

MINUTES

ALABAMA STATE BAR BOARD OF BAR COMMISSIONERS MEETING

State Bar Building
Montgomery, Alabama

Friday, May 3, 2013

1. CALL TO ORDER

President McCallum 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 Buck gave the invocation.

2. ROLL CALL

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

Jerry L. Thornton	Christy Crow	Jana Russell Garner
Robert Simms Thompson	Terri O. Tompkins	Phil D. Mitchell
Leslie R. Barineau	Jack Neal	Augusta S. Dowd
Teresa G. Minor	Brannon Buck	William A. (Pete) Short
Thad Yancey, Jr.	Walter H. Honeycutt	Billy C. Bedsole
Juan Ortega	Harry V. Satterwhite	James R. Beaird
Les Pittman	J. Flynn Mazingo	Lee H. Copeland
Donald Rhea	K. Scott Stapp	William Randall May
Hamp Baxley	John L. Jernigan, III	John M. Peek
Harold Stephens	John A. Brinkley, Jr.	Richard J.R. Raleigh, Jr.
John Earl Paluzzi	Kenneth E. White, III	Jerry Wayne Baker, Jr.
Sam W. Irby	Braxton W. Ashe	Rebecca Green Thomason
Milton Coxwell, Jr.	Roger W. Pierce	John M. Plunk
Gregory M. Varner	Diandra S. Debrosse	Meredith S. Peters
Rebecca G. DePalma	Alicia F. Bennett	Monet M. Gaines
Ashley Swink Fincher		

The following commissioners were absent:

Ronnie E. Keahey	Hays Webb	William H. Broome
Rocky Watson	S. Greg Burge	Robert G. Methvin, Jr.
Joseph A. Fawal	Derrick A. Mills	Albert J. Trousdale, II
Henry A. Callaway, III	Frank M. Wilson	Cole Portis
Jeffery C. Duffey	Julia C. Kimbrough	David A. McDowell
R. Wyatt Howell	Allan Chason	Robert L. Rumsey
Elizabeth Parsons	Jason P. Knight	Robert H. Brogden
H. Jerome Thompson	Stephen M. Kennamer	Alexander M. Smith
Claude E. Hundley, III	LaBarron Boone	Jeanne Dowdle Rasco

Billy C. Bedsole	13 th Judicial Circuit, Place 3
Frank M. Wilson	15 th Judicial Circuit, Place 1
Richard J.R. Raleigh, Jr.	23 rd Judicial Circuit, Place 3
R. Wyatt Howell	25 th Judicial Circuit
Kenneth E. White, III	26 th Judicial Circuit
Hon. Claude E. Hundley, III	At-Large, Place 2

Next, President McCallum named the Nominating Committee for officer and board elections. They were: Commissioners Chason, Crow and Knight. He then informed the commission of the Election Committee consisting of Commissioners Copeland, Duffey and McDowell. President McCallum followed with a brief legislative update by reminding the commission that judicial reallocation was currently being studied in order to prepare legislation for next year's session. President McCallum took a moment and discussed the following legislative matters including the gun bill, legislation regarding general fund agencies (the amendment to which excluded the Alabama State Bar), workers' comp, the engineers' bill, the attorney general contingency fee bill when outside counsel are retained for civil litigation and level funding for the court system. The president stated that a number of local bills were avoided that would have added to court costs and that the state bar had assisted with campaign finance and reporting legislation. President McCallum concluded his report by stating that the website task force was working hard and would be making a report at the annual meeting.

7. SECRETARY'S REPORT

First, the secretary reviewed the financial statement for the second quarter of the fiscal year. Next, he reminded the commission that ballots in those circuits where commissioner races were contested, would be delivered electronically over the weekend. The secretary concluded updating the commission on the bar exam results for the February 2013 examination.

8. ALABAMA STATE BAR AWARD OF MERIT

Upon Past President Pratt's leaving the room, President McCallum took out of order consideration of the Award of Merit nomination. He informed the commission that Past President Pratt was being nominated for this award for his impressive work in assisting the legislature over the last several years.

COMMISSIONER STEPHENS MOVED TO ACCEPT THE NOMINATION OF IMMEDIATE PAST PRESIDENT JAMES R. PRATT, III FOR THE ALABAMA STATE BAR AWARD OF MERIT. THE MOTION WAS SECONDED AND APPROVED UNANIMOUSLY BY VOICE VOTE.

President McCallum returned to the agenda.

9. **OFFICE OF GENERAL COUNSEL REPORT**

Tony McLain informed the commission of the proposed revision of Rule 29 of the *Alabama Rules of Disciplinary Procedure*. He explained that the revisions to this rule would specify the process for obtaining a trustee over a lawyer's practice and provide greater guidance to the trustee about his or her responsibilities in closing a lawyer's practice. Moreover, the revised rule would clarify the manner in which the trustee would be compensated for his or her time by the Client Security Fund Committee. Finally, the revised rule would provide for an automatic termination of the trustee's authority unless it was extended upon the request of the Office of General Counsel. Mr. McLain also said that the revised rule would include a disqualification provision precluding trustees and/or their firms from representing clients in matters arising from the practice over which they had been appointed as trustee. President McCallum stated that this matter would be an action item at the next meeting.

(A copy of the proposed revision to Rule 9 of the *Alabama Rules of Disciplinary Procedure* are included with these minutes as Appendix A.)

10. **FUTURE OF THE PROFESSION REPORT**

Former president Mark White was called on to give a report of the Future of the Profession Task Force. Mr. White reported that his co-chair, Tommy Wells, was unable to join him today because he was attending the 11th Circuit Court Annual Meeting. Mr. White offered several sobering observations regarding matters that are impacting the legal profession which lawyers and the bar need to understand. He stated that a written report of the task force's findings and recommendations will be forthcoming.

11. **RULE III APPLICATIONS**

President McCallum reported that John Jeffery Trotter (MS) had filed an application for admission by motion under Rule III. He stated that the candidate met all of the requirements for Rule III including character and fitness.

COMMISSIONER CROW MOVED TO ADMIT JOHN JEFFERY TROTTER PURSUANT TO RULE III OF THE *RULES GOVERNING ADMISSION TO THE ALABAMA STATE BAR*. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

12. **ELECTION OF AT-LARGE COMMISSIONERS**

President McCallum stated that three at-large commissioner positions needed to be filled. He then excused Commissioner Gaines and Commissioner Bennett who had applied to be re-elected to their spots as at-large commissioners. President McCallum remarked that because the two incumbents had fine records of service, they should be re-elected. He stated that this would leave one position vacant to be filled by the remaining candidates seeking election as an at-large commissioner.

COMMISSIONER COPELAND MOVED TO RE-ELECT COMMISSIONER MONET GAINES AND COMMISSIONER ALICIA BENNETT TO THREE YEAR TERMS AS AT-LARGE COMMISSIONERS. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

President McCallum stated that the remaining at-large position would be filled from the list of the remaining applicants including Cleve Poole, David Rains, Cooper Shattuck and David Steele, Jr. He stated that it would be a plurality vote and that each commissioner would have one vote for the candidate of his or her choice. Following President McCallum's instructions, commission members took turns speaking for each of the four nominees for the at-large commissioner spot.

PRESIDENT MCCALLUM THEN CALLED FOR A VOTE ON THE CANDIDATES BY A SHOW OF HANDS. AFTER THE TABULATION OF VOTES, PRESIDENT MCCALLUM ANNOUNCED THAT FORMER COMMISSIONER COOPER SHATTUCK HAD BEEN ELECTED TO THE REMAINING AT-LARGE POSITION.

13. JUDICIAL AWARD OF MERIT AND THE WILLIAM D. "BILL" SCRUGGS SERVICE TO THE BAR AWARD

President McCallum reported that Birmingham Circuit Judge Eugene Verin was nominated for the Judicial Award of Merit and has been recommended for the award by the Judicial Conference Committee which reviews all Judicial Award of Merit nominations. He then stated that Mr. David Wooldridge, a long-time member of the Alabama Lawyers Helping Lawyers program and past president of the Alabama Lawyers Assistance Foundation had been nominated to receive the Scruggs Award.

COMMISSIONER CROW MOVED TO APPROVE THE NOMINATION OF HONORABLE EUGENE R. VERIN FOR THE JUDICIAL AWARD OF MERIT AND MR. DAVID M. WOOLDRIDGE FOR THE WILLIAM D. 'BILL' SCRUGGS SERVICE TO THE BAR AWARD. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

14. NOMINATIONS TO FILL TWO VACANCIES IN THE ABA HOUSE OF DELEGATES

President McCallum reminded the commission that the Alabama State Bar has five delegate positions in the ABA House of Delegates and vacancies for two of those positions would occur following the ABA meeting in August and one of the positions is designated for a young lawyer (36 and under). President McCallum informed the commission that Kitty Brown, current YLS president was being recommended to fill the young lawyer position vacancy. The next position was currently filled by Commissioner Ken White. He stated that Commissioner White had expressed an interest in being re-elected.

President McCallum stated that for the young lawyer delegate position the floor was open for nominations including the current nomination.

COMMISSIONER COPELAND MOVED TO CLOSE NOMINATIONS AND TO ELECT KITTY BROWN AS THE YOUNG LAWYER DELEGATE FROM THE ALABAMA STATE BAR TO THE ABA HOUSE OF DELEGATES. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

President McCallum stated that the floor was open for nominations for the second ABA House of Delegates position including the current nomination. Commissioner Dowd nominated Commissioner Leslie Barineau from the floor.

COMMISSIONER RALEIGH MOVED TO CLOSE NOMINATIONS. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

President McCallum stated that there were two names to be considered for the remaining delegate position, Commissioner Ken White and Commissioner Leslie Barineau. He excused the two commission members from the board room.

PRESIDENT MCCALLUM THEN CONDUCTED THE ELECTION AND ASKED FOR A SHOW OF HANDS FOR EACH OF THE CANDIDATES. AFTER TABULATING THE VOTES, HE DECLARED COMMISSIONER LESLIE BARINEAU HAD BEEN ELECTED TO THE ABA HOUSE OF DELEGATES.

Upon their return to the board room, President McCallum informed Commissioners White and Barineau of the results and thanked them both for their participation and Commissioner White for his many years of service in the ABA House of Delegates.

15. **RESOLUTION HONORING THE CITY OF BOSTON AND FIRST RESPONDERS IN THE RECENT BOMBING INCIDENT**

President McCallum stated that a copy of the proposed resolution had been circulated to the commission ahead of time. He asked if there were any questions.

COMMISSIONER COPELAND MOVED TO ADOPT THE RESOLUTION. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

A copy of the resolution as adopted appears below:

WHEREAS, the recent bombings that occurred on Patriot's Day during the Boston Marathon killed three people and injured scores of others; and

WHEREAS, immediately after the explosions, in the midst of unknown dangers, hundreds of police, firemen, soldiers and regular citizens, without thought of personal safety rushed to the aid of those injured by the blasts; and

WHEREAS, as a result of those acts of heroism by these modern day patriots, many lives were saved and human kindness prevailed over the senseless violence; and

WHEREAS, local, state and federal authorities investigating these terroristic acts displayed the highest levels of dedication and professionalism to identify, pursue and capture those responsible for the bombings; and

WHEREAS, in times of national emergency and war, it is especially challenging to maintain the rule of law and the delicate constitutional balance of protecting national security and civil liberties while giving high regard to both; and

WHEREAS, lawyers are a vital part of keeping “Boston Strong” and maintaining the integrity of the American legal process that will afford all suspects a fair and impartial trial.

NOW, THEREFORE, BE IT RESOLVED that the Alabama State Bar Board of Bar Commissioners this day assembled offers its deepest sympathies to the victims of the Boston bombings and its highest praise for each person who assisted those who were injured on that fateful day. Further, we recognize the citizens of Boston for the manner in which they endured the difficult period following the bombings through the apprehension of a suspect and offer our strongest encouragement to the marathon officials and the city to remain undeterred in moving forward on hosting future races as a symbol of Boston’s indomitable spirit.

BE IT FURTHER RESOLVED that copies of this resolution be transmitted to the Mayor of the City of Boston, the Chairman of the Boston Marathon and the presidents of the Boston Bar Association and the Massachusetts Bar Association.

16. NOMINATIONS FOR THE ALABAMA BOARD OF COURT REPORTING

President McCallum stated that the Alabama State Bar has been requested to submit three names to Lt. Governor Kay Ivey from which she will select one to serve on the Alabama Court Reporting Board. He stated that the names of the following individuals were being recommended. They were: Commissioner Jeff Duffey, Commissioner Leslie Barineau and David Rains.

COMMISSIONER CROW MOVED TO CLOSE NOMINATIONS AND TO APPROVE THE NAMES OF JEFF DUFFEY, LESLIE BARINEAU AND DAVID RAINS TO BE SENT TO THE LT. GOVERNOR FOR CONSIDERATION FOR APPOINTMENT TO THE ALABAMA COURT REPORTING BOARD. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

17. ADJOURNMENT

President McCallum 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.

Phillip W. McCallum, President
Alabama State Bar

ATTEST:

Keith B. Norman, Secretary
Alabama State Bar