

MINUTES

ALABAMA STATE BAR BOARD OF BAR COMMISSIONERS MEETING

State Bar Building
Montgomery, Alabama

Friday, September 16, 2016

1. CALL TO ORDER

President Cole Portis convened this meeting of the Alabama State Bar Board of Commissioners at 10:00 a.m. in the board room of the Alabama State Bar building, Montgomery, Alabama. Commissioner David Martin gave the invocation.

2. ROLL CALL

The secretary called the roll of the commission and the following commissioners were present:

Halron W. Turner	J. Levi Nichols	Courtney R. Potthoff
Jana Russell Garner	Larry W. Morris	Terri O. Tompkins
William H. Broome	Emily L. Baggett	Dana Grimes
Leslie R. Barineau	John A. Smyth, III	Robert G. Methvin, Jr.
LaBella S. Alvis	Michael D. Ermert	Allison O. Skinner
Brannon J. Buck	Erik Stephen Heninger	Kenneth Moore
Ralph E. Holt	C. Zack Moore	Frederick G. Helmsing, Jr.
William R. Lancaster	James Rebarchak	Charles C. Tatum, Jr.
George R. Parker	Les Pittman	C. Gibson Vance
Jeffery C. Duffey	J. David Martin	Donald R. Rhea
Tom T. Perry, Jr.	William Randall May	Anne Malatia Glass
Manish H. Patel	Tazewell T. Shepard, III	John A. Brinkley, Jr.
Rebekah K. McKinney	M. Clay Martin	Audrey O. Strawbridge
J. Daryl Burt	Clint L. Maze	J. Lynn Perry
Sam Irby	Steven D. Adcock	H. Thomas Heflin, Jr.
Roy W. Williams, Jr.	Sharon Hindman Hester	Andrew D. Stanley
Matthew C. Mitchell	Donald Ben Mansell	Gregory M. Varner
Diandra S. Debrosse	R. Cooper Shattuck	Rebecca G. DePalma
Karen L. Laneaux	Kira Fonteneau	Jeanne Dowdle Rasco
Monet M. Gaines		

The following commissioners were absent:

Hays Webb	Barry A. Ragsdale	Thad Yancey, Jr.
Brian E. Comer	J. Flynn Mazingo	Mark S. Boardman
Robert L. Bowers	R. Cliff Mendheim	Eric Coale
F. Patrick Loftin	Lee F. Knowles	W. Thomas Chapman
Christy Williams Graham	Scott L. McPherson	Meredith S. Peters
Ashley Swink Fincher		

Also in attendance were President-elect Augusta Dowd and Immediate Past President Lee Copeland. Staff members in attendance were: Tony McLain, Ed Patterson, Justin Aday, Eric Anderson, Angela Parks, Tripp Vickers, Jeremy McIntire, Mark Moody, Robert Thornhill, Linda Lund, Laura Calloway, Chasity Foster and Margaret Murphy. Also in attendance was Suzi Huffaker, legislative counsel, Tracy Daniel, director of the Alabama Law Foundation as well as Parker Miller, president of the Young Lawyers' Section.

3. **APPROVAL OF THE MINUTES OF THE JUNE 22, 2016 AND JUNE 25, 2016 BOARD MEETINGS AND THE MINUTES OF THE JUNE 25, 2016 GRANDE CONVOCATION AND BUSINESS MEETING**

President Portis stated that the minutes of the June 22, 2016 and June 25, 2016 Board Meetings and the minutes of the June 25, 2016 Grande Convocation and Annual Business Meeting had been transcribed and circulated prior to the meeting. He asked if there were any corrections, additions or deletions. There were none.

COMMISSIONER SMYTH MOVED TO APPROVE THE MINUTES OF THE JUNE 22, 2016 AND JUNE 25, 2016 BOARD MEETINGS AND THE MINUTES OF THE JUNE 25, 2016 GRANDE CONVOCATION AND ANNUAL BUSINESS MEETING. THE MOTION WAS SECONDED AND APPROVED BY UNANIMOUS VOICE VOTE.

4. **REPRIMANDS**

4.a. Kyla G. Kelim, Fairhope, ASB 2012-1303, 2148; 2014-104, 1337

Ms. Kelim received a public reprimand with general publication and additional requirements that she complete the practice management assistance program and provide timely proof of successful completion; serve two years supervised probation; provide proof of completion of five hours of CLE in both law office practice management and probate and estate planning and pay a \$750 administrative fee for violating Rules 1.3, 1.4(a) and 1.5(a) of the *Alabama Rules of Professional Conduct (ARPC)*.

4.b. Charles Isaac Brooks, Hueytown, ASB 2014-218

Mr. Brooks received a public reprimand with general publication and was required to pay a \$750 administrative fee for violating Rules 1.2, 1.4(b), 1.5(b), 1.15(a), 8.4(a), (c) and (g) of the *ARPC*.

4.c. James Tony Glenn, Marion County, ASB 2015-755

Mr. Glenn received a public reprimand with general publication and the requirements that he complete the practice management assistance program as well as pay a \$750 administrative fee for violating Rules 1.1, 8.4(g). of the *ARPC*.

5. **PRESIDENT'S REPORT**

President Portis gave an update on the executive director's search. He also talked about his discussion of professionalism with circuit and district court judges and encouraged the commissioners to do likewise in their circuits. The president stressed that during his term, communications both to and from members would be a primary focus. He next

discussed relief for victims of the flood in Louisiana and outlined how Alabama lawyers will be able to help through donations of specific items at collection points around the state including Huntsville, Birmingham, Tuscaloosa, Montgomery and Mobile as well as making contributions to the Alabama Law Foundation designated for Louisiana Flood Relief. Finally, the President informed the commission that more than 300 bar members were appointed to 19 committees and 10 task forces. He discussed, in particular, the work of the Long Range Planning Task Force and the Quality of Life Task Force.

6. LAWYER'S ASSISTANCE PROGRAM REPORT

Robert Thornhill, director of the Alabama State Bar Lawyer Assistance Program discussed the landmark study issued in 2016 concerning substance abuse and mental health concerns among American attorneys. He stated that 19 states participated in the survey involving more than 15,000 lawyers. Alabama was among the states that participated. He reported that the findings of the study were alarming because they revealed that 21-36 percent of those responding to the survey had a score consistent with alcohol use disorder (alcoholism) and 28 percent of the responses indicate a mild to high level of depression.

Mr. Thornhill indicated the survey noted the character traits that make lawyers successful also tend to impede lawyers seeking help and that many lawyers don't want to disclose the fact they have a problem. He stressed the Lawyer Assistance Program is a confidential and voluntary program and that the bar is trying to ensure this message gets out to all lawyers so that those who need help will voluntarily seek the services of the program.

7. EXTERNAL RELATIONS REPORT

Ed Patterson discussed the Leadership Forum and noted that the application deadline was October 3rd for the 2017 Class. He also outlined the limited time enrollment for the Lloyds of London membership benefit disability program and concluded by discussing the annual meeting to be held at the Grand Hotel in Point Clear, July 12-15, 2017.

8. SERVICE PROGRAMS REPORT

Laura Calloway discussed the task force work on improving and enhancing member benefits as well as the work planned for the Lawyer University Task Force.

9. DIGITAL COMMUNICATIONS REPORT

Eric Anderson informed the commission that Kelley Lee, Digital Communications Content Manager, had recently had a son and that both were doing fine. He noted that the new Digital Communications Committee was working on improving bar communications. Mr. Anderson also updated the commission about consolidated fee invoices. He reported that after two weeks, more bar members were paying fees early and online than last year. He explained two changes to enhance the CFI: firm administrators can save their work and come back to it later and members can print a voucher and mail the voucher with a check.

10. VLP REPORT

Linda Lund introduced Chasity Foster as the newest member of the VLP staff replacing Carrie Black-Phillips as an intake paralegal. She updated the commission on pro bono month which will be the month of October and described some of the planned events and activities that will be held during pro bono month.

11. ADMISSIONS REPORT

Justin Aday discussed proposed rule changes to the *Rules Governing Admission to the Alabama State Bar*. (The marked-up version of the proposed changes was included in the meeting materials.) He outlined the first two substantive rule changes which involved increasing the bar exam postponement fee from \$50 to \$100 and permitting the examination fee to be carried forward for one examination only. The third change would increase the “shelf life” of the Multi-State Professional Responsibility Exam (MPRE) to 25 months. The fourth change would permit a forfeiture of a bar exam fee if a candidate is turned down by character and fitness and chooses not to appeal an adverse character and fitness determination or is unsuccessful if an appeal is taken. The final rule change would involve Rule III (reciprocity) and remove the requirement that a reciprocity candidate certify his or her intention to conduct at least 75 percent of their practice in Alabama and have an office in the state. This item will be an action item at the next meeting.

12. PROPOSED CHANGES TO MCLE REGULATIONS

Commissioner Terri Tompkins, chair of the MCLE Commission, explained the proposed changes which include an increase in the pre-approved sponsor fee from \$250 to \$350 as well as charging a \$25 fee for out of state attorneys who wish to claim the MCLE waiver for having completed the MCLE requirements in their home jurisdiction. The first item would become effective October 1 with the second item becoming effective in 2017.

COMMISSIONER GARNER MOVED TO MAKE THIS AN ACTION ITEM. THE MOTION WAS SECONDED AND APPROVED BY THE NECESSARY TWO-THIRDS VOTE.

COMMISSIONER DEBROSSE THEN MOVED TO AUTHORIZE THE INCREASE OF THE SPONSOR FEE FROM \$250 TO \$350 WITH AN EFFECTIVE DATE OF OCTOBER 1, 2016 AND A \$25 FEE, EFFECTIVE JANUARY 1, 2017 FOR OUT-OF-STATE ATTORNEYS WISHING TO CLAIM THE MCLE WAIVER IN ALABAMA FOR HAVING COMPLETED THE MCLE REQUIREMENT IN THEIR HOME JURISDICTION. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

13. AT-LARGE COMMISSIONER PROPOSED RULE CHANGE

Commissioner Monet Gaines explained the strides that had been made with the at-large commissioner rule and stated the proposed rule change was an attempt to refine the at-large process and assure that it continues to enhance diversity on the Board of Bar Commissioners. She explained that the proposed changes would allow the executive committee to recommend only those individuals who meet the specific categories as

authorized under the statute without submitting to the commission the entire list of candidates who apply for at-large positions. Limited discussion followed the report which will be an action item at the next meeting.

14. LOCAL BAR TASK FORCE REPORT

Commissioners Vance and Methvin reported on the work of the task force. Commissioner Vance outlined a two-prong plan of sending out ambassadors to all local and specialty bars with a PowerPoint presentation to talk about the state bar and bar programs. The second prong is a retreat planned for October 27-28 to provide CLE credit and training for local bar and specialty bar officers about the Alabama State Bar. Commissioners Skinner and Shattuck were recognized to talk about their experience in making presentations to local bar associations. Commissioner Methvin provided further details about the retreat which include five CLE credits, a reception and breakfast on the morning of October 28th prior to the October board meeting. Commissioner Vance concluded by encouraging commissioners to make sure that the bar presidents in their respective circuits attend.

15. COMMUNICATIONS SATISFACTION SURVEY RESULTS

Commissioner Garner discussed June survey findings which attempted to isolate the method of preferred communication among bar members. The survey indicated that 80 percent of the respondents prefer email for general updates from the bar but it also revealed that most of those who responded did not have websites. She also highlighted the fact that 70 percent of those who responded have never spoken with or heard from their respective commissioner. Commissioner Garner reported that a “satisfaction” survey was sent in August which isolated lawyers’ concerns about maintaining a balance between family and work as well as financial concerns. She stated that only 500 lawyers responded to the second survey while 2000 responded to the first survey. A third survey regarding the website will be sent in November.

16. BANKRUPTCY SUMMIT

Commissioner Shepard highlighted the activities planned for the Summit that is scheduled for October 11 in the board room at the Alabama State Bar. The volunteer lawyer programs will be present to discuss with bankruptcy judges, clerks and others how to better address pro bono needs in the bankruptcy courts. He reported that Judge Latta of the U.S. Bankruptcy Court in Memphis, Tennessee would be the guest speaker. Commissioner Shepard stated that the hope is this program can serve as a template for collaboration with the VLPs on other relevant issues.

17. ADDENDUM CHANGES

Commissioner Skinner reported that she will be serving as editor of the Addendum newsletter. She discussed the survey conducted by the Board of Editors of *The Alabama Lawyer* regarding the Addendum. Based on the survey results, Commissioner Skinner explained that more content would be added to the Addendum format. Specifically, the plan would include more information from local bars and circuits. Commissioner Skinner also reported that the name of the publication would be changed. She encouraged commissioners to submit ideas for a new name.

18. FINANCIAL MANAGEMENT POLICY FOR SECTIONS

Finance Director Merinda Hall outlined the purpose of the new policy for sections which includes electronic point of sales guidelines as well as additional guidelines for opt-out sections.

19. RULE III APPLICATIONS

The president reported that Daniel Dillon Dwer (CT); Emily-Ruth Smathers Ratliff (MS); Andrew Ethan Rudloff (OH) and Brian Cory Spence (GA) had requested admission by motion pursuant to Rule III of the *Rules Governing Admission to the Alabama State Bar*. He stated that each candidate had met the requirements of Rule III in order to be considered for admission.

COMMISSIONER POTHOFF MOVED THE ADMISSION OF DANIEL DILLON DWER, EMILY-RUTH SMATHERS RATLIFF, ANDREW ETHAN RUDLOFF AND BRIAN CORY SPENCE FOR ADMISSION TO THE ALABAMA STATE BAR PURSUANT TO RULE III OF THE *RULES GOVERNING ADMISSION TO THE ALABAMA STATE BAR*. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

20. PROPOSED AMENDMENTS TO THE RULES OF DISCIPLINARY PROCEDURE

Tony McLain explained that the proposed amendments to Rule 4.2(b)(6), 28(c) would eliminate the time requirement for the issuance of written orders involving disciplinary re-instatement proceedings while the proposed amendments to Rule 33(a) would allow for publication of public discipline on the bar website. He reported that Rule 33(d) would increase the administrative fee in disciplinary matters from \$750 to \$1000.

COMMISSIONER BUCK MOVED TO APPROVE THE PROPOSED AMENDMENTS TO THE RULES 4.2(b)(6), 28(c), 33(a) and (d) OF THE *RULES OF DISCIPLINARY PROCEDURE*. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

(A copy of the amendments as proposed and discussed are included as Appendix A.)

21. APPROVAL OF NEW APPOINTEE TO THE ALABAMA LAWYER ASSISTANCE FOUNDATION

President Portis reported that John (Jack) T. Carney, Jr. was being recommended to replace former commissioner Julia Kimbrough on the Alabama Lawyer Assistance Foundation board.

COMMISSIONER MAZE MOVED TO APPROVE JOHN (JACK) T. CARNEY, JR. TO FILL THE VACANCY ON THE ALABAMA LAWYER ASSISTANCE FOUNDATION BOARD. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

22. APPROVAL OF APPOINTEE TO THE LSA BOARD OF DIRECTORS

President Portis stated that Mary Pons was being recommended for appointment to the LSA Board of Directors replacing former Chief Justice Sue Bell Cobb.

COMMISSIONER GAINES MOVED TO APPOINT MARY PONS TO THE VACANCY ON THE LSA BOARD OF DIRECTORS. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

23. STAFF COMPENSATION FY2016-17

The president explained that a total of \$3,004,180 was recommended for staff compensation for FY2016-2017. He stated that this was significantly less than the amount budgeted (\$3,298,000) and previously approved by the commission in the FY2017 budget.

COMMISSIONER MAZE MOVED TO APPROVE STAFF COMPENSATION FOR FY2016-2017 IN THE AMOUNT OF \$3,004,180. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

24. ADJOURNMENT

President Portis asked if there was any further business to come before the commission. There being no further business to come before the commission, a motion was made and duly seconded to adjourn. The motion was approved by voice vote.

J. Cole Portis, President
Alabama State Bar

ATTEST:

Keith B. Norman, Secretary
Alabama State Bar