

MINUTES

ALABAMA STATE BAR BOARD OF BAR COMMISSIONERS MEETING

**State Bar Building
Montgomery, Alabama**

Friday, January 26, 2018

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 Leslie Barineau gave the invocation.

2. ROLL CALL

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

Steven D. Adcock	LaBella S. Alvis	Leslie R. Barineau
Jeffrey L. Bowling	John A. Brinkley, Jr.	William H. Broome
Brannon J. Buck	Daryl Burt	Latisha R. Davis
Diandra S. Debrosse	Michael D. Ermert	Erskine R. Funderburg, Jr.
Monet M. Gaines	Jana Russell Garner	J. Kirkman Garrett
Dana Grimes	H. Thomas Heflin, Jr.	Frederick G. Helmsing, Jr.
Erik Stephen Heninger	Ralph E. Holt	Brett A. King
William R. Lancaster	Karen Laneaux	F. Patrick Loftin
Donald B. Mansell	M. Clay Martin	David Martin
William Randall May	Clint L. Maze	Robert G. Methvin, Jr.
Charles Zachary Moore	Kenneth Moore	Larry W. Morris
J. Flynn Mozingo	J. Levi Nichols	George R. Parker
Manish H. Patel	Taylor T. Perry, Jr.	Les Pittman
Courtney R. Potthoff	Barry A. Ragsdale	Jeanne Dowdle Rasco
James Rebarchak	Donald R. Rhea	R. Cooper Shattuck
Tazewell T. Shepard	Allison O. Skinner	John A. Smyth
John Thomas Stamps	Andrew D. Stanley	Audrey O. Strawbridge
Charles C. Tatum, Jr.	Terri O. Tompkins	Halron W. Turner
C. Gibson Vance	Gregory M. Varner	Hays Webb
Roy W. Williams, Jr.	Thad Yancey, Jr.	

The following commissioners were absent:

Emily Baggett	Mark S. Boardman	Robert L. Bowers, Jr.
Robert H. Brogden	Bryan E. Comer	Rebecca DePalma

Jeffery C. Duffey	J. Floyd Langford	Kira Y. Fonteneau
Anne Malatia Glass	Christy Williams Graham	Clinton H. Hyde
Rebekah Keith McKinney	R. Cliff Mendheim	Matthew C. Mitchell
James Lynn Perry		

Also in attendance were President-elect Sam Irby and Immediate Past President Cole Portis. Staff members in attendance were: Douglas McElvy, Justin Aday, Merinda Hall, Eric Anderson, Tripp Vickers, Jeremy McIntire, Mark Moody, Laura Calloway, Linda Lund, Diane Locke, Alex Rice, Robert Thornhill, Angela Parks and Margaret Murphy. Also in attendance were Tracy Daniel, director of the Alabama Law Foundation, Suzi Huffaker, legislative counsel and Lee Johnsey, president, Alabama State Bar Young Lawyers Section.

3. INTRODUCTION OF GUESTS

President Dowd recognized special guests including Justices Will Sellers and Brad Mendheim, associate justices of the Supreme Court of Alabama, and David Dowd, Birmingham attorney and husband of President Dowd.

4. GUEST SPEAKER: JUSTICE BRAD MENDHEIM, ASSOCIATE JUSTICE, SUPREME COURT OF ALABAMA

President Dowd recognized Justice Brad Mendheim of the Supreme Court of Alabama, thanked him for attending the board meeting, and invited him to give remarks to the Bar Commission. Justice Mendheim remarked that he was honored to be appointed to the Supreme Court of Alabama by Governor Ivey. Justice Mendheim said that he looked forward to using his position to serve lawyers and the people of Alabama. He concluded by offering himself to help members of the bar in any way and to assist in strengthening the relationship between the Alabama State Bar and the Supreme Court of Alabama.

5. APPROVAL OF THE MINUTES OF THE OCTOBER 13, 2017 AND DECEMBER 8, 2017 BOARD MEETINGS

President Dowd stated that the minutes of the October 13, 2017 and December 8, 2017 Board Meetings had been transcribed and circulated prior to the meeting. She asked if there were any corrections, additions or deletions. There were none.

COMMISSIONER RHEA MOVED TO APPROVE THE MINUTES OF THE OCTOBER 13, 2017 AND DECEMBER 8, 2017 BOARD MEETINGS. THE MOTION WAS SECONDED AND APPROVED BY UNANIMOUS VOICE VOTE.

6. **REPRIMANDS**

6.a. Donniss Cowart – ASB No. 2016-378

Mr. Cowart received a public reprimand with general publication for violating Rules 1.3, 1.4(a) and 3.2 of the *Alabama Rules of Professional Conduct*.

6.b. Alfred Dudlow Norris, III – ASB No. 2017-574

Mr. Norris received a public reprimand with general publication for violating Rules 1.3, 1.4, 1.5(b), 1.15(a), (b) and (e) of the *Alabama Rules of Professional Conduct*.

7. **PRESIDENT’S REPORT**

President Dowd began her report by updating the commission on upcoming “State of the Bar” presentations that are scheduled with the local bars of Lee County, Pickens County, Calhoun/Cleburne Counties, and the Huntsville-Madison County Bar.

President Dowd reminded the commission that court funding and court costs continue to be a focal point of the bar. She stated that the bar is being heard and being effective, with respect to court funding and court cost bills in the current session of the legislature. She also reported that the annual Lawyer-Legislature breakfast was held on January 24, 2018, and that it was well attended. She said that the breakfast was an opportunity for legislators to know that the Alabama State Bar cares about issues and is available to serve as a resource to legislators.

President Dowd updated the commission on the search for a General Counsel of the Alabama State Bar. In particular, she informed the commission that the position had been posted with multiple outlets and bar associations, including local and specialty bars, in an effort to draw a diverse group of applicants. She also reported to the commission that a bar-wide email sent on December 18, 2017, was opened by approximately 7,000 recipients and another bar-wide email sent on January 17, 2018, was opened by approximately 5,000 recipients.

President Dowd recognized at-large commissioner Latisha Davis who has recently relocated from Mobile to Chattanooga, Tennessee. She commented that Commissioner Davis will be able to provide valuable input as an out-of-state attorney and commissioner, which has been an ongoing focus of the Non-Resident Section of the Alabama State Bar.

President Dowd informed the commission that she had appointed Commissioners Mozingo, Turner, Bowling and Laneaux and Mary Roberson, Circuit Court Clerk in Lee County, to serve as the Election Supervision Committee for 2018. She also informed the commission that Bill Coleman had been appointed to serve on the Alabama Supreme Court Alternative Dispute Resolution Commission.

President Dowd reminded the commission of the March board meeting, to be held on March 2, 2018, in Mobile. She reported that the Mobile commissioners are excited to host the commission and are planning an event for the evening before the board meeting. She also reminded the commission of the Annual Meeting, to be held June 27 – 30, 2018, at the Sandestin Hilton.

President Dowd informed the commission that she will represent the Alabama State Bar at the ABA Midyear Meeting, along with President-Elect Irby, Secretary/Executive Director McCallum, and Commissioner Parker. She also reported that Commissioner Barineau will be attending the meeting in her capacity as president of the ABA's National Conference of Bar Foundations. President Dowd also informed the commission that past president Fred Gray will be given the National Conference of Bar Presidents Fellows Award at the Midyear Meeting.

President Dowd concluded her remarks by recognizing Commissioner Daryl Burt who is being considered for appointment as a Circuit Judge in the 25th Judicial Circuit. She also congratulated Commissioner Cooper Shattuck on his wedding over the holidays.

8. SECRETARY/EXECUTIVE DIRECTOR'S REPORT

Secretary/Executive Director McCallum informed the commission of organizational changes that have taken place at the bar since the last meeting. In particular, he highlighted the merger of the Admissions Department and Membership Department into a single department, the division of the Office of General Counsel into two divisions – a discipline division and ethics division, the transition of Eric Anderson from the Digital Communications Department to the Practice Management Assistance Program (PMAP), and Laura Calloway from PMAP to the External Relations Department.

Secretary/Executive Director McCallum informed the commission that a communications team has been formed to coordinate and improve communications from the Alabama State Bar. He stated that one focus of the communications team has been to identify a vendor that will be responsible for redesigning the Alabama State Bar website, maintaining the website, and training staff on content management of the website.

Secretary/Executive Director McCallum informed the commission that he had negotiated a member benefit for state bar members with the Marriott hotels on the Robert Trent Jones Golf Trail. The benefit allows state bar members to receive a 20% discount at participating locations. The discount is available on the standard nightly rate offered by the hotel and is not applicable to rooms that are offered at a rate that is already discounted from the standard nightly rate. He also informed the commission that the bar is in negotiations with Conference America to offer a member benefit for telephone and video conferencing services.

Secretary/Executive Director McCallum concluded his remarks by extending condolences to Commissioner Jana Garner in the passing of her mother, Commissioner Taze Shepard in the passing of his mother, and past president Dag Rowe in the passing of his mother. He also informed the commission that the golf tournament held at the Annual Meeting will be named the Tony McClain Memorial Golf Tournament and proceeds will benefit a memorial fund to be created in memory of Tony McLain.

9. FINANCIAL REPORT

Director of Finance Merinda Hall reported to the commission that revenues are up 0.5% over the prior year and that 80% of annual revenues have been collected to date. Mrs. Hall reported that efficiencies have been implemented that have caused salary costs to decrease. She also reported that professional services costs have increased, but that overall expenses of the bar have decreased over the prior year. Mrs. Hall reported that investments have grown 0.7% in the first quarter of the fiscal year and that the overall assets of the organization have grown by nearly \$800,000. Mrs. Hall concluded her report by informing the commission that the annual audit of Alabama State Bar finances was conducted and that there were no negative findings.

10. NOMINATIONS TO THE ALABAMA BOARD OF COURT REPORTERS

President Dowd informed the commission that there is a vacancy on the Alabama Board of Court Reporters and that she is seeking nominations for same. There were no nominations made from the floor.

11. LEGISLATIVE UPDATE

Legislative Counsel Suzi Huffaker reported to the commission that the current legislative session is in its third week and that nearly 600 bills have been introduced. Mrs. Huffaker informed the commission that she is tracking and reporting bills that are of relevance and interest to lawyers. In particular, Mrs. Huffaker reported that eleven bills have been introduced to date that would impact court costs. She also reported briefly on PEW Foundation work being done on juvenile justice reform, a custody bill that would change the standard from “best interest of the child” to “best interest of the parents,” a bill addressing the current civil asset forfeiture law, and a bill related to ignition interlock devices.

Mrs. Huffaker reported that budgets have been introduced and that the request to fund the court system is holding strong in the form proposed by Chief Justice Stuart. Mrs. Huffaker encouraged the commission to stay informed on the session and to contact their local legislators on issues that are important to lawyers.

12. LEGAL SERVICES ALABAMA BOARD VACANCIES

President Dowd reported to the commission that she had previously solicited nominations for a vacancy on the board of Legal Services Alabama. She reported that she had received nominations of Commissioner Charles Tatum and Ted Hosp. She informed the commission that filling the vacancy is on the agenda as an action item, but she has been informed by Legal Services Alabama of a second vacant board seat that is appointed by the Alabama State Bar.

COMMISSIONER PERRY MOVED TO MAKE FILLING TWO VACANCIES ON THE LEGAL SERVICES ALABAMA BOARD AN ACTION ITEM. THE MOTION WAS SECONDED AND APPROVED BY THE NECESSARY TWO THIRDS VOTE.

COMMISSIONER MAZE MOVED TO CLOSE NOMINATIONS FOR TWO APPOINTMENTS TO THE LEGAL SERVICES ALABAMA BOARD. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

COMMISSIONER SHATTUCK MOVED THE APPOINTMENT OF CHARLES TATUM AND TED HOSP TO THE LEGAL SERVICES ALABAMA BOARD. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

13. COMMISSIONER COMMENTS – COMMISSIONER RALPH HOLT

Commissioner Ralph Holt updated the commission on recent activities of the Lauderdale County Bar. He informed the commission that President Dowd, Secretary/Executive Director McCallum, and Legislative Counsel Suzi Huffaker made a “State of the Bar” presentation to a joint meeting of the bars of Lauderdale County Bar, Colbert County, and Franklin County. He reported that the event was well attended and received significant press coverage, including an article and separate editorial supporting the bar’s position on court costs and court funding. Commissioner Holt also reported that the Lauderdale County Bar offers several CLE programs throughout the year and holds a well-attended Christmas party each year where it honors members who have died during the year.

14. CIVIL JUSTICE SUMMIT (LISTENING SESSIONS) UPDATE – COMMISSIONER TAZE SHEPARD

Commissioner Taze Shepard updated the commission on the listening sessions that are taking place around the state as part of the Civil Justice Summit that will be held at the 2018 Annual Meeting. He informed the commission that the first listening session was held on January 25, 2018, in Huntsville and that 24 participants were in attendance. He reported that interesting topics discussed were whether court costs create an obstacle to access to justice, proper access to qualified translators, and how legal service providers and the public can best interact with non-legal service providers. Commissioner Shepard reported that upcoming listening sessions are scheduled in

Mobile, Birmingham, Montgomery, Selma and Anniston/Gadsden and encouraged commissioners to participate.

15. AMENDMENTS TO THE RULES GOVERNING ADMISSION TO THE ALABAMA STATE BAR

President Dowd reminded the commission that a presentation was made at the October 13, 2017 meeting with proposed amendments to the *Rules Governing Admission to the Alabama State Bar*. There was discussion as to whether any of the proposed rule changes would expand eligibility for admission to non-resident attorneys. Commissioner George Parker reviewed the substantive changes and assured the commission that none of the changes would expand eligibility for admission.

COMMISSIONER MAZE MOVED TO ADOPT THE PROPOSED AMENDMENTS TO THE RULES GOVERNING ADMISSION TO THE ALABAMA STATE BAR. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

16. APPOINTMENT TO OPEN POSITION ON COURT OF THE JUDICIARY

President Dowd informed the commission that she had received four nominations to fill an open position on the Court of the Judiciary that is appointed by the Alabama State Bar. The nominees were Jana Garner, David Huddleston, Chuck Stewart and Michael Upchurch.

COMMISSIONER MAZE MOVED TO CLOSE NOMINATIONS FOR THE OPEN POSITION ON THE COURT OF THE JUDICIARY. AFTER DISCUSSION OF EACH NOMINEE, THE COMMISSION VOTED ON EACH NOMINEE AND JANA GARNER, HAVING RECEIVED THE MAJORITY OF VOTES, WAS SELECTED TO SERVE ON THE COURT OF THE JUDICIARY.

17. APPROVAL OF NOMINATIONS TO THE ALABAMA SECURITIES COMMISSION

President Dowd informed the commission that it is responsible for submitting three names to the governor for an appointment to the Alabama Securities Commission. The governor selects from the three names submitted and makes the appointment. President Dowd reported to the commission that she had received the names of Dag Rowe, Chip McCallum and Christine Bruenn.

COMMISSIONER MAZE MOVED TO APPROVE CLOSE NOMINATIONS AND SUBMIT DAG ROWE, CHIP MCCALLUM AND CHRISTINE BRUENN TO THE GOVERNOR FOR SELECTION OF ONE TO THE ALABAMA SECURITIES COMMISSION. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

18. RATIFICATION OF 2018 LEADERSHIP FORUM CLASS 14

President Dowd informed the commission that due to lack of quorum at the board meeting on December 8, 2017, the commission acted as a committee of the whole to approve the 2018 Leadership Forum Class 14, subject to ratification by the commission.

COMMISSIONER SKINNER MOVED TO RATIFY THE APPROVAL OF THE 2018 LEADERSHIP FORUM CLASS 14. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

19. REQUEST FOR RESOLUTION REGARDING THE ALABAMA STATE BAR POSITION ON COURT COSTS

Commissioner Gibson Vance and Legislative Counsel Suzi Huffaker briefed the commission on the ongoing efforts of the bar to provide input and guidance on legislation related to court funding and court costs. Commissioner Vance informed the commission that there is no formal resolution as to the position of the Alabama State Bar on court costs, but that the bar has consistently supported the position that court costs should be used in the court system. The concern is that continued rising court costs implemented by local bill creates a potential access to justice issue for Alabama. Commissioner Vance and Legislative Counsel Huffaker requested that the commission take formal action to renew its position.

COMMISSIONER SKINNER MOVED THAT THE OFFICIAL POSITION OF THE ALABAMA STATE BAR RELATIVE TO COURT COSTS IS THAT COURT COSTS SHOULD ONLY BE USED FOR THE ADMINISTRATION OF THE COURT SYSTEM. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

20. 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