

MINUTES

ALABAMA STATE BAR BOARD OF BAR COMMISSIONERS MEETING

State Bar Building
Montgomery, Alabama

Friday, December 8, 2017

1. CALL TO ORDER

President Augusta S. Dowd 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 Clint Hyde gave the invocation.

2. ROLL CALL

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

Mark S. Boardman	Daryl Burt	Diandra S. Debrosse
Jeffery C. Duffey	Kira Y. Fonteneau	Monet M. Gaines
Jana Russell Garner	J. Kirkman Garrett	Anne M. Glass
Clinton H. Hyde	Karen Laneaux	Donald B. Mansell
William Randall May	Charles Zachery Moore	J. Levi Nichols
George R. Parker	Manish H. Patel	James Lynn Perry
Taylor T. Perry, Jr.	Les Pittman	James Rebarchak
R. Cooper Shattuck	Tazewell T. Shepard	John A. Smyth
John Thomas Stamps	Andrew D. Stanley	Halron W. Turner
Thad Yancey, Jr.		

The following commissioners were absent:

Steven D. Adcock	LaBella S. Alvis	Emily L. Baggett
Leslie R. Barineau	Robert L. Bowers, Jr.	Jeffrey L. Bowling
John A. Brinkley, Jr.	Robert H. Brogden	William H. Broome
Brannon J. Buck	Bryan E. Comer	Latisha R. Davis
Rebecca G. DePalma	Michael D. Ermert	J. Langford Floyd
Erskine R. Funderburg, Jr.	Christy Williams Graham	Dana Grimes
H. Thomas Heflin, Jr.	Frederick G. Helmsing, Jr.	Erik Stephen Heninger
Ralph E. Holt	Brett Ashley King	William R. Lancaster
F. Patrick Loftin	M. Clay Martin	David Martin
Clint L. Maze	Rebekah K. McKinney	R. Cliff Mendheim
Robert G. Methvin, Jr.	Matthew C. Mitchell	Kenneth Moore
Larry W. Morris	J. Flynn Mozingo	Courtney R. Potthoff

Barry A. Ragsdale
Allison O. Skinner
Terri O. Tompkins
Hays Webb

Jeanne Dowdle Rasco
Audrey O. Strawbridge
C. Gibson Vance
Roy W. Williams, Jr.

Donald R. Rhea
Charles C. Tatum, Jr.
Gregory M. Varner

The secretary informed those present that there was not a quorum of the board.

Also in attendance was President-elect Sam Irby. Staff members in attendance were: Douglas McElvy, Justin Aday, Eric Anderson, Angela Parks, Tripp Vickers, Robert Thornhill, Laura Calloway, Linda Lund, Alex Rice, Merinda Hall and Margaret Murphy. Also in attendance was Tracy Daniel, director of the Alabama Law Foundation and Suzi Huffaker, legislative counsel.

3. INTRODUCTION OF GUESTS

President Dowd recognized special guests including Justice Will Sellers of the Alabama Supreme Court, Tim Chinaris, chair of the Non-Resident Section of the Alabama State Bar, Cleve Poole, former commissioner, Christy Crow, former commissioner, and Frank Woodson, president of the Alabama Association for Justice.

4. APPROVAL OF THE MINUTES OF THE OCTOBER 13, 2017 BOARD MEETING

President Dowd stated that the minutes of the October 13, 2017 Board Meeting had been transcribed and circulated prior to the meeting. She asked if there were any corrections, additions or deletions. There were none voiced by those present.

DUE TO LACK OF QUORUM, THERE WAS NO ACTION TAKEN AND THE ITEM WAS CARRIED OVER.

5. GUEST SPEAKER: JUSTICE WILL SELLERS, SUPREME COURT OF ALABAMA

President Dowd recognized Justice Will Sellers of the Supreme Court of Alabama and thanked him for attending the board meeting. Justice Sellers was invited to give remarks to the Board.

Justice Sellers thanked the Board for the opportunity to give remarks and complimented those commissioners present for braving the weather to attend the meeting. Justice Sellers remarked about the uniqueness of our system of laws and thanked those present and all lawyers for their commitment to serving others and delivering justice. Justice Sellers closed by offering his assistance in any bar-related matters and inviting Alabama lawyers to visit his office and see the work of the Supreme Court.

6. **REPRIMANDS**

6.a. Luther Dickie Abel, ASB 2016-1046

Mr. Abel received a public reprimand with general publication violating Rules 1.3, 1.4, 1.6, 1.7(b), 5.3 and 8.4 (a) and (g) of the *Alabama Rules of Professional Conduct*.

6.b. Frank Brian Rice, ASB 2016-1147

Mr. Rice received a public reprimand with general publication for violating Rules 1.3, 1.4(a) and (b) and 1.15 (a) and (e) of the *Alabama Rules of Professional Conduct*.

6.c. Lee Argel Cook, Jr., ASB 2017-284

Mr. Cook received a public reprimand with general publication and to pay any and all costs taxed pursuant to Rule 33, *Ala. R. Disc. P.*, including but not limited to a \$750 administrative fee for violating Rules 1.3 and 1.4 of the *Alabama Rules of Professional Conduct*.

7. **PRESIDENT'S REPORT**

President Dowd updated the commission on the “State of the Bar” presentations and speaking engagements attended by the bar, including the following: Florence (Lauderdale, Colbert and Franklin County Bar Associations); Montgomery Bench & Bar; Beasley Allen Annual Conference, Etowah County Bar Association, Houston County Bar Association, and Monroe and Conecuh County Bar Associations.

Next, President Dowd informed the commission of the new structure of the Office of General Counsel, with separate divisions for discipline and ethics. She also discussed the appointment of the General Counsel Search Committee and informed the commission that the committee has conducted a member survey that received a 13% response rate and held two meetings. President Dowd also presented the committee’s timetable, including its goal of presenting a candidate to the commission in May 2018.

President Dowd informed the commission that Dag Rowe’s term on the Alabama Securities Commission would expire in January 2018 and that she would be seeking nominations from the board.

President Dowd recognized Commissioner Taze Shepard who announced the progress of the Access to Justice Summit. He informed the commission that the group is holding listening sessions among legal and non-legal service providers to low income individuals, and the work will culminate with a Summit at the Annual Meeting in June 2018. He reported that the Access to Justice Commission is providing funding to employ a D.C.-based polling firm to coordinate some planning and marketing efforts for the Summit.

President Dowd also announced to the commission that Leila Watson, president of the Birmingham Bar Association had recent lost her husband, Robert.

8. SECRETARY/EXECUTIVE DIRECTOR'S REPORT

Secretary/Executive Director McCallum informed the commission that staff member Laura Calloway had recently lost her mother. He also announced that staff member Alex Rice had recently become engaged. Mr. McCallum informed that commission that he had negotiated a new member benefit with the Marriott hotels on the Robert Trent Jones Golf Trail and that a new much-needed overhead projector had been installed in the board room. Mr. McCallum also discussed the consolidated fee invoice and the online renewal process. He also informed the commission that he was in the initial stages of contract negotiations with the Gulf State Park Lodge for future annual meetings. Finally, Mr. McCallum reported on recent "State of the Bar" presentations that he and others have given around the state.

9. OFFICE OF GENERAL COUNSEL REPORT

Acting General Counsel Douglas McElvy updated the commission on the amendment of Rule 33(a) of the *Alabama Rules of Disciplinary Procedure* and the online publication of public reprimands with general publication on the ASB website. Mr. McElvy reported that the ASB website's membership director now included lawyer status as part of the online record. He also reported that the Office of General Counsel was reviewing the current lawyer advertising rules to see if any adjustments are appropriate at this time.

10. DIGITAL COMMUNICATIONS REPORT

Director of Digital Communications Eric Anderson informed the commission about a new circuit Listserv that is available to each commissioner. The Listserv will be maintained by ASB and allows a commissioner to communicate with all lawyers in his/her circuit by sending an email to a single email address.

11. LAWYER ASSISTANCE PROGRAM REPORT

Robert Thornhill, director of the Alabama Lawyer Assistance Program (ALAP), thanked bar leadership, the Board of Bar Commissioners and the staff for support of ALAP. Mr. Thornhill informed the commission that he has seen an increase in referrals and self-reporting before more serious problems arise with lawyers. He sees this as an encouraging statistics and asked the commission to be mindful of lawyers around them who may benefit from involvement with ALAP.

Mr. Thornhill also reported on the Disability Inactive Task Force and the issue of publicizing names of lawyers placed on disability inactive status. He stated that the recommendation of the task force was (1) any lawyer granted disability inactive status be published as “inactive” and (2) discipline related to lawyers on disability inactive status be marked as confidential.

12. NON-RESIDENT SECTION REPORT

Tim Chinaris, chair of the Non-Resident Section of the Alabama State Bar reminded the commission that the section evolved from a task force in 2015 and at its inception had approximately 3,200 dues paying members. According to Mr. Chinaris, in 2017, the section had approximately 3,500 dues paying members living outside Alabama. Mr. Chinaris informed the commission that the section has been active in determining the needs of out-of-state bar members and that it has surveyed other states and conducted an online survey to all out-of-state bar members and received approximately 700 responses. He encouraged the commission to be aware of and support the contributions of the state bar members who reside outside of Alabama.

13. LAWYER REFERRAL SERVICE REPORT 2016-17

Commissioner Daryl Burt gave the 2016-17 report of the Alabama State Bar Lawyer Referral Service program. Mr. Burt reviewed statistics from the report including the number of participating attorneys (259), the number of referrals made (11,917), and the revenue from the program (\$37,510.87).

14. APPROVAL OF THE 2018 LEADERSHIP FORUM CLASS 14

Assistant Executive Director Ed Patterson gave a brief overview of the Leadership Forum and the selection process. Mr. Patterson distributed to the commission the names of those attorneys selected for Leadership Forum Class 14 and reminded the commission that attorneys have not been notified of their selection and the information should remain confidential until the official notification from the Alabama State Bar.

COMMISSIONER GLASS MOVED THAT THE COMMISSIONERS PRESENT ACT AS A COMMITTEE OF THE WHOLE TO CONSIDER THE NAMES PRESENTED FOR APPROVAL AS MEMBERS OF LEADERSHIP FORUM CLASS 14. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

COMMISSIONER PARKER MOVED THAT THE COMMITTEE OF THE WHOLE APPROVE THE SELECTIONS FOR LEADERSHIP FORUM CLASS 14, SUBJECT TO RATIFICATION BY THE BOARD AT ITS NEXT MEETING. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

15. **REQUEST FOR RESOLUTION REGARDING ASB'S POSITION ON COURT COSTS**

Legislative Counsel Suzi Huffaker requested a renewed resolution from the commission that court costs should be for the administration of justice. She also informed the commission about potential legislation from the Alabama Law Institute that would put a moratorium on new court costs and create a commission that would review and report on any court cost increase proposal. Ms. Huffaker also reminded the commission that the next legislative session begins on January 9, 2018.

16. **ADJOURNMENT**

President Dowd 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.

Augusta S. Dowd, President
Alabama State Bar

ATTEST:

Phillip W. McCallum, Secretary
Alabama State Bar