

## MINUTES

### ALABAMA STATE BAR BOARD OF BAR COMMISSIONERS MEETING

Coral Ballroom A  
Hilton Sandestin  
Destin, Florida

Wednesday, July 9, 2014

#### 1. CALL TO ORDER

President Anthony Joseph convened this meeting of the Alabama State Bar Board of Commissioners at 4:00 p.m. in the Coral Ballroom of the Hilton Sandestin, Destin, Florida. Commissioner Watson gave the invocation.

#### 2. ROLL CALL

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

Halron W. Turner	Christy Crow	Jana Russell Garner
Hays Webb	William H. Broome	Emily L. Baggett
Rocky Watson	Leslie R. Barineau	S. Greg Burge
Ashley Swink Fincher	Robert G. Methvin, Jr.	Augusta S. Dowd
Allison O. Skinner	Brannon Buck	Derrick A. Mills
L. Kenneth Moore	Ralph E. Holt	Henry A. Callaway, III
James Rebarchak	George R. Parker	J. Flynn Mozingo
Cole Portis	Lee H. Copeland	Donald Rhea
Taylor T. Perry, Jr.	Anne Malatia Glass	Robert L. Bowers, Jr.
R. Clifford Mendheim	James Eric Coale	Thomas B. Albritton
Tazewell T. Shepard, III	John A. Brinkley, Jr.	John Earl Paluzzi
Daryl Burt	Allan Chason	Sam Irby
Robert L. Rumsey	Monet M. Gaines	H. Thomas Heflin, Jr.
Lee F. Knowles	Sharon H. Hester	William T. Chapman
John M. Plunk	Jeanne Dowdle Rasco	Scott L. McPherson
Diandra D. Zimmermann	Cooper Shattuck	Meredith S. Peters
Rebecca DePalma	Alicia F. Bennett	Kira Fonteneau

The following commissioners were absent:

Jerry L. Thornton	Charles G. Reynolds, Jr.	Terri O. Tompkins
Barry A. Ragsdale	Teresa G. Minor	Thad Yancey, Jr.
Clay A. Lanham	Juan Ortega	James R. Beard
Les Pittman	Jeffery C. Duffey	William Randall May
Julia C. Kimbrough	Rebekah K. McKinney	F. Patrick Loftin
Jerry Wayne Baker, Jr.	Erskine R. Funderburg, Jr.	Jason P. Knight
Christy Williams Graham	Roger W. Pierce	Stephen M. Kenamer
Gregory Varner		

In addition, President-elect Richard J.R. Raleigh, Jr. and Immediate Past President Phillip W. McCallum were in attendance. Staff members present included: Robert Thornhill, Angela Parks, Ed Patterson, Diane Locke, Tony McLain, Eric Anderson, Michelle Owens, Christina Butler, Tripp Vickers, Linda Lund, Jeremy McIntire, Mark Moody, Kelley Lee and Laura Calloway. Suzi Edwards, legislative counsel, and Tracy Daniel, director of the Alabama Law Foundation were also in attendance. Chris Waller, president of the Young Lawyers' Section, was in attendance.

### 3. GUESTS

President Joseph introduced John Pickens and Craig Baab of Alabama Appleseed, former president Alyce Spruell and former commissioner Cleve Poole. He also welcomed back Commissioner Zimmermann and congratulated her on her new baby daughter.

### 4. INTRODUCTION OF NEW COMMISSIONERS

President Joseph introduced the new commissioners and asked those present to stand:

Emily L. Baggett – 8<sup>th</sup> Judicial Circuit  
 Allison O. Skinner – 10<sup>th</sup> Judicial Circuit, Place 7  
 L. Kenneth Moore – 10<sup>th</sup> Judicial Circuit, Bessemer Cutoff  
 Ralph E. Holt – 11<sup>th</sup> Judicial Circuit  
 James Rebarchak – 13<sup>th</sup> Judicial Circuit, Place 5  
 Taylor T. Perry, Jr. – 17<sup>th</sup> Judicial Circuit  
 Anne Malatia Glass – 18<sup>th</sup> Judicial Circuit, Place 3  
 Robert L. Bowers, Jr. – 19<sup>th</sup> Judicial Circuit  
 Cliff Mendheim – 20<sup>th</sup> Judicial Circuit  
 James Eric Coale – 21<sup>st</sup> Judicial Circuit  
 Thomas B. Albritton – 22<sup>nd</sup> Judicial Circuit  
 Tazewell T. Shepard, III – 23<sup>rd</sup> Judicial Circuit, Place 1  
 Erskine R. Funderburg, Jr. – 30<sup>th</sup> Judicial Circuit  
 H. Thomas Heflin, Jr. – 31<sup>st</sup> Judicial Circuit  
 Lee F. Knowles – 33<sup>rd</sup> Judicial Circuit  
 Sharon H. Hester – 34<sup>th</sup> Judicial Circuit  
 William Thomas Chapman, II – 35<sup>th</sup> Judicial Circuit  
 Christy Graham Williams – 36<sup>th</sup> Judicial Circuit  
 Scott L. McPherson – 41<sup>st</sup> Judicial Circuit  
 Kira Fonteneau – At-Large, Place 6

### 5. MINUTES OF THE MAY 2, 2014 BOARD OF COMMISSIONERS MEETING

President Joseph stated that the minutes of the May 2, 2014 board meeting had been transcribed and circulated prior to the meeting. He asked if there were corrections, additions or deletions. There were none.

COMMISSIONER RHEA MOVED TO APPROVE THE MINUTES OF THE MAY 2, 2014 BOARD OF BAR COMMISSIONERS MEETING. THE MOTION WAS SECONDED AND UNANIMOUSLY APPROVED BY VOICE VOTE.

6. **PRESIDENT'S REPORT**

President Joseph gave his final president's report. He stated that the Uniform Bar Exam would be in full swing with the July administration and stressed the importance of continuing to meet and collaborate with all of the law school deans. He noted the unusual circumstances of there being three brand new law school deans at Jones, Cumberland and Alabama and stated that all three new deans would be introduced at the Bench and Bar Luncheon. Next, President Joseph provided the commission with an overview of the veterans' court program and the work of that task force. He also highlighted the work of the task force chaired by Commissioner Shattuck to increase in-house counsel participation in the bar. Finally, President Joseph took a moment of personal privilege for his last meeting as state bar president. He stated that he had been blessed by his journey as president of the Alabama State Bar and that he had enjoyed working with the commission. President Joseph thanked the commissioners for the confidence that they had placed in him during his year as president. The commission gave President Joseph a standing ovation.

7. **PRESIDENT-ELECT REPORT**

President-elect Raleigh stated that the theme of his year as president would be "Lawyers In Transition" and would focus on new lawyers, those re-entering the work place in new positions, solo and small firm practice issues, retiring lawyers and veterans issues. He acknowledged that he would continue to highlight programs such as the Leadership Forum and Volunteer Lawyers Program because of the role they play in enhancing the image of the profession.

8. **SECRETARY'S REPORT**

The secretary stated that two resolutions in memory of presidents who had died since the last annual meeting had been transmitted to members of the board. He explained that the resolutions, which would be read at the Grand Convocation, were in memory of former presidents Oakley Melton and Walter Byars.

COMMISSIONER COPELAND MOVED TO ADOPT THE RESOLUTIONS IN MEMORY OF FORMER ALABAMA STATE BAR PRESIDENTS OAKLEY MELTON AND WALTER BYARS AND TO PLACE THEM IN THE MINUTES OF THIS MEETING OF THE BOARD OF BAR COMMISSIONERS.

The secretary informed the commission that a resolution had been received from the Mobile Bar Association in memory of former city attorney Bill Lauten. He stated that the Mobile Bar Association had requested the resolution be placed in the Alabama State Bar Book of Memorial Resolutions.

COMMISSIONER IRBY MOVED TO ACCEPT THE RESOLUTION FROM THE MOBILE BAR ASSOCIATION IN MEMORY OF ATTORNEY BILL LAUTEN AND TO PLACE IT IN THE ALABAMA STATE BAR BOOK OF MEMORIAL RESOLUTIONS. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

Director of Finance, Michelle Owens gave the third quarter financial report. There were no questions following her report.

9. **DIGITAL COMMUNICATIONS UPDATE**

The Director of Digital Communications, Eric Anderson, gave an update on the new website and encouraged commissioners to come by and visit the kiosk at the expo showing the new site coming online in late July or early August. Mr. Anderson mentioned that Kelley Lee, the digital communications content manager was now also handling press chores and other matters. He stated that the wireless internet had been updated in the building and described several IT projects as well as the online curriculum and consolidated fee report currently being developed.

10. **REGULATORY PROGRAMS UPDATE**

Angela Parks, Director of Regulatory Programs, discussed deficiency plan issues and procedures to curb some of the abuses that her department is experiencing in this regard. She stated that possible rule changes would be forthcoming for the commission to consider on behalf of the MCLE Commission.

11. **INNS OF COURT REPORT**

Commissioner Swink reminded the commission of the Inns of Court Coffee on Friday morning at 7:30 a.m. and encouraged all interested commissioners and others to attend the coffee.

12. **PRO BONO WEEK REPORT**

Chair, Cassandra Adams and chair-elect, Commissioner Flynn Mozingo, reported on the 6th Annual Pro Bono Celebration. Ms. Adams stated that the committee had decided to change the pro bono celebration to include the entire month of October because of the extraordinary success of previous celebrations. She reminded the commissioners of the VLP reception on Thursday and encouraged all to come and celebrate this year's pro bono award winners. Commissioner Mozingo stated that information regarding the pro bono celebration will be included in an email package to all commissioners. He remarked that the program has been a successful bottom-up program and that the materials will allow local bars to put together successful programs. He noted that the materials would also be on the Alabama State Bar website. Following a description of the materials in the pro bono kit, Ms. Adams concluded by stating that some of the activities planned for the October celebration include several poverty simulations around the state which she encouraged commissioners to take part in because of the unique experience they provide.

President Joseph thanked Ms. Adams, Commissioner Mozingo and the pro bono celebration committee members for their hard work in preparing for another successful year.

### 13. DIRECTORPOINT PRESENTATION

Ellen Glasgow and Kathy Johnson of Directorpoint were introduced by President Joseph. Ms. Glasgow gave an overview of the company and an introduction of the software. She noted that Directorpoint was an Alabama based company and in its short existence, had amassed 10,000 users in ten states and two countries. She provided a demonstration of the product software and pointed out that it was an online electronic alternative to a paper-based system. As Ms. Glasgow explained, Directorpoint provides an online portal that enhances security and allows users to access it from various platforms including iPads and laptops.

Following the presentation, Ms. Glasgow and Ms. Johnson took questions from the audience. Following their remarks, President Joseph thanked them for allowing the commission to see the benefits of Directorpoint. He stated that Ms. Glasgow and Ms. Johnson would be available during the annual meeting expo for presentations and demonstrations.

### 14. PROPOSED RULE CHANGES

General Counsel, Tony McLain, informed the commission that the federal district court case from the Southern District of Alabama holding that issuing title opinions did not constitute the practice of law on appeal to the Eleventh Circuit had now been certified by that court to the Alabama Supreme Court. Mr. McLain recommended that the state bar join as an *amicus* in the certified question now before the Alabama Supreme Court.

Mr. McLain next mentioned several rule changes which were submitted to the commission involving Rule V *Alabama State Bar Rules Governing Admission*; Rule 4 and Rule 4.2 of the *Alabama Rule of Disciplinary Procedure*; Rule 9, *Client Security Fund Rules*; Rule 12 (f) (1), *Alabama Rules of Disciplinary Procedure*; Rule 29, *Alabama Rules of Disciplinary Procedure* and Rule 1.15 (e), *Alabama Rules Professional Conduct*.

[See McLain memo attached as Appendix A to these minutes.]

COMMISSIONER WATSON MOVED TO SUSPEND THE RULES TO BRING UP THESE MATTERS OUT OF ORDER FOR A VOTE. THE MOTION WAS SECONDED AND APPROVED BY THE NECESSARY TWO THIRDS VOTE.

COMMISSIONER COPELAND MOVED TO AUTHORIZE THE GENERAL COUNSEL'S OFFICE TO JOIN AS AN *AMICUS* ON BEHALF OF THE ALABAMA STATE BAR ON THE CERTIFIED QUESTION PRESENTLY PENDING BEFORE THE ALABAMA SUPREME COURT AND TO APPROVE THE RULE CHANGES AS OUTLINED BY MR. MCLAIN AND SET FORTH IN HIS MEMO OF JUNE 30, 2014. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

15. **RULE III APPLICATIONS**

President Joseph stated that the following individuals had applied for admission to the Alabama State Bar pursuant to Rule III of the Rules Governing Admission to the Alabama State Bar. They are as follows: Nathan Wayne Emmorey (TN); Nicole Ann Kersey (GA); Yuri Roger Linetsky (OH); Tracy Allen Marion (GA) and Daniel Curtis Upton (DC). He stated that each of the applicants had met all the requirements of Rule III including the character and fitness requirements.

COMMISSIONER CROW MOVED THE ADMISSION OF NATHAN WAYNE EMMOREY, NICHOLE ANN KERSEY, YURI ROGER LINETSKY, TRACY ALLEN MARION AND DANIEL CURTIS UPTON. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

16. **APPROVAL OF LAWYERS HALL OF FAME 2014**

President Joseph stated that the Selection Committee of the Alabama Lawyers Hall of Fame Committee recommended the induction of the following individuals: Walter L. Bragg (Marion, 1835-1891), as the one hundred year inductee; George Washington Lovejoy (Mobile, 1859-1933); Albert L. Patterson (Phenix City, 1894-1954); Hon. Sam C. Pointer, Jr. (Birmingham, 1934-2008) and Henry B. Steagall (Dale County, 1873-1943). He stated that these individuals would be inducted at the ceremony in May 2015.

COMMISSIONER BOWERS MOVED TO APPROVE WALTER L. BRAGG, GEORGE WASHINGTON LOVEJOY, ALBERT L. PATTERSON, HON. SAM C. POINTER, JR. AND HENRY B. STEAGALL FOR INDUCTION AS THE 2014 CLASS OF THE ALABAMA LAWYERS HALL OF FAME. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

17. **RATIFICATION OF THE EXECUTIVE COUNCIL'S VOTE FOR REAPPOINTMENT OF ABA HOUSE OF DELEGATE MEMBERS**

President Joseph stated that the terms of the three current members of the ABA House of Delegates would expire at the conclusion of this year's annual meeting in August. They are Wade Baxley, Hon. Caryl Privett, and Bobby Poundstone. President Joseph explained that due to an oversight, the reappointment of these three delegates was not included on the May agenda. He noted that as a result, this matter was brought to the attention of the Executive Council in June so that the appropriate certification could be made to the ABA Election Committee in time for each of the delegates to be reseated in the ABA House of Delegates.

COMMISSIONER DOWD MOVED THE RATIFICATION OF THE EXECUTIVE COUNCIL'S REAPPOINTMENT OF WADE BAXLEY, HON. CARYL PRIVETT AND BOBBY POUNDSTONE, WHOSE TERMS WILL EXPIRE AT THE END OF THE ABA'S ANNUAL MEETING IN AUGUST TO NEW TERMS AS DELEGATES FOR THE ALABAMA STATE BAR. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

18. **MOTION TO ADJOURN TO A DATE CERTAIN**

COMMISSIONER WATSON MOVED THAT UPON ADJOURNMENT, THE MEETING BE ADJOURNED TO A DATE CERTAIN SPECIFICALLY TO THE MORNING OF JULY 12 IMMEDIATELY FOLLOWING THE GRANDE CONVOCATION AND ANNUAL BUSINESS MEETING. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

19. **NOMINATING COMMITTEE REPORT**

Commissioner Irby gave the Nominating Committee's report. President Joseph reminded the commissioners that additional nominations could be made from the floor on Saturday morning.

20. **ADJOURNMENT**

President Joseph asked for a motion to adjourn.

THE MOTION WAS MADE, SECONDED AND APPROVED BY VOICE VOTE.