

MINUTES

ALABAMA STATE BAR BOARD OF BAR COMMISSIONERS MEETING

State Bar Building
Montgomery, Alabama

Friday, March 25, 2011

1. CALL TO ORDER

President Spruell 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 Gaines gave the invocation.

2. ROLL CALL

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

Cleve Poole	Christy Crow	Hays Webb
William H. Broome	Phil D. Mitchell	Rocky Watson
Leslie R. Barineau	S. Greg Burge	Phillip W. McCallum
Augusta S. Dowd	Teresa G. Minor	Joseph A. Fawal
Robert E. Moorer	Derrick A. Mills	Albert J. Trousdale, II
Billy C. Bedsole	James R. Beaird	Les Pittman
Flynn Mozingo	Cole Portis	Lee H. Copeland
F. Michael Haney	K. Scott Stapp	Hamp Baxley
John L. Jernigan, III	John M. Peek	Harold Stephens
L. Thomas Ryan, Jr.	Richard J.R. Raleigh, Jr.	Kenneth E. White, III
Jerry Wayne Baker, Jr.	Allan Chason	Tut Wynne
Elizabeth Parsons	Buddy Lee	Eddie Beason
J. Milton Coxwell, Jr.	Christopher E. Malcom	Alexander M. Smith
Claude E. Hundley, III	Deborah Byrd Walker	Merceria Ludgood
Alicia F. Bennett	LaBarron Boone	David K. Howard
Monet M. Gaines	Kelly T. Lee	

The following Commissioners were absent:

Ronnie E. Keahey	J. Garrison Thompson	Robert Simms Thompson
6 th Circuit, Place 1 Vacant	Jack Neal	William A. (Pete) Short
Richard W. Whittaker	Henry A. Callaway, III	Walter H. Honeycutt
Juan Ortega	Mary Margaret Bailey	Frank M. Wilson
Sim Penton	Ramona Morrison	Julia C. Kimbrough
Brian D. Mann	J. Dale Lawrence, Jr.	R. Wyatt Howell
Robert L. Rumsey	John M. Kennemer	Jason P. Knight
Roger W. Pierce	Don Word	39 th Judicial Circuit Vacant
David F. Law	Walter E. McGowan	

President-elect Jim Pratt and Immediate Past President Tom Methvin were present. Staff members present included Tony McLain, Ed Patterson, Laura Callaway, Brad Carr, Linda Lund, Jeanne Marie Leslie, Angela Parks, Jeremy McIntire, Robby Lusk and Marcia Daniel. Also in attendance was legislative counsel Suzi Edwards.

3. INTRODUCTION OF GUESTS

Commissioner Fawal introduced Bo Landrum the new executive director of the Birmingham Bar Association and Commissioner Peek introduced Meredith Peters, president of the Covington County Bar Association. Immediate Past President Methvin introduced Kendall Dunston, president of the Montgomery County Bar Association.

4. RATIFICATION OF FEBRUARY MINUTES AND ACTIONS

President Spruell stated that it was necessary to ratify the actions taken by the commission at the February 4, 2011 board meeting because of a lack of a quorum as well as approve the minutes for that meeting. She asked if there were any corrections, additions or deletions to the minutes that had been previously circulated. There were none.

COMMISSIONER BEDSOLE MOVED TO ADOPT, APPROVE AND RATIFY THE ACTIONS TAKEN BY THE COMMISSION AT ITS FEBRUARY 4, 2011 MEETING AS WELL AS TO APPROVE THE MINUTES OF THAT MEETING. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

5. PUBLIC REPRIMANDS

5.1 Johnnie Lynn Branham Smith, Montgomery County, ASB 09-155(A)

Ms. Smith received a public reprimand without general publication for violation of Rules 1.3 and 1.4 of the *Alabama Rules of Professional Conduct [ARPC]*.

5.2 Damon Q. Smith, Lauderdale County, ASB 09-2219(A)

Mr. Smith received a public reprimand without general publication for violation of Rules 1.4(a) and 1.16(d) *ARPC*.

5.3 Charlene Irvette Stovall, Jefferson County, ASB 05-294(A)

Ms. Stovall received a public reprimand without general publication for violating Rules 1.3, 1.4(a), 1.15(a) and 8.4(a) *ARPC*.

6. PRESIDENT'S REPORT

President Spruell highlighted her busy itinerary since the last board meeting including several speaking engagements. She mentioned that Jeanne Marie Leslie was being recognized by the Mobile Drug Education Council as one of their award recipients for 2011. She also reported on the proposed constitutional amendment involving the Judicial Inquiry Commission and informed the commission that it would not be in the best interest of the state bar to introduce the proposed amendment at this time but that the Judicial Liaison Committee would continue to review the amendment and how best to address the matters covered by the proposed amendment.

President Spruell next updated the commission on indigent defense legislation. She discussed what was currently taking place concerning new legislation that had been drafted as well as her conversations with the Governor's office about alternative legislation that is likely to be introduced. She stated that the bar is doing all that it can to advocate for a model that would include a local choice option for delivery of services and keep appointed counsel as one of those options. Several comments from commissioners concerning indigent defense followed the president's remarks.

President Spruell then recognized President-elect Jim Pratt for a legislative report and thanked Suzi Edwards for her work as the bar's legislative counsel. President-elect Pratt updated the commission on the legislative session thus far and the services which the bar had been able to render in helping legislators work out differences involving several pieces of proposed legislation.

7. SECRETARY'S REPORT

The secretary informed the commission that Commissioner Short and Commissioner Rumsey had surgery during the week and asked commissioners to keep them in their prayers and thoughts. He next reminded commissioners that the 2011 Annual Meeting would be at the Grand Hotel, July 13-16. He encouraged them to go ahead and fill out their hotel reservation form and turn it in to Diane Locke so that it could be processed. The secretary then said that each commissioner had received a copy of the Department Measurements for 2010. He encouraged the commissioners to review the document. He noted that the measurements highlight the importance of the volunteer service component to the bar. Finally, the secretary informed the commission that the Mobile Bar Association had submitted a memorial resolution for James Glenn Cobb, Jr. to be included in the Alabama State Bar Book of Memorial Resolutions.

COMMISSIONER BEDSOLE MOVED TO ACCEPT THE MEMORIAL RESOLUTION FROM THE MOBILE BAR ASSOCIATION FOR JAMES GLENN COBB, JR. AND FOR IT TO BE PLACED IN THE ALABAMA STATE BAR BOOK OF MEMORIAL RESOLUTIONS. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

8. **PROGRAMS UPDATE**

Mr. Patterson provided an update on the leadership forum and informed the commission about the service project that the forum members are currently working on. He also reported on the evaluation of the program conducted by program alumni and the fact that those survey results would be forthcoming.

9. **OGC REPORT**

The commission was provided with a written report.

10. **CLE GAP ISSUES**

President Spruell recognized former commissioner Richard Gill and Commissioner Bennett for a report. Mr. Gill explained the gap problem and the fact that the state bar presently has no rule or policy to address those who are inactive and then want to return to the active practice of law. He reported that 26 states have a catch up provision in their rules that require inactive lawyers obtain a certain number of CLE credits prior to re-entering practice. He stated that their task force report includes a proposal of a graduated rule that would provide for slightly higher CLE credit requirements the longer the individual remained inactive but capped after five years at 60 hours. He explained that if the lawyer was absent from practice more than seven years the report recommends requiring those lawyers to take an on-line multi-state exam. Mr. Gill encouraged the commission to look at the task force recommendations attempting to address the gap problem. Commissioner Bennett added her comments concerning the task force report. Following her comments, several commissioners spoke about the report. President Spruell thanked Mr. Gill and Commissioner Bennett and their task force members for the report.

11. **CLE RULE PROPOSAL**

President Spruell next recognized Commissioner Harold Stephens, chair of the MCLE Commission for a report. Commissioner Stephens discussed the MCLE rule changes that are currently being considered by the MCLE Commission. He also stated that the MCLE Commission was proposing a rule change as a first step to address the CLE gap issue addressed by Mr. Gill's task force. He stated that the proposed rule would require 24 hours of CLE credit to "catch up" if a lawyer has been inactive more than a year. Proposed Rule Rule 3.2.C. of the MCLE rules would read as follows:

“An attorney who has not engaged in the private practice of law, or who has held a special membership, for a period of and in excess of one year, shall be required to complete an equivalent number of MCLE hours up to a maximum of 24 MCLE hours, prior to being authorized to resume the active practice of law.”

COMMISSIONER RALEIGH MOVED TO SUSPEND THE RULES IN ORDER TO ADOPT RULE 3.2.C. OF THE MCLE RULES AS PROPOSED BY THE MCLE COMMISSION. THE MOTION WAS SECONDED. PRESIDENT SPRUELL ASKED FOR A SHOW OF HANDS AND THE MOTION TO SUSPEND THE RULE WAS APPROVED BY THE NECESSARY TWO THIRDS VOTE.

President Spruell asked for a motion to approve the rule.

COMMISSIONER RALEIGH MOVED TO ADOPT RULE 3.2.C. of the MCLE RULES AS PROPOSED. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

12. PROPOSED RULE CHANGES FOR PMAP AND ALAP

President Spruell recognized General Counsel Tony McLain to explain the requested rule changes. He explained that the proposed changes provided an exemption of reporting requirement of violations of the *Alabama Rules of Professional Conduct* that might be discovered through the work of either of the two programs. He also noted that the proposed changes to Rule 8.3 of the *Alabama Rules of Professional Conduct* would also include additional comments concerning the proposed rule changes.

COMMISSIONER MOORER MOVED TO SUSPEND THE RULES AND TO ADOPT THE AMENDMENT TO RULE 8.3 OF THE *ALABAMA RULES OF PROFESSIONAL CONDUCT* AS PROPOSED. PRESIDENT SPRUELL ASKED FOR A SHOW OF HANDS AND THE MOTION TO SUSPEND THE RULES. THE MOTION WAS APPROVED BY THE NECESSARY TWO THIRDS VOTES.

COMMISSIONER RALEIGH MOVED TO ADOPT THE AMENDMENT TO RULE 8.3 AS PROPOSED. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

(A copy of the amendment to Rule 8.3 of the *Alabama Rules of Professional Conduct* is attached to these minutes as Appendix A.)

13. LAW DAY COMMITTEE REPORT

President Spruell recognized Ashley Swink and David Rains for a report. Ms. Swink provided an overview of the committee work including the recommendation of using pre-drafted resolutions for local bars to have adopted by local governmental authorities. She also noted that examples of the “letters to the editor” were available to use as a part of the Law Day celebration. She then discussed the invitation to the Law Day observance at the Supreme Court and the awards ceremony for the poster, essay, Facebook and other Law Day contests for high school students. Mr. Rains discussed having the Governor sign the Law Day Proclamation and noted that it was the first proclamation signed by Governor Bentley as Governor of the State of Alabama.

President Spruell thanked Ms. Swink and Mr. Rains and the Law Day Committee for their outstanding work.

14. LICENSE FEE STATUTE

President Spruell asked Commissioner Poole to give a report. Mr. Poole talked about the proposed change that would allow the commission to have the authority to approve any license fee increase. He stated that it would be an action item at the next meeting to consider and that legislation would be drafted to introduce the change at the 2012

legislative session. Commissioners commented on the proposal and expressed concern that it would lead to an immediate fee increase.

COMMISSIONER MITCHELL MOVED TO TABLE THE MATTER. THE MOTION TO TABLE WAS SECONDED. PRESIDENT SPRUELL ASKED FOR A SHOW OF HANDS FOR THOSE IN FAVOR OF THE MOTION AND THOSE OPPOSED. THE MOTION FAILED TO CARRY.

President Spruell stated that the proposed change to the bar's license fee statute Section 40-12-49, *Code of Alabama* would be considered at the next meeting.

15. NATIONAL PRO BONO WEEK

Jimbo Terrell gave a report on National Pro Bono Week and the plans underway for that celebration. He asked the commission to approve the expenditure of up to \$12,000 which was the same amount as last year to cover receptions, publicity and other expenses related to the celebration.

COMMISSIONER SMITH MOVED TO SUSPEND THE RULES IN ORDER TO APPROVE THE PROPOSED BUDGET FOR THE NATIONAL PRO BONO WEEK CELEBRATION. THE MOTION WAS SECONDED. PRESIDENT SPRUELL ASKED FOR A SHOW OF HANDS ON THE MOTION TO SUSPEND. THE MOTION WAS APPROVED BY THE NECESSARY TWO THIRDS VOTES.

COMMISSIONER RALEIGH MOVED TO AUTHORIZE THE EXPENDITURE OF UP TO \$12,000 AS THE BUDGET FOR THE 2011 NATIONAL PRO BONO WEEK CELEBRATION. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

President Spruell thanked Mr. Terrell and the task force for planning the 2011 celebration.

16. CLIENT SECURITY FUND COMMITTEE REPORT

President Spruell stated that the Client Security Fund Committee had submitted a written report which was included with the items sent to the commissioners.

17. FOREIGN LAW SCHOOL ADMISSION RULE CHANGE

President Spruell asked General Counsel Tony McLain to explain the proposed rule change. Mr. McLain explained the problem that recently had arisen under the *Rules Governing Admission to the Alabama State Bar* regarding the February bar exam. He stated that the proposed changes to Rule VI(B)(2)(d) would require any person seeking admission from a foreign country to first be licensed in their home country before sitting for the Alabama bar examination.

Commissioner Raleigh spoke about this issue and noted that the loophole in the current rule which does not require a bar exam candidate first to be admitted to practice in their home country was being exploited.

COMMISSIONER RALEIGH MOVED TO SUSPEND THE RULES TO ADOPT THE PROPOSED CHANGE TO RULE VI(B)(2)(d) OF THE *RULES GOVERNING ADMISSION TO THE ALABAMA STATE BAR*. THE MOTION WAS SECONDED. PRESIDENT SPRUELL ASKED FOR A SHOW OF HANDS ON THE MOTION TO SUSPEND THE RULES. THE MOTION AS APPROVED BY THE NECESSARY TWO THIRDS VOTES.

COMMISSIONER POOLE MOVED TO ADOPT THE PROPOSED AMENDMENT TO RULE VI(B)(2)(d) OF THE *RULES GOVERNING ADMISSION TO THE ALABAMA STATE BAR*. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

(A copy of the amendment to Rule VI(B)(2)(d) of the Rules Governing Admission to the Alabama State Bar is attached to these minutes as Appendix B.)

18. RULE III APPLICATIONS

President Spruell stated that Melissa Cox Brickey (GA), James Blount Griffin (GA), Keith Arnold Johnston (TN), Timothy Peter Kottemann (MS), Garon Lee Rowland (OK), Penelope Ann Slawkowski (IL), Lisa White Waldie (MA) and William Martens (MS). had submitted applications for admission pursuant to Rule III of the *Rules Governing Admission to the Alabama State Bar*. She stated that the applicants had met all of the requirements of Rule III including character and fitness.

COMMISSIONER WATSON MOVED THE ADMISSION OF THE RULE III APPLICANTS. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

19. JUDICIAL INQUIRY COMMISSION APPOINTMENT

President Spruell stated that Mr. Boots Gale of Birmingham had resigned as a member of the Judicial Inquiry Commission and that his remaining term which would conclude in October needed to be filled. She also stated that the term of Mr. Norman Waldrop would conclude in April. President Spruell stated that it was her recommendation to go ahead and fill Mr. Gale's unexpired term. She stated that Commissioner Billy Bedsole had been nominated to fill this vacancy.

COMMISSIONER WHITE MOVED TO ELECT MR. BILLY BEDSOLE TO THE UNEXPIRED TERM OF MR. BOOTS GALE ON THE JUDICIAL INQUIRY COMMISSION. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

President Spruell stated that the filling of the other position on the Judicial Inquiry Commission by the Board of Bar Commissioners would be considered at the next meeting.

20. ABA HOUSE OF DELEGATES

President Spruell noted that the terms of Commissioner Ken White and Navan Ward would expire at the conclusion of the August 2011 ABA House of Delegates meeting. She stated that both had indicated a willingness to continue to serve as delegates if the commission was inclined to reappoint them to a new two year term.

COMMISSIONER MITCHELL MOVED THAT NOMINATIONS BE CLOSED AND THAT COMMISSIONER KEN WHITE AND MR. NAVAN WARD BE APPROVED BY ACCLAMATION. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

21. EXPIRATION OF THE TERMS OF FOUR MEMBERS OF THE BOARD OF BAR EXAMINERS

President Spruell stated that the terms of the Lee Pope, James Bradford and Robert Lockwood would expire upon the completion of their responsibilities for the February 2011 bar examination. She also noted that the term of Lynn Reynolds would expire upon the completion of her responsibilities with the July 2011 bar examination. She stated that all four examiners had indicated their willingness to serve another four year term.

COMMISSIONER WATSON MOVED TO RE-APPOINT LEE POPE, JAMES BRADFORD AND ROBERT LOCKWOOD TO THE BOARD OF BAR EXAMINERS FOR FOUR YEAR TERMS COMMENCING WITH THE JULY 2011 BAR EXAMINATION AND TO RE-APPOINT LYNN REYNOLDS TO A FOUR YEAR TERM COMMENCING WITH THE FEBRUARY 2012 BAR EXAMINATION. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

22. FILLING COMMISSIONER VACANCY FOR THE 39TH JUDICIAL CIRCUIT

President Spruell stated that Commissioner Jere Trent had resigned as commissioner for the 39th Judicial Circuit. She stated that the Limestone County Bar Association had recommended John Plunk to complete Commissioner Trent's term which ends in 2012.

COMMISSIONER BROOME MOVED TO ELECT JOHN PLUNK TO FILL THE UNEXPIRED TERM OF COMMISSIONER JERE TRENT OF THE 39TH JUDICIAL CIRCUIT. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

23. CONTINUATION OF ALABAMA STATE BAR/ALABAMA BROADCASTERS ASSOCIATION PARTNERSHIP

President Spruell reminded the commissioners that this matter was discussed at the last meeting.

COMMISSIONER MITCHELL MOVED TO APPROVE THE CONTINUATION OF THE PARTNERSHIP BETWEEN THE ALABAMA STATE BAR AND THE ALABAMA BROADCASTERS ASSOCIATION FOR 2011 AND TO AUTHORIZE A \$65,000 CONTRIBUTION TO THE BROADCASTERS ASSOCIATION FOR THE RADIO AND TV AIRTIME WHICH THE STATE BAR WILL RECEIVE IN RETURN. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

24. **APPOINTMENT OF COMMISSIONER TO FILL THE VACANCY OF THE 6TH JUDICIAL CIRCUIT, PLACE 1**

President Spruell stated that Terri Tompkins had been recommended by the Tuscaloosa County Bar Association to complete the unexpired term of Commissioner Cooper Shattuck to conclude in 2013.

COMMISSIONER HAYS WEBB MOVED TO ELECT TERRI TOMPKINS TO THE UNEXPIRED TERM OF FORMER COMMISSIONER COOPER SHATTUCK FOR THE 6TH JUDICIAL CIRCUIT, PLACE 1. THE MOTION WAS APPROVED BY VOICE VOTE.

25. **ADOPTION OF VLP STRATEGIC PLAN**

President Spruell stated that the VLP strategic plan had been presented at the last meeting.

COMMISSIONER MITCHELL MOVED TO ADOPT THE VLP STRATEGIC PLAN. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

(A copy of the VLP strategic plan is attached as Appendix C.)

26. **ASB AWARD OF MERIT**

President Spruell stated that Dr. David Bronner, Retirement Systems CEO had been nominated to receive the Alabama State Bar's Award of Merit in recognition of his many contributions to the State of Alabama as a member of the Alabama State Bar.

COMMISSIONER MOZINGO MOVED THE APPROVAL OF AWARDING DR. DAVID BRONNER THE ALABAMA STATE BAR AWARD OF MERIT FOR 2011. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

27. **NOMINATION OF J. DOUGLAS MCELVY TO REPLACE RHONDA BROWNSTEIN ON THE LEGAL SERVICES ALABAMA BOARD OF DIRECTORS**

President Spruell stated that Rhonda Brownstein had resigned from the Legal Services Alabama Board of Directors and that former state bar president Douglas McElvy had been recommended to fill this vacancy on the LSA Board of Directors.

COMMISSIONER BROOME MOVED TO APPROVE DOUGLAS MCELVY TO FILL THE UNEXPIRED TERM OF RHONDA BROWNSTEIN ON THE LEGAL SERVICES ALABAMA BOARD OF DIRECTORS. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

28. ADJOURNMENT

President Spruell 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.

Alyce M. Spruell, President
Alabama State Bar

ATTEST:

Keith B. Norman, Secretary
Alabama State Bar