law school practice program or as a post-graduate certified legal intern. [emphasis added]

In re: Amendments to Rules Regulating The Florida Bar Re: Chapter 11 Task Force, 964 So. 2d 690, 691-692 (Fla. 2007)

The purpose of the 2007 rule change was to ensure those practicing as a certified legal intern had met the character and fitness standards of a practicing attorney in Florida as requested by the Court. The changes now proposed to rule 11 circumvent the reason the rule was originally changed in 2007 and will have further unintended consequences resulting in delays in processing and clearing student registrant/CLI applications.

If the proposed rule change is adopted, an unintended consequence would be that more students may delay filing the student registration until even later in their law school career as there would be no requirement to file an early application to obtain certification as a legal intern. This would be particularly tempting to law students with serious issues in their backgrounds who may be concerned that they would not be able to pass the character and fitness assessment, but would still be able to serve as a certified legal intern.

Since implementation of the rule, the number of student registrant/CLI applications filed with the board has increased significantly. Since the rule was implemented, approximately 50 percent of Florida law students have filed student registrant/CLI applications. Stated another way, approximately half of the Florida law students have been ineligible to become certified legal interns, not because of the time taken to complete their background investigations, but because they never filed a student registrant/CLI application with the FBBE.

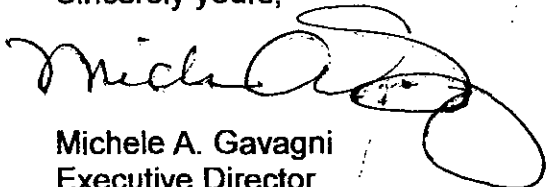
Since 2009, the board has provided all Florida law schools with both general information and information specific to each law school regarding student registrant applications filed. Each law school is informed of the number of registrations filed by its students and the number of completed and ongoing investigations for current students from their respective schools.

While a limited number of individual cases may take over a year for clearance because of the serious issues discovered in the application, at no time since implementation of the new policy has the "average days to completion" of the background investigation approached 365 days, or even the more recently reported six to nine months. Since 2008, the average "days to completion" for these applications has been between 118 days to 141 days, or approximately four to five months. At present, of the student registrants who filed applications between October 1, 2013, and September 30, 2014, 93 percent of the character and fitness investigations are complete. For student registrant/CLI applications filed between October 1, 2014, and September 22, 2015, 73 percent of the character and fitness investigations are complete.

John F. Harkness, Jr.
September 22, 2015
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For these reasons, the board urges The Florida Bar not to recommend the proposed amendments to Rule 11 of the Rules Regulating The Florida Bar.

Sincerely yours,



Michele A. Gavagni
Executive Director

MC: The Honorable Daryl M. Manning, Chair
The Honorable Gregory A. Hearing, Vice Chair
Ramon A. Abadin, President, The Florida Bar
William J. Schifino, Jr., President-Elect, The Florida Bar
Gordon Johnson Glover, President, YLD of The Florida Bar
Elizabeth Clark Tarbert, The Florida Bar

MAG:fln:ebt

From: Jeffrey Hearne <jhearne@legalservicesmiami.org>
Date: September 23, 2015 at 2:21:05 PM EDT
To: gordon@gloverlawfirm.com
Subject: CLI rule

Gordon,

I'm the Director of Litigation at Legal Services of Greater Miami and I also run the Tenants' Rights Clinic at the University of Miami School of Law. I'm very happy to hear that YLD is supporting this change to make it easier for students to become a CLI. (I went to school in Texas and essentially anyone enrolled in a clinic had CLI status). Because of Florida's rule, I typically only have 1 or 2 students each year who have CLI status. From the Bar News article, it sounds like the change is moving along, but if there is anything I can do to support the change, please let me know.

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Florida Public Defender Association, Inc.

September 30, 2015

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Young Lawyers Division proposal to amend Rule 11 Law School Practice Program

Dear Mr. Abadin:

I am the Public Defender for the Thirteenth Judicial Circuit and the President of the Florida Public Defender Association, Inc. (FPDA), which comprises 19 of the 20 elected Public Defenders of Florida and more than one thousand assistant public defenders. We have a particular interest in the Young Lawyers Division's (YLD) recent proposal to amend Rule 11 of the Rules Regulating the Florida Bar regarding the law school practice program.

The FPDA agrees with the YLD that delay in the Board of Bar Examiners' issuance of the character and fitness letter of clearance results in many students not being allowed to become a certified legal intern (CLI), and also that the delay causes many potentially interested law students to not apply to become a CLI. We recognize the importance and benefits of CLI programs for both the students and the Public Defenders.

Since Rule 11 was changed in 2007 to require the letter of clearance for CLI status, there have been significantly fewer clinical students participating in public defender offices. It's unfortunate, because reduced CLI participation has been detrimental to law schools, students, Public Defenders, and the indigent clients of the Public Defenders. The FPDA therefore supports, in principle, the goal of the YLD proposal to make clinical programs more readily available to law students.

In September 2015, the FPDA voted to *support the goal* of the YLD proposal, which is to increase access to law students' participation in clinical programs. However, the FPDA acknowledges that there were good reasons for Rule 11 to be changed, and the new rule proposed by YLD does not do enough to address the concerns that prompted the rule change in 2007. In support of the principles behind the original changes to Rule 11 and the YLD goals of increasing participation, the FPDA would offer to work with the YLD on a new proposal.

As reported in the September 15, 2015 *The Florida Bar News*, under the “old” rule, there were instances where certified legal interns had been convicted of serious felony crimes. The need to prevent law students with serious criminal records from becoming certified legal interns is of paramount importance to the integrity of the system. However, there is nothing evident in the YLD proposal that would prevent this from happening again. The FPDA cannot therefore support the YLD proposal as written.

There must be a safeguard in place to prevent a law student with a serious criminal record from becoming a certified legal intern while still expediting the process and avoiding the 6-9 month delay in processing character and fitness evaluations. There are probably a few ways in which a simple procedure could be put in place to identify law students with criminal records that would prevent them from becoming a CLI. For example, a short questionnaire could ask the law student to disclose his or her entire arrest record and disposition of the case(s), including prosecution diversion programs and cases in which the record has been sealed or expunged. Any serious felony arrest could be the basis for denial of certification as a CLI. Other disqualifying criteria could be adopted for applicants with multiple misdemeanor cases like DUI, for example. This hypothetical new procedure allows the quick CLI certification of law students who may have a non-serious criminal record (charges of possession of alcohol by a person under 21 years old, worthless check, and juvenile delinquency cases are common). Law students with a serious felony record or multiple misdemeanor arrests could still become a CLI through the current process – submitting a character and fitness application to the Board of Bar Examiners and receiving a letter of clearance.

In conclusion, the FPDA supports the YLD proposal in principle. I again stress that the YLD can count on the cooperation and participation of the FPDA in drafting an alternative proposal that we can fully support.

Sincerely,



Julianne Holt
Public Defender, Thirteenth Judicial Circuit
President, Florida Public Defender Association, Inc.
700 East Twiggs Street, 5th Floor
Tampa, Florida 33602

cc: All members of The Florida Bar Board of Governors

From: Krieger, Larry [mailto:LKrieger@law.fsu.edu]
Sent: Friday, October 16, 2015 2:53 PM
To: gordon@gloverlawfirm.com

Hello Mr. Glover. I am a law prof at FSU Law School; I met and was speaking with Mr. Abadin this week when he visited (some of the below was touched on). I would like to provide you some potentially helpful information about the YLD initiative to amend the rules requiring students to have FBBE clearance to become a certified legal intern in law school. I was on the initial Sup. Court Task Force charged with amending those rules way back and have been following the problems that ensued when the Court dismissed our recommendations (to not adopt this new approach) and appointed a second task force that di recommend the current requirement. It's been horrible for schools, students, and the public offices that had been used to working with the CLI's, as many can attest -- the Bar clearance simply takes toooooo long and many students cannot get the clinical training they need as a result.

The main point I would raise for you as a talking point is this in a nutshell: At the time of the initial appointments by the Court, the Task Force included the then exec. Director of the FBBE (Katherine Ressel, though that doesn't matter really). One of the Justices did come to more than one of our meetings and encourage the passage of what is now the rule – FBBE clearance before a student could be a CLI. In all of our deliberations over more than a year, Ms. Ressel represented that the Board could clear students without special problems in 60-90 days, which many of us doubted openly. That did not turn out to be the case at all of course, and even many years ago when this rule was passed the average clearance time for 'clean' files was in the 3-6 month range. Now however, things are much worse. The *FBBE letter to applicants now states* (according to the one I recently saw), that once all needed information is submitted to the FBBE, *it will take 6-8 months for clearance*. This is quite a departure from the promised 60-90 days is my point here, and a potentially strong argument for either amending the rule (or doubling the staff of the FBBE..... not likely).

You should also be aware that this fall I've had some students who had applied well beyond that 8 month window and had no action yet, despite no problems. When they wrote the FBBE to ask about the delay, their clearances came through without comment. Apparently the Board is overwhelmed or understaffed, depending on perspective. There are obviously changed circumstances, not the least of which is the increase in number of law schools and bar applicants in the past several years, and this seems to be quite sufficient to warrant reconsideration of the rule change.

Please contact me at your convenience if you would like further information, either by email or my cell #. Thanks and best wishes! Larry Krieger

JEFFREY B. CROCKETT
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December 4, 2015

Sent via email only: gordon@gloverlawfirm.com

Gordon Glover, Esq.
President, Young Lawyers Division, Florida Bar
Glover Law Firm
1531 Southeast 36th Avenue
Ocala, FL 34471

Re: Certified Legal Intern Rule

Dear Mr. Glover:

I am writing to support the proposed changes to the Certified Legal Intern (CLI) rules. As the Director of Litigation at Legal Services of Greater Miami, Inc. and the Director of the Tenants' Rights Clinic at the University of Miami School of Law, I can attest that the current rules prevent law students from gaining much-needed courtroom experience and hinder students from improving their advocacy skills.

Each Spring semester I teach the Tenants' Rights Clinic at UM Law. My clinic gives students the opportunity to represent tenants facing eviction or having a legal problem with their housing. Unfortunately, students without CLI status have a different experience in the clinic. Students with CLI status can provide full representation to clients under my supervision: the students can conduct depositions, argue motions, or represent a client during a jury trial. Unfortunately, because the process to become a CLI in Florida is long and difficult, only one or two of my students each year have CLI status. If Florida wants its law students to be prepared to practice law immediately after passing the bar, it is essential that Florida makes it easier for law students to become a CLI and gain real world experience through law school clinics.

I support the changes proposed by the Young Lawyers Division which would allow any student enrolled in a clinic to become a CLI while the character and fitness screening is pending. Because the screening process typically lasts at least 9 months, a 2L student who decides to enroll in a clinic cannot obtain the character and fitness clearance before the clinic starts. For 3L students, they can't enroll in a clinic as a CLI unless they applied for the character and fitness screening as a 2L. CLI status should be automatic for any student, in good standing, who enrolls in a law school clinic.

Most states have a system allowing any law student enrolled in a clinic to practice as a student attorney or CLI. I have personal experience with such a system because I enrolled in three clinics while attending law school at the University of Texas in Austin. In Texas, any clinic student, in good standing at the law school and having a sufficient number of credits, can obtain a "temporary trial card" to appear in court. This system ensures that every student who takes a

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December 4, 2015


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clinic has the opportunity to practice and develop their advocacy and trial skills. All of the student's work is done under the supervision of a licensed attorney who insures the student fulfils his or her ethical obligations to the client.

Florida should amend its bar rules to have a similar process which would allow clinical students to automatically become CLIs. This will make it more likely that a Florida law student graduates with hands-on experience representing clients in court. Law graduates with clinical experience will be more competitive in the job market having already developed skills that legal employers want and need. Additionally, having more law students serving clients in underserved communities means that clinical students can help improve access to justice across Florida. I thank you for the support of the YLD and urge the Board of Governors to make this change.

If I can provide any additional support to the YLD's proposal to amend and improve the CLI rules, please let me know. You can reach me at (305) 438-2403 or at jhearne@legalservicesmiami.org.

Sincerely,



Jeffrey M. Hearne
Attorney at Law

Enclosure as stated

PASSIONATELY COMMITTED TO EQUAL JUSTICE

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December 4, 2015

Gordon Glover
President, The Florida Bar Young Lawyers Division
Glover Law Firm
1531 SE 36th Avenue
Ocala, Florida 34471

Dear Mr. Glover:

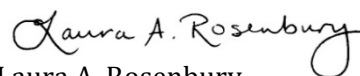
I have reviewed the proposed amendments to Rules 11-1.2, 11.1.3, and 11.1.9 sponsored by The Florida Bar Young Lawyers Division. I write to express my support of these amendments to Rule 11 of the Rules Regulating The Florida Bar.

Since becoming Dean of University of Florida Levin College of Law on July 1, 2015, I have embarked upon a comprehensive review of the law school's clinical programs. Data provided by Professor Jeff Grater, the Director of our Virgil Hawkins Civil Clinics, reveals that enrollment in our clinics dropped significantly after the current version of Rule 11 was adopted in 2007. I believe the proposed amendments would assist in reversing this decline, as students could participate in clinics while they are waiting to receive a letter of clearance as to character and fitness from the Florida Board of Bar Examiners. With increased clinic enrollment, the College of Law could better ensure that students graduate with the skills needed to represent clients and to appear in state courts.

If the proposed amendments are adopted, University of Florida Levin College of Law would continue to strongly encourage all first-year students to file student registrations/CLI applications during their first year of law school. In addition, the College of Law would require all students seeking to participate in clinics to file student registrations/CLI applications at least 90 days before their clinics begin.

Please let me know if you have any questions. Otherwise, I thank The Florida Bar Young Lawyers Division for proposing these amendments which, if passed, will improve the quality of legal education in the state of Florida.

Very truly yours,



Laura A. Rosenbury
Dean and Levin, Mabie & Levin Professor
of Law



STETSON UNIVERSITY

December 22, 2015

Gordon J. Glover
Glover Law Firm
1531 Southeast 36th Avenue
Ocala, FL 34471

Dear Mr. Glover:

I am writing in support of the proposed amendments to Rules 11-1.2, 11.1.3, and 11.1.9 being offered by The Florida Bar Young Lawyers Division. Since 2009, the legal marketplace has changed dramatically. Many employers are expressing interest in ensuring that students graduating from the Stetson University College of Law have more experiences that prepare them for the practice of law much earlier in their careers. We can address some of these aspirations through course offerings but we know of no better preparation for the practice of law than the engaging in many of these same experiences through experiential learning while in law school. Last year, Stetson offered approximately 450 clinical and externship opportunities for its students. Unfortunately, not all of these opportunities were filled.

I am hopeful that we continue to embrace change to advance opportunities for our students to participate in experiential learning such as adopting the changes that are proposed by The Young Lawyers Division. I am also convinced that a reduction in the number of subjects covered by the Florida Bar Exam from its current roster of 27 subjects (covering 100 credits under the Stetson curriculum) is another major step in ensuring that students have the necessary time in their three years in law school to participate in experiential learning. A reduction of subjects to be covered on the Bar Exam to no more than 60 credits (two years in law school) would permit law schools to utilize the third year for more experiential learning opportunities, a goal consistent with your proposed rule changes.

I would be delighted to speak with you should you have any questions.

Sincerely,

Christopher M. Pietruszkiewicz
Dean and Professor of Law

PRESIDENT
Gordon J. Glover
Glover Law Firm
1531 S.E. 36th Avenue
Ocala, Florida 34471

PRESIDENT-ELECT
Katherine Hurst Miller
Cobb Cole
149 S. Ridgewood Avenue, Suite 700
Daytona Beach, Florida 32114

IMMEDIATE PAST PRESIDENT
Michael Fox Orr

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January 4, 2016

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Gordon Glover
President, The Florida Bar Young Lawyers Division
Glover Law Firm
1531 SE 36th Avenue
Ocala, Florida 34471

Dear President Glover:

On behalf of The Florida Bar Young Lawyers Division Law Student Division, I write to express our support of the Young Lawyers Division's proposed amendments to the Rules Regulating The Florida Bar. Specifically, we strongly believe in and hope that the amendments to Rules 11-1.2, 11.1.3, and 11.1.9 are adopted.

As President of the Law Student Division, I have had the opportunity to speak directly with many law students across the state at the majority of Florida's law schools. Generally, students have stated that the current version of Rule 11 makes it difficult to participate in clinical programs unless the student anticipates being involved in a clinic months in advance. Students who do not apply to become Certified Legal Interns early in their law school career often must forgo the clinical experience because it can take months to receive clearance from the Florida Board of Bar Examiners. Our law students who must wait for this clearance letter are denied the opportunity to partake in such a meaningful, educational, and practical experience.

As a Certified Legal Intern working with University of Florida Levin College of Law's Gator TeamChild Juvenile Law Clinic, I have experienced first-hand the benefit of participating in a clinic. Students should be allowed to serve as CLIs as they await clearance. The Law Student Division will work to encourage students to file CLI applications as a first year law student. However, these proposed amendments, should they be adopted, would allow for more students to work with a clinic, even if they choose to incorporate clinic work into their schedule last minute.

If you have any questions please do not hesitate to contact me. The Law Student Division thanks The Florida Bar Young Lawyers Division for proposing these amendments. The Law Student Division strongly believes that these amendments would greatly benefit law students in the State of Florida.

Sincerely,

Iesha S. Nunes
President, The Florida Bar Young Lawyers Division

January 8, 2016

Gordon Glover
President, The Florida Bar Young Lawyers Division
Glover Law Firm
1531 SE 36th Avenue
Ocala, Florida 34471

**Re: Letter In Support of the Proposed Amendment of the by the Young Lawyers
Division ("YLD") to Rule 11 of the Rules Regulating The Florida Bar**


The Florida International College of Law writes in support of amending Rules 11-1.2, 11-1.3 and 11-1.9 of the Rules Relating to The Florida Bar because this amendment would benefit our law students by removing an impediment that can limit opportunities for experiential learning for those who seek to do so

The present rule limits CLI participation for law students who either have not applied to the Bar or who have issues that require further inquiry by the Bar prior to issuance of a Letter of Clearance. Prior to the imposition of the present rule, these students were able to participate in an externship, if accepted by the placement which must acknowledge actual knowledge of issues. FIU has continued this practice of notification to the placement and failure to provide truthful information continued to subject a student to disciplinary action without the need for the present rule which requires a Letter of Clearance. Even without notice of actual issues, many placements (e.g. SAO, SEC, INS, etc.), complete more in depth background investigations.

Finally, the prior, present and proposed rule, require that the Law School Dean issue a certification regarding character and fitness for law students to become a CLI. FIU utilizes its resources to ensure that this certification is issued in good faith. Therefore, the amendment will not increase the likelihood that students who are unfit will unknowingly be allowed to participate.

Thank you for this opportunity to weigh in on this issue. Please feel free to contact us if we can be of further assistance.

Sincerely,


R. Alexander Acosta
Dean of the College of Law



Patricia D. White
Dean and Professor of Law

Office of the Dean

P.O. Box 248087
Coral Gables, Florida 33124

Ph: 305-284-2394
Fax: 305-284-3210
pwhite@law.miami.edu

January 12, 2016

Gordon Glover
President, The Florida Bar Young Lawyers Division
Glover Law Firm
1531 SE 36th Avenue
Ocala, Florida 34471

Dear Gordon:

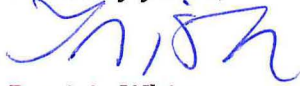
I am writing in support of the proposed amendments to Rules 11-1.2, 11.1.3 and 11.1.9 sponsored by The Florida Bar Young Lawyers Division.

At the University of Miami School of Law, we encourage all students to register and seek a clearance letter as to character and fitness during their first year of Law School. Despite our concerted efforts, many students do not seek clearance until their second or third year. A significant portion of our student body come from out of state and those students in particular often delay applying until they believe it likely that they will take the Florida bar. Others simply don't appreciate the value of early bar clearance until it is time to register for a clinical course. In our experience, it typically takes more than three months for students to receive a clearance letter, and some students do not receive clearance in time to participate in a clinical course. Students are either foreclosed from a clinical course altogether, or limited to opportunities that do not provide state court litigation experience.

The proposed amendments would help the Law School further its goal of producing practice-ready graduates. As you know, clinics provide an invaluable opportunity for students to gain lawyering skills and begin developing their professional identity, with an educational component and intensive supervision from an experienced lawyer. I believe the proposed amendments would allow more students to have an enriched clinical experience. CLI status is important for our students in another way. CLI students may continue to work with government agencies after graduation, while awaiting bar results. This opportunity is not available to students who were not cleared in time to participate in a clinical course while in law school and denying it to many otherwise qualified young professionals reduces the applicant pool available to our public agencies.

Thank you for your efforts to enhance opportunities for law students to get practical experience. Please let me know if I can be of further assistance.

Sincerely yours,



Patricia White
Dean and Professor of Law

Florida Board of Bar Examiners

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TARA L. NEWMAN
DIRECTOR OF ADMINISTRATION

January 20, 2016

John F. Harkness, Jr.
Executive Director, The Florida Bar
651 East Jefferson Street
Tallahassee, FL 32399-2300

Dear Mr. Harkness:

In Re: Proposed Amendments to Rule
11, Rules Regulating The Florida Bar

I am following up on my prior letter dated September 22, 2015, with some additional information regarding the proposed amendments to Rule 11 of the Rules Regulating The Florida Bar, a copy of which is enclosed. In February 2014, I provided information to President Pettis at the request of the Supreme Court of Florida regarding the student registration and certified legal intern (CLI) program and the board's role in completing the character and fitness investigations and issuing notices of clearance. The following information is excerpted from that letter:

In its September 29, 2005 comments in response to proposed amendment to Chapter 11, the board reported that it anticipated that the basic character and fitness investigation and issuance of the letter of clearance could be completed within three to six months of the filing of the bar application by a law student if their backgrounds are free of potentially disqualifying information. As noted in that response, however, "for those students with adverse information in their background, their character and fitness investigation will take longer."

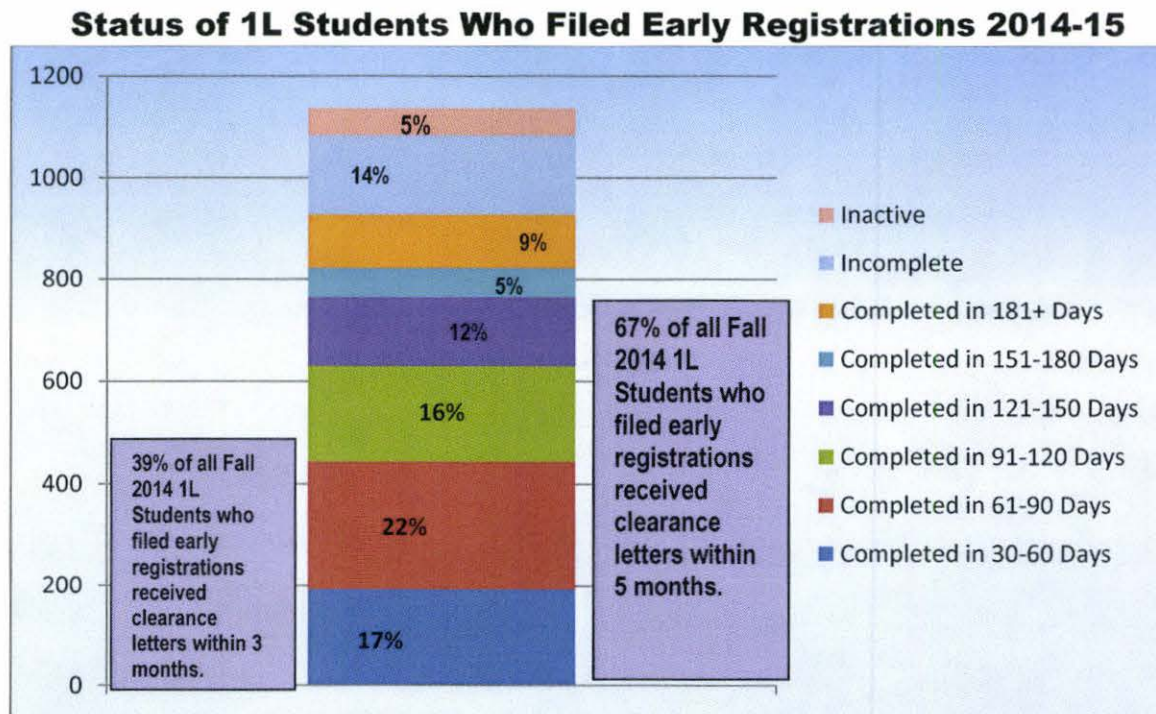
The purpose of the background investigation is to protect the public and safeguard the judicial system (Rule 1-14.1 of the Rules of the Supreme Court Relating to Admissions to the Bar) and it is, therefore, a thorough investigation. However, the board's goal for all applicants, whether for CLI clearance or admission to The Florida Bar, is to complete each investigation as efficiently as possible.

That letter included statistics from October 2007 – September 2013 regarding the number of student registration and CLI applications received annually. At the request of the Rules Committee of The Florida Bar Board of Governors, I am providing information updated through September 2015.

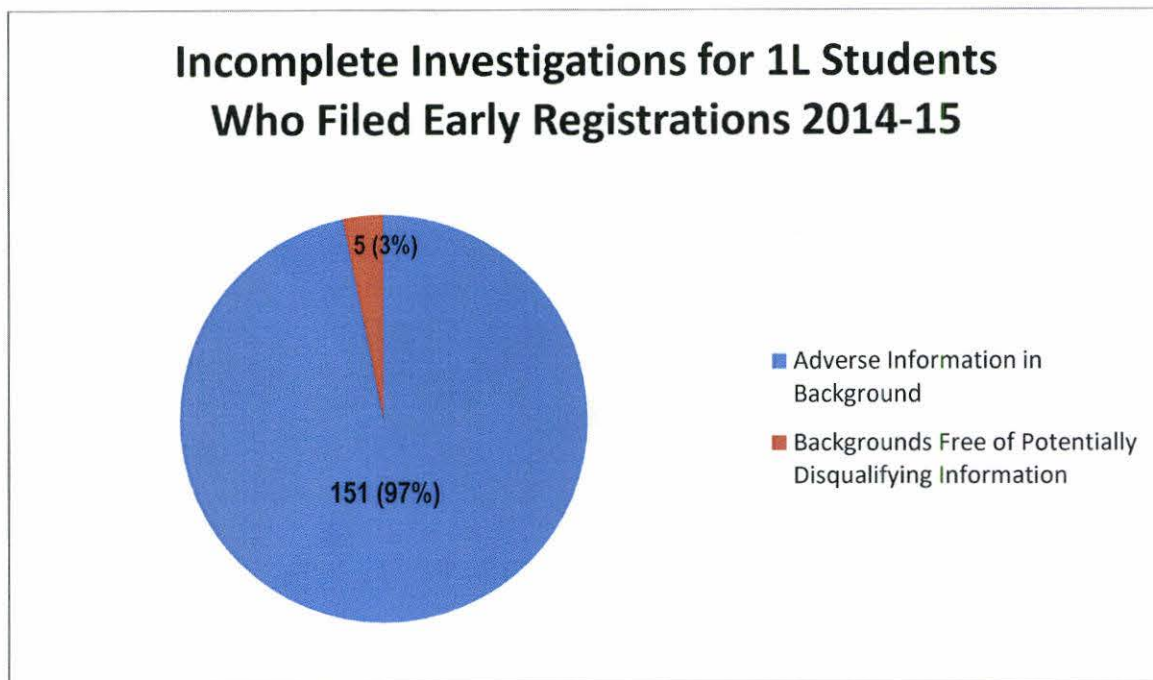
	10/01/10-09/30/11	10/01/11-09/30/12	10/01/12-09/30/13	10/01/13-09/30/14	10/01/14-09/30/15
Number of Registration Applications	1,659	1,542	1,696	1,649	1,468
Percentage of Total Investigations Completed	83%	81%	80%	78%	82%
Percentage of Investigations Completed for those who filed between October 1 and June 1	83%	84%	83%	81%	85%
Percentage of Investigations Completed for those without flags for potential character and fitness issues who filed between October 1 and June 1	99%	99%	99%	98%	99%
Average days to completion	131	121	131	141	164

It is important to note that the average days to completion reported for each year is not limited to just law students whose backgrounds are free of potentially disqualifying information. It includes all investigations completed for student registrants who filed between October 1 and September 30 of each year. If those students with adverse information in their backgrounds were not included, the average time to complete the investigation would be much shorter.

To illustrate the difference in the time for processing, information is provided below regarding the Fall 2014 1L students who filed an early registration with the Florida Board of Bar Examiners. Early registration includes those entering Fall 2014 students who filed by March 16, 2015—the second deadline for 1L students beginning in August or September each year. 67% of these Fall 2014 1L students who filed an early registration had the notice of clearance issued within five months of filing. Thirty-nine percent (39%) of the students received notice of clearance within three months of filing.



Regarding those students for whom the character and fitness investigation is not complete, as the board told the Court in the response in 2005, the character and fitness investigation will take longer for those whose backgrounds are not free of potentially disqualifying information. As indicated on the chart above, 156 of the 1137 Fall 1L students who filed an early registration with the Florida Board of Bar Examiners, or 14%, are not yet complete. What is relevant is whether those that are not complete were registrations free of potentially disqualifying information or not. The chart below indicates that only 5 applicants, 3%, of the incomplete investigations were free of potentially disqualifying information.



If amended as proposed, the rule would require that someone only has to file a student registration with the board to be eligible to participate in a certified legal internship. There are about 5-6% of the student registrations that are filed with the board that are not in active processing. Those files are not being actively processed because the student registrant is not actively participating in the admission process and is not responding to board requests for information. Further, under the proposed amendment, there would be nothing to prevent a student from submitting a student registration to the board mere days before applying for a certified legal internship. Under the proposed rule amendment, those students would still be eligible to participate in a certified legal internship even though the character and fitness process is either not pending before the Florida Board of Bar Examiners, or had been started so recently as to not allow a reasonable time to be completed.

In my September 22, 2015, letter, I indicated that approximately 50% of Florida law school students are not filing a student registration, despite the board's efforts to encourage students to begin the process early in their first year of law school. Even fewer than 50% file those registrations in the first year of law school. The Florida Board of Bar Examiners attends an orientation presentation at the beginning of each semester.¹ At each of these presentations, an emphasis is made on the importance of beginning the process at the beginning of law school for those who plan to seek admission to The Florida Bar in the future. The presentation also highlights the rule regarding certified legal internships and encourages the filing of a student registration for the purpose of internships as well. In Fall

¹ The board makes a presentation at each of the 12 law schools in Florida in the fall of each year, at the 3 law schools with beginning students in January of each year, and at 2 law schools with beginning students in May of each year.

John F. Harkness, Jr.

January 20, 2016

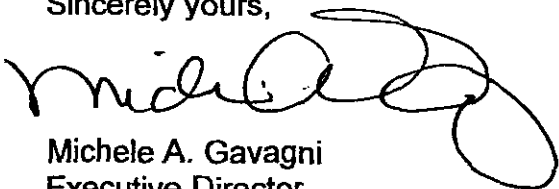
Page 5

2014, the 12 law schools in Florida reported incoming class student class sizes totaling 2,617 students. The board received 1,569 student registrations from those 12 law schools between October 1, 2014 and September 30, 2015. Of those, approximately 442 were late student registrations indicating they were being filed by second or third year students. The total number of student registrations from first year students was approximately 43% of the reported incoming class size.

The Florida Board of Bar Examiners indicated to the Supreme Court of Florida in 2005 that the board had the ability to process the character and fitness investigations for student registrants if the rule was amended to require notice of clearance to participate in certified legal internships, within 3 – 6 months if the backgrounds were free of potentially disqualifying information, longer for those with adverse information in their background, which is what has occurred. More students could be cleared to participate in certified legal internships if more students took advantage of the early filing fees and filed a student registration in the first year of law school.

The Court first created a task force to review Chapter 11 regarding certified legal internships in 2001. After a lengthy period of study, first by the task force appointed by the Court and then by The Florida Bar's Special Board Committee to Study the Law School Practice Program, the current rule was adopted in 2007. The purpose for which the rule was amended in 2007 has not changed. As indicated above, the majority of student registrants receive their notice of clearance within six months. While the board and its staff continually strive to improve processing time, the board cannot jeopardize the charge issued by the Court under rule 1-14.1 of the Rules of the Supreme Court Relating to Admissions to the Bar and that is to protect the public and safeguard the judicial system.

Sincerely yours,



Michele A. Gavagni
Executive Director

MC: Gregory A. Hearing, Chair

Scott N. Richardson, Vice Chair

Enclosure: Letter dated September 22, 2015

MAG:tm

Florida Board of Bar Examiners

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DIRECTOR OF ADMINISTRATION

March 15, 2016

President Ramón A. Abadin
Sedgwick LLP 1 Biscayne Tower
2 S Biscayne Blvd., Ste. 1500
Miami, FL 33131-1822

Gordon J. Glover, Esq.
Glover Law Firm
1531 SE 36th Ave.
Ocala, FL 34471-4936

Dear Mr. Abadin and Mr. Glover:

In Re: Committee on Legal Education

Thank you again for the opportunity for the board's vice chair and executive director to meet last Friday before the Board of Governors meeting in New Orleans and to speak to the Board of Governors Friday morning. I appreciate your accommodation to their travel schedule by moving the discussion about the Committee on Legal Education earlier on the agenda.

As was discussed on Friday morning, Vice Chair Richardson spoke with the Florida Board of Bar Examiners on Saturday morning about two items—(1) whether the Florida Board of Bar Examiners would be willing to join The Florida Bar in asking the Supreme Court of Florida to add additional members to the Committee on Legal Education to look specifically at the future of the bar examination, including the topics that should be tested on the bar examination and (2) whether the Florida Board of Bar Examiners would support the use of a Level 2 background check (FDLE/FBI record check) as substitution for the character and fitness investigation that is required for participation under the current CLI rule.

With regard to the makeup of the committee, our board chose to take no position on whether the Court should be requested to add additional members to the Committee on Legal Education. Our board felt this was within the purview of The Florida Bar as the committee was created by The Florida Bar. Our board determined it would not oppose such action if The Florida Bar decides to proceed in that manner.

President Ramón A. Abadin
Gordon J. Glover, Esq.
March 15, 2016
Page 2

The second item our board considered was whether to support use of a Level 2 background check as substitution for the character and fitness investigation the board completes for participation under the current CLI rule. Our board unanimously opposes this substitution. A level 2 background check (FDLE/FBI record check) is a component of the character and fitness investigation process, but it is only one aspect of the investigation.

The board remains committed to its participation on the Committee on Legal Education with regard to the subjects tested on the bar examination and the rule regarding certified legal internships.

Sincerely yours,



Gregory A. Hearing
Chair

MC: Scott N. Richardson, Vice Chair
Michele A. Gavagni, Executive Director, Florida Board of Bar Examiners
Debra Moss Curtis, Chair, Special Committee on Legal Education
John F. Harkness, Jr., The Florida Bar Executive Director

MAG:tin:tm

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May 13, 2016

Ramón A. Abadin, President
Sedgwick, LLP
One Biscayne Tower, Ste. 1500
Two S. Biscayne Blvd.
Miami, FL 33131

Via e-mail

Re: *Amendment to Certified Legal Intern Rule*

Dear Florida Bar Board of Governors:

This letter is sent on behalf of the Project Director's Association (PDA), a voluntary association consisting of executive directors of the legal aid programs in Florida. Collectively, these programs assist the over 4 million persons in the state who qualify for services, and often assist, through clinics and other measures, those who may not qualify for legal aid but who are considered "at risk" - Floridians who live paycheck to paycheck, older residents, and active duty military or veterans.

We write to support the Young Lawyer Division's (YLD) initiative to amend the certified legal intern (CLI) rule to allow for a simplified process for law students to obtain CLI status. Adding to the number of qualified CLIs is similar to the recent efforts to expand the numbers of Emeritus attorneys in Florida - it measurably and significantly increases those available to help.

Of the over 4 million people who qualify for legal services in the state of Florida, the collective organizations are only able to assist a small percentage of those very poor persons through a combination of legal advice, brief services and full representation. The types of legal issues most common to legal aid programs include family law, housing, consumer and employment cases. More specifically, but not limited to, are cases that require injunctions for protection to defend and protect survivors of domestic violence, landlord/tenant, and legal work for Florida's growing elderly population and veterans. Florida legal aid programs ease the growing burden on Florida's court resources caused by self-represented litigants attempting to navigate the court system on their own. Legal aid programs provide full legal representation to over 80,000 low-income clients each year who otherwise would be flooding the courts as self-represented litigants. Moreover, legal aid programs help thousands more to navigate the court system more efficiently and effectively by providing legal clinics where self-represented litigants can get coaching, form documents, and other assistance in preparing their papers and presenting their cases in hearings. Florida's legal aid programs also provide community legal education that helps many Floridians deal with simple matters



In conclusion, we strongly support increasing the number of CLIs and we support the Young Lawyers Division's efforts to allow for a simplified process. We are available to answer any questions you may have, particularly related to the ability of the legal aid programs to monitor and supervise the CLIs to ensure continuing quality.

Thank you for your attention to this important matter.

Sincerely,



James A. Kowalski, Jr.
President, Project Director's Association

Cc: Gordon Glover (via e-mail)