

## MINUTES

### ALABAMA STATE BAR BOARD OF BAR COMMISSIONERS MEETING

State Bar Building  
Montgomery, Alabama

Friday, January 8, 2016

#### 1. CALL TO ORDER

President Lee Copeland 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 Shattuck 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	Christy Crow
Jana Russell Garner	Terri O. Tompkins	Hays Webb
William H. Broome	Emily L. Baggett	Dana Grimes
Leslie R. Barineau	John A. Smyth, III	Barry A. Ragsdale
Michael D. Ermert	Allison O. Skinner	Brannon J. Buck
Eric Stephen Heninger	Kenneth Moore	Ralph E. Holt
Thad Yancey	C. Zackery Moore	Clay A. Lanham
Juan Ortega	James Rebarchak	James R. Beaird
George R. Parker	Les Pittman	J. Flynn Mozingo
C. Gibson Vance	James David Martin	Donald R. Rhea
Tom Perry, Jr.	Mark S. Boardman	R. Cliff Mendheim
Manish H. Patel	John A. Brinkley, Jr.	Rebekah K. McKinney
M. Clay Martin	Audrey Strawbridge	Daryl Burt
Clint L. Maze	Allan Chason	Sam Irby
Erskine R. Funderburg, Jr.	H. Thomas Heflin, Jr.	Lee F. Knowles
Matthew C. Mitchell	Donald Ben Mansell	Scott L. McPherson
Diandra S. Debrosse	Cooper Shattuck	Meredith S. Peters
Rebecca G. DePalma	Alicia F. Bennett	Kira Fonteneau

The following commissioners were absent:

Charles G. Reynolds, Jr.	Robert G. Methvin, Jr.	Augusta S. Dowd
Frederick G. Helmsing, Jr.	William Randall May	Anne Malatia Glass
Robert L. Bowers	Eric Coale	Tazewell T. Shepard
F. Patrick Loftin	Steven D. Adcock	Jason P. Knight
Sharon Hindman Hester	W. Thomas Chapman, II	Christy Williams Graham
Roger W. Pierce	Gregory M. Varner	Jeanne Dowdle Rasco
Monet M. Gaines	Ashley Swink Fincher	

Also in attendance were President-elect Cole Portis and Immediate Past President Rich Raleigh. Staff members present included Tony McLain, Ed Patterson, Diane Locke, Laura Calloway, Linda Lund, Hunter Harris, Christina Butler, Merinda Hall, Angela Parks, Tripp Vickers, Jeremy McIntire, Mark Moody, Eric Anderson, Kelley Lee, Margaret Murphy and Robert Thornhill. Also in attendance were Tracy Daniel, director of the Alabama Law Foundation and Suzi Edwards, legislative counsel. Houston Nichols, president of the Young Lawyers' Section was also in attendance.

**3. APPROVAL OF THE MINUTES OF THE OCTOBER 30, 2015 BOARD OF COMMISSIONERS MEETING**

President Copeland stated that the minutes of the October 30, 2015 board meeting had been transcribed and circulated prior to the meeting. He asked if there were any corrections, additions or deletions. There were none.

COMMISSIONER HEFLIN MOVED TO APPROVE THE MINUTES OF THE OCTOBER 30, 2015 BOARD OF COMMISSIONERS MEETING. THE MOTION WAS SECONDED AND APPROVED BY UNANIMOUS VOICE VOTE.

**4. INTRODUCTION OF GUESTS**

Guests included Ronald H. Strawbridge, Sr., president of the Lamar County Bar Association; Cowin Knowles, president of the Montgomery County Bar Association; Jamie Conger, president of the Tuscaloosa County Bar Association and Katherine DePalma, daughter of Commissioner Rebecca DePalma.

**5. REPRIMANDS**

5.a. Michael Lynn Murphy, Bibb County, ASB 2012-375

Mr. Murphy agreed to a conditional guilty plea and received a public reprimand with general publication for violating Rules 1.2 (d), 8.4 (a) and 8.4 (g) of the *Alabama Rules of Professional Conduct* (ARPC).

5.b. Nancy I. Rhodes, Shelby County, ASB 2014-1548

Ms. Rhodes received a public reprimand with general publication for violating Rules 1.1, 1.4 (a) and (b) and 8.4 (g) of the *ARPC*.

5.c. Jackson Parker Burwell, Huntsville, ASB 2015-189

Mr. Burwell received a public reprimand without general publication for violating Rules 1.3, 1.4 (a) and (b), 1.5 (a) and 1.15 (b) and (c) of the *ARPC*.

5.d. Steven Douglas Eversole, Birmingham, ASB 2015-244

Mr. Eversole received a public reprimand with general publication for violating Rules 1.6 and 8.4 (g) of the *ARPC*.

5.e. Howard McGriff Belser III, Decatur, ASB 2015-600

Mr. Belser received a public reprimand without general publication for violating Rules 1.1, 1.3 and 8.4 (d) of the *ARPC*.

**6. PRESIDENT'S REPORT**

The president reminded the Commissioners of the annual meeting to be held at Baytowne Wharf in Sandestin from June 22-25. He noted that the Commissioners' Dinner will be the evening of June 22 and encouraged all Commissioners make their reservations early. Next, President Copeland stated that he had received a letter of thanks from the South Carolina Bar for the contribution to help with their flood relief efforts. He reported that three bar presidents had died since the last meeting including Judge Truman Hobbs, Rod Nachman and Bill Hairston. President Copeland encouraged Commission members to attend the Lawyer Legislator Breakfast scheduled for February 10. He said that a reminder would be forthcoming. He reported that a Law School Summit would be held on January 13 at the Capital City Club and that the Task Force on Increasing License Fees would make a report at the March meeting.

**7. SECRETARY'S REPORT**

The secretary reported that the travel mileage reimbursement rate for 2016 would decrease to 54 cents per mile. He stated that resolutions from the Mobile Bar Association in memory of Sidney Schell and William Harvey had been received for inclusion in the Alabama State Bar Book of Memorial Resolutions.

COMMISSIONER ORTEGA MOVED TO INCLUDE THE RESOLUTIONS IN MEMORY OF SIDNEY SCHELL AND WILLIAM HARVEY FROM THE MOBILE BAR ASSOCIATION IN THE ALABAMA STATE BAR BOOK OF MEMORIAL RESOLUTIONS. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

The secretary next stated that the Examiners of Public Accounts would begin their legal compliance audit for October 1, 2011 through September 30, 2015 the following Monday morning and that Christina Butler would be leaving the staff on January 31<sup>st</sup> to join a local lobbying firm. Ms. Butler received a round of applause from the commission in recognition of the fine job she had done as a member of the Alabama State Bar staff.

**8. FINANCIAL REPORT**

Finance Director, Merinda Hall, reviewed the financial reports for the first quarter and report that the Carr, Riggs accounting firm had issued a clean audit for fiscal year 2014-15.

**9. EXTERNAL RELATIONS REPORT**

Mr. Patterson reported that the Leadership Forum Alumni Section had a successful retreat in December at Calloway Gardens and that the 12<sup>th</sup> Leadership Forum class would begin a three day orientation later in the month. Mr. Patterson also reported that the sections had experienced an overall increase in membership of 28 percent over the last fiscal year and that the Task Force to Study the Creation of a Nonresident Member Section had

received 800 favorable responses. Finally, Mr. Patterson reported that the Senior Lawyer and Young Lawyer Task Force were studying the Iowa State Bar program to match up older lawyers wishing to transfer their practices to younger lawyers who might be interested in taking over an established practice.

10. **ADMISSIONS REPORT**

Justin Aday reported favorably on the operation of the new online application process for the February 2016 bar exam and the successful elimination of paper files. He reported that the character and fitness hearings for the February bar exam were upcoming and that he anticipated approximately 250 examinees sitting for the February exam.

11. **SERVICE PROGRAMS REPORT**

Laura Calloway stated that the ABA report on the Alabama Lawyer Referral Service was complete and that the LRS board would be approaching the Commission very soon concerning possible recommendations for the program as a result of the report. The *MyCase* benefit proposal was presented. Ms. Calloway explained that it was an all in one web-based legal practice management software. She said that it offers features that seamlessly cover all daily functions that a modern solo and small firm requires. She also stated that the software is cloud-based so that lawyers can work from anywhere at any time and significantly increase their productivity. Ms. Calloway reported that *MyCase* would make a life-time discount available to all Alabama State Bar of 10 percent off the current price of \$39 per month per attorney and that marketing *MyCase* to bar members would be at the vendor's expense. The proposal was approved as an endorsed member benefit.

12. **DIGITAL COMMUNICATIONS REPORT**

Eric Anderson reported on the success of the consolidated fee statement for the current fiscal year noting that 45 percent of the payments were online which was an increase of more than five percent over last year's results. He stated that sections also experienced historic highs in membership. He concluded by reporting that the 995 members who were delinquent in paying their CSF fees would soon get a notice of non-payment.

13. **OFFICE OF GENERAL COUNSEL REPORT**

Tony McLain reported that the *Cooner* case had been decided in the bar's favor in Federal District Court and that its appeal was recently dismissed by the 11<sup>th</sup> Circuit.

14. **LEGISLATIVE REPORT**

Past President Phillip McCallum explained that the primary consideration for this year's session would be helping the court receive adequate funding and avoid any cuts in its appropriation. He discussed several other pieces of legislation that were likely to come up in this year's session including court reallocation, local court fee bills, title agent and public adjusters legislation. With regard to the likely title agent legislation, Mr. McCallum explained that the commission would probably not want to take a position because of potential Keller concerns, although the bar should closely monitor any such legislation. Finally, Mr. McCallum encouraged commissioners to reach out in a positive way to the legislative representatives from their area.

## 15. **BUSINESS LITIGATION STUDY REPORT**

Commissioner Shattuck reported that the study committee created by the legislature to assess the need for special courts to handle complex and business litigation had issued its report. He stated that the report concluded there was not a pressing need to create new courts to handle complex or business litigation. He noted other factors weighing against the creation of a business court including lack of funding to create new courts. Mr. Shattuck also explained that the study committee had considered previous legislation authorizing parties to engage private judges to resolve disputes. He noted that only two cases had been handled by private judges since the legislation passed several years ago. He further noted that the study committee was favorably impressed with the concept and that more could be done to encourage the inclusion of private judges as a method of dispute resolution in more agreements between parties.

## 16. **EXECUTIVE SESSION**

President Copeland stated that it was necessary for the bar to have attorney David Boyd address the Commission as the bar's legal representative on potential litigation affecting the state bar and several staff members. Mr. Boyd requested that for purposes of attorney client privilege it was necessary for the commission to move to executive session. Mr. Boyd furnished a lawyer's statement pursuant to Alabama Code Section 36-25-A-7 (a) (3), which is incorporated here in and made a part of these minutes and appears as Appendix A. President Copeland stated that the session would last approximately 30 minutes and that the commission would resume its regular meeting following the executive session. He asked for a motion calling for the executive session so that Mr. Boyd could properly advise the commission.

COMMISSIONER MAZE MOVED, WITHOUT OBJECTION, THAT THE BOARD OF BAR COMMISSIONERS ENTER INTO EXECUTIVE SESSION. THE MOTION WAS SECONDED AND, BY A SHOW OF HANDS APPROVED UNANIMOUSLY.

\*Commissioner Ermert did not vote on the motion and excused himself from the executive session.

All non-board members were excused from the board room for the duration of the executive session.

AFTER THE CONCLUSION OF THE EXECUTIVE SESSION, COMMISSIONER MAZE MOVED FOR THE BOARD TO EXIT THE EXECUTIVE SESSION AND RESUME ITS REGULAR MEETING. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

## 17. **RATIFICATION OF RETENTION OF LEGAL COUNSEL**

After the resumption of the regular meeting, President Copeland recognized Commissioner Maze.

COMMISSIONER MAZE MOVED TO RATIFY THE EXECUTIVE COMMITTEE'S RETENTION OF MR. DAVID R. BOYD AS LEGAL COUNSEL FOR THE ALABAMA STATE BAR AND TO FURTHER RATIFY THE EXECUTIVE COMMITTEE'S APPROVAL TO COVER ANY LITIGATION FEES AND

LITIGATION EXPENSES ON BEHALF OF THE EXECUTIVE DIRECTOR AND GENERAL COUNSEL OF THE ALABAMA STATE BAR, WITHOUT LIMITING THE EXECUTIVE COMMITTEE AND/OR THE COMMISSION, TO REVISIT THE ALABAMA STATE BAR'S PREROGATIVE OF PAYING LEGAL FEES AND LITIGATION EXPENSES FOR THE EXECUTIVE DIRECTOR AND THE GENERAL COUNSEL OR IN ANY WAY TO LIMIT THE ALABAMA STATE BAR'S ABILITY IN THE FUTURE TO PAY SUCH EXPENSES AND FEES. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

**18. ABA DISCIPLINARY CONSULTATION PROGRAM**

President Copeland reported that the ABA Standing Committee on Professional Discipline had been requested to perform a review of the Alabama State Bar disciplinary program. He stated that he consultation team would conduct a detailed on-site review of all disciplinary processes including extensive interviews with staff, officers, Supreme Court members and others. He explained that the fee, which covers the expense of the team's travel, food and lodging while conducting the on-site visit, would be \$8,000.

COMMISSIONER RHEA MOVED THE AUTHORIZATION OF THE EXPENDITURE OF \$8,000 TO COVER THE FEE FOR THE ABA STANDING COMMITTEE ON PROFESSIONAL DISCIPLINE TO CONDUCT AN ON-SITE CONSULTATION REVIEW OF THE ALABAMA STATE BAR DISCIPLINARY PROGRAM. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

**19. NEW MCLE COMMISSION MEMBERS**

President Copeland stated that Commissioners Strawbridge and Martin had been recommended to fill two vacancies on the MCLE Commission due to the resignations of former Commissioner Teresa Minor and Commissioner Monet Gaines.

COMMISSIONER IRBY MOVED TO APPOINT COMMISSIONER STRAWBRIDGE AND COMMISSIONER MARTIN TO FILL THE TWO VACANCIES ON THE MCLE COMMISSION. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

**20. ADJOURNMENT**

President Copeland 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.

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Lee H. Copeland, President  
Alabama State Bar

ATTEST:

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Keith B. Norman, Secretary

Alabama State Bar