

# MINUTES

## ALABAMA STATE BAR BOARD OF BAR COMMISSIONERS MEETING

Salons C-F  
Grand Hotel  
Point Clear, Alabama

Wednesday, July 18, 2007

### 1. CALL TO ORDER

President Boots Gale convened this meeting of the Alabama State Bar Board of Commissioners at 2:00 p.m. in Salons C-F of the Grand Hotel, Point Clear, Alabama. Commissioner Bedsole gave the invocation.

### 2. WELCOME TO NEW COMMISSIONERS

President Gale introduced the new commissioners as follows:

Christina D. Crow, 3<sup>rd</sup> Judicial Circuit  
Randall S. Haynes, 5<sup>th</sup> Judicial Circuit  
John M. Gruenewald, 7<sup>th</sup> Judicial Circuit  
Juan Ortega, 13<sup>th</sup> Judicial Circuit, Place No. 4  
James R. Beard, 14<sup>th</sup> Judicial Circuit  
J. Cole Portis, 15<sup>th</sup> Judicial Circuit, Place No. 4  
R. Wyatt Howell, 25<sup>th</sup> Judicial Circuit  
Jason P. Knight, 32<sup>nd</sup> Judicial Circuit  
Kesa Johnston, At-Large, Place No. 8

### 3. ROLL CALL

The Secretary called the roll of the Commission and the following Commissioners were present:

Ronnie E. Keahey	Christy Crow	Randall S. Haynes
Cooper Shattuck	Alyce M. Spruell	John M. Gruenewald
Nicholas B. Roth	Anthony A. Joseph	S. Greg Burge
Jack Neal	Phillip W. McCallum	Greg Hawley
Maibeth J. Porter	Joseph A. Fawal	Robert E. Mooror
Jim Pratt	William A. (Pete) Short	Albert J. Trousdale, II
Michael D. Knight	William M. Cunningham	Billy C. Bedsole
Juan Ortega	Mary Margaret Bailey	Cole Portis
Sim Penton	Lee H. Copeland	K. Scott Stapp
John E. Medaris	Robert L. Bowers, Jr.	Everette A. Price, Jr.
Harold Stephens	L. Thomas Ryan, Jr.	Richard J.R. Raleigh, Jr.
Ronald A. Strawbridge, Jr.	R. Wyatt Howell	Kenneth E. White, III
John C. Gullahorn	Allan Chason	Tut Wynne
Robert L. Rumsey	Elizabeth Parsons	John M. Kennemer

Jason P. Knight	Roger Bedford, Jr.	David T. Hyde, Jr.
Robert T. Meadows, III	Gerald R. Paulk	Wayman Sherrer
Deborah Byrd Walker	Merceria Ludgood	Alicia F. Bennett
Kyra Sparks	Pamela H. Bucy	Kesa Johnston
Kelly T. Lee		

The following Commissioners were absent:

Michael E. Jones	J. Garrison Thompson	W. N. (Rocky) Watson
Richard W. Whittaker	James R. Beard	Les Hayes, III
James H. Anderson	F. Michael Haney	Joseph A. Morris
Thomas B. Albritton	Robert H. Brogden	Timothy D. Littrell
Jere C. Trent	David F. Law	Walter E. McGowan
Claude E. Hundley, III		

Also in attendance were President-elect Sam Crosby and Immediate Past President Bobby Segall. Staff members present included Tony McLain, Ed Patterson, Brad Carr, Sam Partridge, Jeremy McIntire, Robby Lusk, Diane Locke and Anita Hamlett. Also in attendance was Tracy Daniel of the Alabama Law Foundation.

#### **4. INTRODUCTION OF GUESTS**

President Gale recognized President-elect Designate Mark White, Craig Baab of the Alabama Appleseed Foundation as well as Ed Gentle and Sue McNish who were attending on behalf of the Alabama Civil Justice Foundation. President Gale also noted that Commissioner Ludgood had qualified as a candidate for the county commission race in Mobile.

#### **5. APPROVAL AND RATIFICATION OF THE MINUTES OF THE BOARD OF COMMISSIONERS MEETING FOR JUNE 8, 2007.**

President Gale stated that the minutes of the Board of Commissioners meeting for June 8, 2007 had been disseminated to the Board. He noted that there had not been a quorum present so he asked the Commission to ratify the minutes of that meeting. There were no corrections, additions or deletions.

COMMISSIONER SPRUELL MOVED TO RATIFY AND APPROVE THE MINUTES OF THE BOARD OF COMMISSIONERS MEETING FOR JUNE 8, 2007. THE MOTION WAS SECONDED AND THE MINUTES WERE RATIFIED AND APPROVED BY UNANIMOUS VOICE VOTE.

#### **6. PRESIDENT'S REPORT**

President Gale expressed his thanks to the Commission for their dedication and hard work over the past year. He also thanked the staff for its contribution as well. He next discussed the memo circulated by Mr. Mark White expressing his intent to resign early from the Judicial Inquiry Commission in order to allow the Commission to appoint his replacement in time to attend an orientation in October. President Gale stated that the nominees for this position would be considered as an action item in September. He encouraged the Commissioners to talk to lawyers in their circuit about the position and to

let the Secretary know the names of any nominees. He next discussed the plans for that evening's dinner and thanked Commissioner Chason for hosting the event. He concluded by encouraging Commission members to support the Alabama Law Foundation and join the Aticus Finch Society. He stated there would be a hundred charter members and that there were presently 71 members who had joined.

**7. SECRETARY'S REPORT**

The Secretary reviewed the third quarter financial report. He asked if there were any questions. There were none. The Secretary next stated that he had received a memorial resolution for Don O. White from the Mobile Bar Association for inclusion in the Alabama State Bar Book of Memorial Resolutions.

COMMISSIONER BEDSOLE MADE A MOTION TO RECEIVE THE MEMORIAL RESOLUTION BY THE MOBILE BAR ASSOCIATION FOR DON O. WHITE AND TO PLACE IT IN THE ALABAMA STATE BAR BOOK OF MEMORIAL RESOLUTIONS. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

**8. PROGRAMS UPDATE**

The Director of Programs, Ed Patterson discussed the Leadership Forum and asked Commissioners to nominate at least five lawyers from their circuit for the 2008 class. He also reported on the annual meeting activities.

**9. AMENDMENT TO RULE 1.15 OF THE ALABAMA RULES OF PROFESSIONAL CONDUCT TO IMPLEMENT MANDATORY IOLTA**

Immediate Past President Bobby Segall explained the concept of a mandatory IOLTA program. He noted that Tracy Daniel, Executive Director of the Alabama Law Foundation and Sue McInish, Executive Director of the Alabama Civil Justice Foundation were present to answer any specific questions. Mr. Segall pointed out that Alabama was last among all of the states in providing funding for civil legal services for the poor. He explained the difference between the current "opt out" program and the proposed mandatory program and the fact that it would generate a great deal more revenue for grants to help meet the civil legal needs of the poor. President-elect Sam Crosby spoke next. He stated that 32 states now have mandatory IOLTA programs and he reiterated the need for Alabama to adopt the proposed mandatory rule. Commissioner Chason, former Alabama Law Foundation president, discussed the history of IOLTA. He stated that the 2003 rule change to require banks to pay comparable rates had not worked as well as anticipated. Consequently, the only alternative was to go to a mandatory program.

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

Discussion concerning the proposed rule followed. Following the discussion, President Gale stated that this matter would be included as an action item later on the agenda.

**10. FAMILY LAW SECTION BY-LAWS**

Robert Smith, chair of the Family Law Section, past section chair Wendy Crew, Sammye Kok and Noah Funderburg were present. Mr. Smith stated that the by-laws needed some minor changes and asked the Commission to consider the by-laws at a later time.

COMMISSIONER FAWAL OFFERED A MOTION TO MOVE CONSIDERATION OF THE FAMILY LAW SECTION BY-LAWS TO SATURDAY MORNING. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

**11. REPORT OF THE COMMITTEE ON DISCIPLINARY RULES**

President Gale recognized the Honorable Ralph Cook who reported on proposed rule changes. He noted that there were three subcommittees that prepared the rule changes that were before the Commission. The subcommittees included advertising, ethics 2000 and other administrative issues. Judge Cook explained the proposed rule changes prepared by each of the three subcommittees. Judge Cook responded to several questions following his report.

Following Judge Cook's report, President Gale stated that consideration of the proposed rule changes would be an action item at the September meeting. He thanked Judge Cook and the rest of the committee for their work.

**12. RATIFICATION OF STATE BAR AWARD OF MERIT CORRECTION**

President Gale reminded the Commission that Connie Barker had been substituted for Judy Belk at the last meeting and since there was not a quorum present that it was necessary to ratify the action of the Commission approving this correction.

COMMISSIONER MEADOWS MOVED THE RATIFICATION TO APPROVE CONNIE BARKER AS THE RECIPIENT OF THE 2007 AWARD OF MERIT. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

**13. SERVICE FEE FOR COPIES OF OLD BAR APPLICATIONS**

The Secretary explained the need for the service fee.

COMMISSIONER COPELAND MOVED THE AUTHORIZATION OF THE \$10 SERVICE FEE FOR COPIES OF OLD BAR APPLICATIONS. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

**14. LAWYERS HALL OF FAME RULE CHANGE**

The Secretary stated that the Selections Committee for the Hall of Fame had recommended a change in procedures for the program. He explained the committee recommended that four awards be given annually instead of three as provided in the original guidelines. He said that at least one of the awards would be made to a member who has been deceased for at least one hundred years.

COMMISSIONER WHITE MOVED THAT THE LAWYERS HALL OF FAME SELECTION PROCEDURES BE CHANGED SO THAT FOUR ANNUAL AWARDS BE MADE AND THAT AT LEAST ONE OF THE AWARDS BE MADE TO A BAR LAWYER WHO HAS BEEN DECEASED AT LEAST ONE HUNDRED YEARS. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

**15. 2008 HALL OF FAME INDUCTEES**

The Secretary reported that the Hall of Fame Selection Committee had recommended the four following nominees: The Honorable Thomas Goode Jones (Montgomery), Howell T. Heflin (Tuscumbia), and Patrick Richardson (Huntsville). The Secretary further stated that the Honorable John Archibald Campbell had been recommended for inclusion as a member who had been deceased one hundred years or more.

COMMISSIONER RALEIGH MOVED THE APPROVAL OF THE HALL OF FAME SELECTION COMMITTEE'S RECOMMENDATION OF THOMAS GOODE JONES, HOWELL T. HEFLIN, PATRICK RICHARDSON AND JOHN ARCHIBALD CAMPBELL AS THE 2007 INDUCTEES OF THE ALABAMA LAWYERS HALL OF FAME. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

**16. RULE III ADMISSION**

The Secretary informed the Commission that there were three candidates for the Commission's consideration for Rule III admission: Anthony Mastando (District of Columbia), Donna Cude (Texas) and Carrie Dunn (Indiana). He stated that each of the individuals possessed the requisite character and fitness and met all of the requirements of Rule III for purposes of admission.

COMMISSIONER RYAN MOVED THE ADMISSION OF ANTHONY MASTANDO, DONNA CUDE AND CARRIE DUNN PURSUANT TO RULE III OF THE RULES GOVERNING ADMISSION TO THE ALABAMA STATE BAR. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

**17. BOARD APPOINTMENTS FOR ALF, ALAF AND MCLE COMMISSION**

President Gale stated that it had been recommended that Tom Oliver and Ben Rowe be appointed to the Alabama Law Foundation Board.

COMMISSIONER BEDSOLE MOVED THE APPOINTMENT OF TOM OLIVER AND BEN ROWE TO THE ALABAMA LAW FOUNDATION BOARD OF TRUSTEES. THE MOTION WAS APPROVED AND SECONDED BY VOICE VOTE.

Next, President Gale stated that it had been recommended that Commissioner Strawbridge be appointed to fill the existing vacancy on the MCLE Commission and to elect Commissioner Maibeth Porter as MCLE chair.

COMMISSIONER PRATT MOVED THE APPOINTMENT OF COMMISSIONER RON STRAWBRIDGE TO THE MCLE COMMISSION AND THE ELECTION OF COMMISSIONER MAIBETH PORTER AS MCLE COMMISSION CHAIR. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

Finally, President Gale stated that Squire Gwin of Birmingham had been recommended for appointment to the Alabama Lawyers Assistance Foundation Board of Directors.

COMMISSIONER PRATT MOVED THE ELECTION OF SQUIRE GWIN TO THE ALABAMA LAWYERS ASSISTANCE FOUNDATION BOARD OF DIRECTORS. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

**18. REQUEST FOR STATE BAR MAILING LABELS FROM THE ALABAMA BENCH AND BAR HISTORICAL SOCIETY**

The Secretary stated that a request for mailing labels from the Alabama Bench and Bar Historical Society has been received. He noted that the society wished to conduct a mailing to all members of the Alabama State Bar. The Secretary explained that the society was chartered several years ago and had been working with the Alabama State Bar Committee on History and Archives to produce a history of the legal profession in Alabama. He further stated that the Historical Society operates out of the judicial building.

COMMISSIONER PRICE MOVED THAT IN VIEW OF THE CURRENT AND FUTURE COOPERATION OF THE BENCH AND BAR HISTORICAL SOCIETY WITH THE ALABAMA STATE BAR COMMITTEE ON HISTORY AND ARCHIVES THAT THE ALABAMA BENCH AND BAR HISTORICAL SOCIETY BE AUTHORIZED TO RECEIVE A MAILING LIST OF STATE BAR MEMBERS FOR THE PURPOSES OF INFORMING MEMBERS ABOUT THE SOCIETY, ITS MISSION AND PURPOSE AND TO ENCOURAGE PARTICIPATION IN THE SOCIETY. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

**19. MEMORIAL RESOLUTIONS HONORING FORMER BAR PRESIDENTS BIBB ALLEN, E. T. BROWN, JR. AND DREW REDDEN**

President Gale noted that resolutions honoring each of the deceased former bar presidents have been prepared. They were as follows:

Resolution

WHEREAS, Bibb Allen, was born on December 25, 1921 and departed this life on March 17, 2007 in Birmingham, Alabama at the age of 85; and

WHEREAS, the Board of Commissioners of the Alabama State Bar desires to recognize and memorialize his outstanding record of service as a lawyer, patriot, teacher and leader of the Alabama State Bar.

NOW, THEREFORE, BE IT REMEMBERED that Bibb Allen, served this association nobly and well as its president in 1976-1977.

Bibb was born in Birmingham, Alabama, the son of Judge Edgar Lee Allen and Mary Bibb Allen. He attended Birmingham Southern College and then enlisted in the U.S. Army Air Corp during World War II. Bibb flew over 100 missions and received seven bronze stars, the Distinguished Flying Cross and the Belgian Croix de Guerre. Upon his discharge from military service, Bibb completed his undergraduate studies at Auburn University and finished the University of Alabama School of Law in 1950 where

he was a member of the Law Review, Order of the Coif, ODK and Farrah Order of Jurisprudence.

Bibb was admitted to the bar in 1950 and began his practice of law with the firm of London, Yancey, Clark and Allen. He later joined the firm of Christian and Small where he practiced until his death. He served as president of the Birmingham Bar Association and the Alabama Defense Lawyers Association. His professional accomplishments and skill as a lawyer were well known and appropriately recognized by his membership in the American College of Trial Lawyers, International Academy of Trial Lawyers, the American Bar Foundation and the American Board of Trial Advocates.

Willing to share his knowledge of the law, Bibb authored the widely used legal treatise "Alabama Liability Insurance Handbook" and taught torts at Birmingham School of Law for 40 years. He was also a faithful Sunday School leader and teacher at First United Methodist Church in Birmingham.

BE IT FURTHER REMEMBERED that Bibb Allen was a man of dedication, integrity and loyalty. He leaves surviving him his wife of 61 years, Louise, two children, Dr. Bibb Allen, Jr. and Mary Louise King and six grandchildren.

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of the Alabama State Bar meeting this day assembled that the life of Bibb Allen be recognized as one of deep dedication to the Bar of this state, to his community and his family and that his death represents a great loss to each.

BE IT FURTHER RESOLVED that this resolution be recorded in the permanent minutes of this association.

#### Resolution

WHEREAS, E. T. Brown, Jr., was born on August 31, 1920 and departed this life on October 10, 2006 in Birmingham, Alabama at the age of 86; and

WHEREAS, the Board of Commissioners of the Alabama State Bar desires to recognize and memorialize his outstanding record of service as a prominent lawyer, citizen and leader of the Alabama State Bar.

NOW, THEREFORE, BE IT REMEMBERED that E. T. Brown, Jr., served this association nobly and well as chairman of the Board of Bar Examiners for more than a decade, as president of the Alabama State Bar from 1980-1981 and through his vision and leadership in the creation of the Alabama Law Foundation.

E. T. was born in Birmingham, Alabama. He attended the Lawrenceville School in New Jersey, Princeton University and Cornell University Law School where he was managing editor of The Law Review, winner of the Moot Court Competition and Order of the Coif. Upon his graduation from law school in 1943, E. T. joined the law firm of Cabaniss and Johnston and practiced law with the firm, following his admission to the bar in 1944, for 62 years.

E. T. was a consummate lawyer whose acumen in probate and tax law were widely sought. In addition to handling the legal matters of his numerous clients, E. T. mentored a generation of younger lawyers throughout his long and distinguished career. He was committed to the next generation of legal professionals and lead his firm to endow the Alabama Law Foundation's first scholarship fund—The Cabaniss Johnston Scholarship. The enormous gift of his time and talents to the legal profession are reflected in his receiving the Walter P. Gewin Award for his work in continuing legal education and his being the first recipient of the Alabama State Bar's William D. Scruggs Award. Many other organizations benefited from E. T.'s generosity and selflessness.

BE IT FURTHER REMEMBERED that E. T. Brown, Jr. was a man of great humility, integrity and loyalty. He leaves surviving him a son, E. T. Brown, III, two daughters, Claire DeBardelaben Brown and Linda Otis Brown and five grandchildren.

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of the Alabama State Bar meeting this day assembled that the life of E. T. Brown, Jr. be recognized as one of deep dedication to the Bar of this state, to his community and his family and that his death represents a great loss to each.

BE IT FURTHER RESOLVED that this resolution be recorded in the permanent minutes of this association.

#### Resolution

WHEREAS, Lawrence Drew Redden, was born on December 16, 1922 and departed this life on July 2, 2007 in Birmingham, Alabama at the age of 84; and

WHEREAS, the Board of Commissioners of the Alabama State Bar desires to recognize and memorialize his outstanding record of service as a lawyer, soldier, citizen and leader of the Alabama State Bar.

NOW, THEREFORE, BE IT REMEMBERED that Drew Redden, served the legal profession nobly and well as president of the Birmingham Bar Association in 1969 and president of the Alabama State Bar in 1972-1973.

Drew was born in Tallassee, Alabama and received his undergraduate degree in 1943 from the University of Alabama. Following his graduation, he served in the Army and fought in the Asian and European theaters of operation during World War II. After his discharge from active service, Drew continued to serve in the Army Reserve. He was promoted to Major General in 1975 and served until his retirement in 1979, as Commander of the 121<sup>st</sup> U. S. Army Reserve Command which included the states of Alabama, Mississippi and Tennessee. During his distinguished military career, Drew was awarded the Army Distinguished Service Medal, the Legion of Merit, Distinguished Service Medals from the states of Alabama and Tennessee and the Magnolia Medal from the State of Mississippi.

Following the war, Drew entered the University of Alabama School of Law and graduated in 1949. In law school, he served as the first Editor and Chief of the Alabama Law Review. Upon graduation from law school, Drew was admitted to the bar and began his distinguished career as one of this state's finest criminal lawyers, first as Assistant U.

S. Attorney for the Northern District of Alabama and later in private practice in several firms that included the firm of Redden, Mills and Clark where he was senior partner from 1979 until his death. His reputation as a skillful advocate was recognized far and wide by his election to the American College of Trial Lawyers and the International Society of Barristers. In addition to his distinguished professional career, Drew was a leader in Dawson Memorial Baptist Church where he served on various boards and taught Sunday School for more than 30 years.

BE IT FURTHER REMEMBERED that Drew Redden was dedicated to the highest principles of the legal profession. He was a man of unquestioned integrity, loyalty and concern for the well being of others. He leaves surviving him Christine, his wife of 63 years, sister-in-law, Lucille Cunningham, brother-in-law, William G. Cunningham and cousins Geraldine Boyd and Grover Redden.

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of the Alabama State Bar meeting this day assembled that the life of Drew Redden be recognized as one of profound dedication to the Bar of this state, to his community and his family and that his death represents a great loss to each.

BE IT FURTHER RESOLVED that this resolution be recorded in the permanent minutes of this association.

COMMISSIONER FAWAL MOVED THE APPROVAL OF THE MEMORIAL RESOLUTIONS HONORING FORMER ALABAMA STATE BAR PRESIDENTS BIBB ALLEN, E. T. BROWN, JR. AND DREW REDDEN. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

**20. REPORT OF THE NOMINATING COMMITTEE**

President Gale called on Commissioner Paulk, chair of the Nominating Committee. Commissioner Paulk made the following report of the Nominating Committee:

Alabama State Bar Executive Council

Vice President – Alicia Bennett

Council Members – Billy Bedsole, Phillip McCallum, Alyce Spruell

Secretary – Keith B. Norman

Board of Disciplinary Appeals

Ann McMahan

Disciplinary Board Panels

Panel I – Jim Pratt

Leon Garrett, lay member

Panel II – Dr. Ken Jordan, lay member

Panel III – Robert L. Davis, lay member

Cole Portis

Panel IV – Joey Morris

Alan Worrell, lay member

Panel V – Mims Rogers, Jr., lay member

Panel VI – Billy Mims, lay member

President Gale asked Commissioners to contact Commissioner Paulk to make further nominations.

**21. ADJOURNMENT TO A DATE CERTAIN**

President Gale stated that the hour was late and there were still agenda items to be considered. He asked the pleasure of the Commission.

COMMISSIONER BUCY MOVED THAT THE BOARD OF COMMISSIONERS BE ADJOURNED TO SATURDAY, JULY 21, 2007 IMMEDIATELY FOLLOWING THE GRANDE CONVOCATION AND BUSINESS MEETING. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

**22. ADJOURNMENT**

COMMISSIONER PENTON MOVED THE ADJOURNMENT OF THE MEETING. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.