

MINUTES

ALABAMA STATE BAR BOARD OF BAR COMMISSIONERS MEETING

Azalea Salons C-F
Grand Hotel
Point Clear, Alabama

Wednesday, July 13, 2011

1. CALL TO ORDER

President Spruell convened this meeting of the Alabama State Bar Board of Commissioners at 3:00 p.m. in Azalea Salons C-F of the Grand Hotel, Point Clear, Alabama. Commissioner Rich Raleigh gave the innovation.

2. ROLL CALL

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

Ronnie E. Keahey	Cleve Poole	Christy Crow
Robert Simms Thompson	Terri O. Tompkins	Hays Webb
William H. Broome	Phil D. Mitchell	Rocky Watson
Leslie R. Barineau	S. Greg Burge	Jack Neal
Robert G. Methvin, Jr.	Augusta S. Dowd	Teresa G. Minor
Joseph A. Fawal	Robert E. Moorner	Derrick A. Mills
William A. (Pete) Short	Albert Trousdale, II	Henry Callaway, III
Walter Honeycutt	Billy C. Bedsole	Juan Ortega
Harry V. Satterwhite	Frank M. Wilson	Les Pittman
J. Flynn Mazingo	Cole Portis	Lee H. Copeland
K. Scott Stapp	William Randall May	David A. McDowell
Hamp Baxley	John L. Jernigan, III	John M. Peek
L. Thomas Ryan, Jr.	Richard J.R. Raleigh, Jr.	J. Dale Lawrence, Jr.
R. Wyatt Howell	Kenneth E. White, III	Allan Chason
Sam W. Irby	Robert L. Rumsey	Braxton W. Ashe
Jason P. Knight	Robert H. Brogden	Rebecca Green Thomason
J. Milton Coxwell, Jr.	H. Jerome Thompson	Don Word
Gregory M. Varner	Alexander M. Smith	Meredith S. Peters
Merceria Ludgood	Alicia F. Bennett	La Barron Boone
David K. Howard	Ashley E. Swink	

The following commissioners were absent:

J. Garrison Thompson	Richard W. Whittaker	James R. Beard
Jeffery C. Duffey	F. Michael Haney	Julia C. Kimbrough
Harold Stephens	Jerry Wayne Baker, Jr.	Elizabeth Parsons
Roger W. Pierce	John M. Plunk	Walter E. McGowan
Claude E. Hundley, III	Monet M. Gaines	

President-elect Jim Pratt and Immediate Past President Tom Methvin were present. Staff members present included Tony McLain, Laura Callaway, Brad Carr, Linda Lund, Jeanne Marie Leslie, Angela Parks, Jeremy McIntire, Robby Lusk and Sam Partridge. Also in attendance, legislative counsel Suzi Edwards, Tracy Daniel, director of the Alabama Law Foundation and Judy Keegan, director of the Alabama Center for Dispute Resolution.

3. **MINUTES OF THE MAY 6, 2011 BOARD MEETING**

President Spruell stated that the minutes of the May 6, 2011 board meeting had been transcribed and circulated prior to the meeting. She asked if there were corrections, additions or deletions. There were none.

COMMISSIONER POOLE MOVED TO APPROVE THE MINUTES OF THE MAY 6, 2011 BOARD OF BAR COMMISSIONERS MEETING. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

4. **RECOGNITION OF GUESTS**

President Spruell recognized the following guests: Judge Scott Vowell, president of the Circuit Judges Association; John Pickens and Craig Baab of Alabama Appleseed; Blakely Davis, director of Mobile VLP; Angela Rawls, director of Huntsville-Madison County VLP; Kelly Mauro, director of Birmingham VLP and Dave Boyd, president of the Alabama Law Foundation.

5. **PRESIDENT'S REPORT**

President Spruell congratulated Commissioner Henry Callaway on being named as recipient of the National Pro Bono Award from the American Bar Association. She told the commission that Commissioner Callaway was the first Alabamian to receive this award which would be presented at the ABA meeting in August. She next recognized Clay Lanham, president of the Young Lawyers' Section and thanked him for the great job the section had done in disaster response efforts including providing volunteers for the disaster response hotline. President Spruell then recognized Commissioner Bedsole who introduced Robert L. Davis and Dr. Ken Jordan, lay members of the disciplinary panels. Mr. Leon Garrett, the other lay member, was unable to attend. Commissioner Bedsole highlighted the work of the lay members of the panel and noted they were a great resource for the bar. He thanked them for their service as did the entire commission with a round of applause.

President Spruell stated that the Tuscaloosa County Bar Association had forwarded a memorial resolution honoring Claude Burns to be entered into the Alabama State Bar Book of Memorial Resolutions.

COMMISSIONER WEBB MOVED TO ACCEPT THE MEMORIAL RESOLUTION HONORING CLAUDE BURNS FROM THE TUSCALOOSA COUNTY BAR ASSOCIATION AND PLACE IT IN THE BOOK OF MEMORIAL RESOLUTIONS. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

President Spruell then recognized the new commissioners who were attending their first meeting. They were as follows: Robert G. Methvin, Jr., 10th Judicial Circuit, Place 4;

Harry V. Satterwhite, 13th Judicial Circuit, Place 5; Randy May, 18th Judicial Circuit, Place 1; David A. McDowell, 19th Judicial Circuit; Sam W. Irby, 28th Judicial Circuit, Place 2; Braxton W. Ashe, 31st Judicial Circuit, Robert H. Brogden, (returning to the board), 33rd Judicial Circuit; Rebecca Green Thomason, 34th Judicial Circuit; H. Jerome Thompson, 36th Judicial Circuit; Gregory M. Varner, 40th Judicial Circuit; Meredith S. Peters, At-Large, Place 3 and Ashley E. Swink, At-Large, Place 9.

President Spruell concluded her remarks with a farewell, stating that being a lawyer is a great thing. She noted that we have a great bar and a great bar commission and she had enjoyed her year as bar president. The commission gave her a standing ovation.

6. **SECRETARY'S REPORT**

The secretary informed the commission that the state had increased the travel mileage to 55.5 cents per mile effective July 1. He then reviewed the financial report for the third quarter of FY2010-11. Following his report, he asked if there were any questions. There were none.

7. **RULE CHANGE CONCERNING BAR APPLICANTS FROM FOREIGN LAW SCHOOLS**

President Spruell stated that Chief Justice Cobb had asked the commission to allow former bar president Doug McElvy who represents a number of foreign applicants, to address the commission concerning its recommendation to amend Rule IV(B)(2)(d) of the *Rules Governing Admission to the Alabama State Bar*, affecting foreign law students. Prior to the meeting, Mr. McElvy had furnished the commissioners with extensive written materials addressing the rule change pending before the Supreme Court. He discussed the specifics of the 42 South Korean graduates of Hang Dong University who applied for the February bar examination but were not permitted to sit for the exam. After discussing the curriculum and other aspects involving the South Korean students, Mr. McElvy concluded by stating that he believed the pending rule was one of exclusion and therefore should not be supported.

COMMISSIONER WHITE MOVED TO SEND A LETTER TO THE SUPREME COURT WITHDRAWING THE COMMISSION'S REQUEST TO AMEND THE RULE. THE MOTION WAS SECONDED.

Comments and discussion followed the motion.

Commissioner Copeland recommended that a vote be taken on the motion after due consideration. He expressed his concern that a vote should not be taken at this meeting.

Commissioner Peek stated that he felt that further scrutiny of the rule change was needed but he was not in favor of suspending the rules to do so.

President Spruell recognized Dave Boyd, a former commissioner and former president of the National Conference of Bar Examiners to give a broader perspective of the pending rule change and the issue of foreign law graduates. Mr. Boyd said he was glad to serve as a resource for the commission. He noted that the rule as recommended to the court was a very broad one. He informed the commission that there are more than 900 law schools in China and 600 law schools in India alone. He stated that the New York Bar

Association has applicants from over 600 law schools. He said the issue of foreign law graduate admissions was a major one nationally. Mr. Boyd stated that in his opinion the Alabama rule was very permissive and that the rule change pending before the court would move the Alabama State Bar closer to the emerging national position.

COMMISSIONER WHITE WITHDREW HIS MOTION.

President Spruell stated that it would be appropriate for a letter to be sent to the court stating that Mr. McElvy had spoken and presented materials to the commission but that the commission chose to take no further action with respect to the requested rule change.

COMMISSIONER WHITE THEN MOVED TO SUSPEND THE RULES IN ORDER TO HAVE THE COMMISSION ASK THE COURT TO DELAY ITS CONSIDERATION OF THE REQUESTED RULE CHANGE. THE MOTION WAS SECONDED.

PRESIDENT SPRUELL CALLED FOR A SHOW OF HANDS ON THE MOTION TO SUSPEND THE RULES. THE MOTION FAILED.

President Spruell recognized Commissioner Burge who stated that the original rule was ambiguous and that the amendment would clarify the ambiguity. As a member of the appeals panel, he explained that the primary reason the applicants were turned down for the July exam was due to a problem with their lawyer affidavits. Following Mr. Burge's remarks, President Spruell stated that a letter would be sent to the court stating that the commission was recommending no change in the requested amendment to the rule.

8. RECAP OF THE 2011 LEGISLATIVE SESSION

President Spruell reported that the legislature had passed the Indigent Defense Services Act and that the commission had been sent this information. She also discussed the search process for hiring a director of Indigent Defense Services. She then explained that in order to help implement the act, it was necessary for the bar to create a new standing committee on Appointed Counsel and Indigent Representation. Commissioner Webb would serve as chair and Commissioner Callaway as vice chair.

COMMISSIONER RALEIGH MOVED TO SUSPEND THE RULES IN ORDER TO APPROVE THE NEW STANDING COMMITTEE. THE MOTION WAS SECONDED AND APPROVED BY A SHOW OF HANDS.

COMMISSIONER RALEIGH THEN MOVED THE CREATION OF THE STANDING COMMITTEE ON APPOINTED COUNSEL AND INDIGENT REPRESENTATION. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

Next, the Secretary explained the state bar's role in providing a panel of hearing officers of retired judges under the Students First Act for teacher and two year college employee dismissals.

9. DISASTER RELIEF UPDATE

President Spruell called on Clay Lanham, president of the Young Lawyers' Section and David Rains who reported on efforts to assist the tornado disaster victims.

10. PRO BONO WEEK REPORT

President Spruell recognized Jimbo Terrell and Jeanne Rasco who reported on Pro Bono Week activities to be held October 23-29. Ms. Rasco gave an overview of the planned celebration and asked commissioners to help set up speaking engagements and obtain proclamations from local governments recognizing Pro Bono Week. She stated a Pro Bono Week Celebration Kit was available to help the activities and celebration for this year's event. Mr. Terrell discussed the creation of a new pro bono award for leadership that would be awarded during the Pro Bono Week Celebration. He stated that it was the recommendation of the Pro Bono Week Task Force to name the award after U. S. District Court Judge Harold Albritton who started the VLP program during his year as state bar president. He stated that Judge Albritton would be the first recipient of the award and although the award would be presented during National Pro Bono Week, it would not necessarily be an annual award.

COMMISSIONER POOLE MOVED TO SUSPEND THE RULES. THE MOTION WAS SECONDED AND APPROVED BY A SHOW OF HANDS.

COMMISSIONER PEEK MOVED TO CREATE A PRO BONO AWARD FOR LEADERSHIP TO BE NAMED AFTER U.S. DISTRICT COURT JUDGE HAROLD ALBRITTON WHO WOULD BE THE FIRST RECIPIENT OF THE AWARD. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

11. RULE III APPLICATIONS, 2011 ALABAMA LAWYERS HALL OF FAME CLASS AND COMMISSIONERS' AWARD FOR 2011

President Spruell suggested that the following action items be voted on collectively. Those action items were:

(A) Rule III Applications

President Spruell stated it was recommended that Jonathan Monson (GA) and Felicia Kerney (TX) be approved for admission on motion pursuant to Rule III of the *Rules Governing Admission to the Alabama State Bar*. She stated that each candidate had met all of the requirements of Rule III as well as character and fitness considerations.

(B) 2011 Alabama Lawyers Hall of Fame Class

President Spruell stated that the Selection Committee of the Alabama Lawyers Hall of Fame recommended the following individuals for inclusion in the 2011 class: Robert Beddow, Sr.; Nina Miglicano; Charles Morgan, Jr.; William D. Scruggs, Jr. She stated that the committee also recommended that John McKinley, associate justice, United States Supreme Court be included as a member who has been deceased more than 100 years.

(C) 2011 Commissioners' Award

President Spruell stated that Kenneth D. Wallis, II had been nominated to receive the 2011 Commissioners' Award for his long standing commitment to the improvement of the administration of justice in Alabama through his many years of service in state government and as legal advisor to two governors.

COMMISSIONER WHITE MOVED TO APPROVE THE ABOVE ACTION ITEMS. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

12. MOTION TO ADJOURN TO A DATE CERTAIN

President Spruell stated that the hour was late and there were still additional business for the commission to consider. She asked the pleasure of the commission.

COMMISSIONER BENNETT MOVED THAT WHEN THE COMMISSION ADJOURNED, IT ADJOURN TO A DATE CERTAIN SPECIFICALLY JULY 16, 2011. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

13. NOMINATING COMMITTEE REPORT

Commissioner Howard on behalf of the Nominating Committee gave the Nominating Committee's report. President Spruell stated that if the members of the commission had additional nominees to be considered that they contact one of the members of the Nominating Committee which includes Commissioner Howard, Commissioner Bedsole (chair) and Commissioner Barineau.

14. ADJOURNMENT

FOLLOWING THE REPORT OF THE NOMINATING COMMITTEE, A MOTION WAS MADE TO ADJOURN. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.