

MINUTES

ALABAMA STATE BAR BOARD OF BAR COMMISSIONERS MEETING

State Bar Building
Montgomery, Alabama

Friday, May 6, 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 David Howard gave the invocation.

2. ROLL CALL

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

Ronnie E. Keahey	Cleve Poole	Christy Crow
J. Garrison Thompson	Terri O. Tompkins	Hays Webb
William H. Broome	Phil D. Mitchell	Leslie R. Barineau
S. Greg Burge	Phillip W. McCallum	Augusta S. Dowd
Teresa G. Minor	Robert E. Moorner	Richard W. Whittaker
Walter H. Honeycutt	Billy C. Bedsole	James R. Beaird
Frank M. Wilson	Les Pittman	J. Flynn Mozingo
Cole Portis	Sim Penton	K. Scott Stapp
Julia C. Kimbrough	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	Robert L. Rumsey
Eddie Beason	J. Milton Coxwell, Jr.	Don Word
John M. Plunk	Alexander M. Smith	Walter E. McGowan
LaBarron Boone	David K. Howard	Monet M. Gaines

The following Commissioners were absent:

Robert Simms Thompson	Rocky Watson	Jack Neal
Joseph A. Fawal	Derrick A. Mills	William A. (Pete) Short, Jr.
Albert J. Trousdale, II	Henry A. Callaway, III	Juan Ortega
Mary Margaret Bailey	Lee H. Copeland	F. Michael Haney
Ramona Morrison	Brian D. Mann	J. Dale Lawrence, Jr.
R. Wyatt Howell	Elizabeth Parsons	John M. Kennemer
Jason P. Knight	Buddy Lee	Christopher E. Malcom
Roger W. Pierce	David F. Law	Claude E. Hundley, III
Deborah Byrd Walker	Merceria Ludgood	Alicia F. Bennett
Kelly T. Lee		

President-elect Jim Pratt and Immediate Past President Tom Methvin were present. Staff members present included Tony McLain, Laura Calloway, Brad Carr, Linda Lund, Ed Patterson, Jeanne Marie Leslie, Angela Parks, Jeremy McIntire, Robby Lusk, Willie Murphy, Dolan Trout and Hunter Harris. Also in attendance were legislative counsel Suzi Edwards and Tracy Daniel, director of the Alabama Law Foundation.

3. RECOGNITION OF NEW COMMISSIONERS AND RETIRING COMMISSIONERS AND INTRODUCTION OF GUEST

President Spruell recognized two new commissioners: Terri Tompkins of the 6th Judicial Circuit, Place 1 and John Plunk of the 39th Judicial Circuit. President Spruell also recognized retiring commissioners including Commissioner Phillip W. McCallum (10th Judicial Circuit, Place 4); Mary Margaret Bailey (13th Judicial Circuit, Place 5); Sim Penton (15th Judicial Circuit, Place 5); Ramona Morrison (18th Judicial Circuit, Place 1); Brian Mann (19th Judicial Circuit); Tut Wynne (28th Judicial Circuit, Place 2); John Kennemer (31st Judicial Circuit); Buddy Lee (33rd Judicial Circuit); Eddie Beason (34th Judicial Circuit); Chris Malcom (36th Judicial Circuit) and David Law (40th Judicial Circuit).

President Spruell introduced former commissioner and current legal advisor to the Governor, Cooper Shattuck. President Spruell asked Mr. Shattuck to discuss FEMA and state relief efforts. Mr. Shattuck stated that anyone suffering damage as a result of the storms should call and register with FEMA in order to qualify for the numerous disaster response programs available through FEMA and the state. Tracy Daniel was recognized by President Spruell. Ms Daniel stated that the Alabama Law Foundation was accepting donations which would be distributed to the American Red Cross and the Salvation Army for relief efforts in Alabama.

4. MINUTES OF THE MARCH 25, 2011 BOARD MEETING

President Spruell stated that the minutes of the March 25, 2011 board meeting had been circulated prior to the meeting. She asked if there were any corrections, additions or deletions to the minutes. There were none.

COMMISSIONER BEDSOLE MOVED TO APPROVE THE MINUTES OF THE MARCH 25, 2011 BOARD OF BAR COMMISSIONERS MEETING. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

5. PRESIDENT'S REPORT

President Spruell gave the commissioners an update on the bar's disaster response efforts in response to the devastating tornados that struck Alabama on April 27th. Particularly, she recognized staff members Willie Murphy, Brad Carr, Dolan Trout, Hunter Harris, Linda Lund and Laura Calloway who helped facilitate the state bar's disaster response. Ms. Calloway gave an analysis of the bar's disaster response web page and encouraged commissioners to notify the state bar of any lawyers who suffered damage to their office and need the bar's assistance. President Spruell also recognized Chris Waller of the Young Lawyers' Section and their vital role in the disaster response relief with the assistance of the volunteer lawyers' network. Linda Lund discussed the disaster response

hotline and acknowledged that a number of calls had been received since the hotline went active two days earlier. She also explained that legal clinics were to be held in the affected areas of the state in the next few weeks. President Spruell highlighted landlord tenant issues and other legal issues that are arising as a result of the storms that struck Tuscaloosa in particular.

President Spruell next asked for a report from Commissioner Mozingo on Pro Bono Week. Commissioner Mozingo encouraged commissioners to provide the Pro Bono Week Celebration Committee with current addresses for local bar presidents in order for the committee to contact them about suggested activities for celebrating pro bono week. President Spruell then asked Commissioner Jernigan to report on Law Day in Escambia County. He provided highlights of the Law Day celebration in Escambia County culminating in their annual trial at the courthouse. Finally, Commissioner Bedsole was recognized. He reported that Henry Callaway had been named as a 2011 recipient of the American Bar Association's Pro Bono Award. Commissioner Bedsole stated that he was the first Alabamian to receive this award. (Commissioner Callaway was not present for the meeting because he was attending his son's graduation from Furman University.)

President Spruell concluded her report by informing the commission that she had appointed Commissioners Barineau, Bedsole, Howard and Hundley to serve as the nominations committee. She stated that Commissioner Hundley would serve as its chair. She then stated that the election committee would be comprised of Commissioners Copeland, Gaines and Mozingo.

6. SECRETARY'S REPORT

The secretary informed the commission that the bar exam results had been posted for the February 2011 bar exam. He stated that 217 sat for the exam and 55.8 percent were certified to the court as successfully completing the bar exam. Next, the secretary reported that e-mail ballots for the commissioner races in the 10th Judicial Circuit (Place 4), 13th Judicial Circuit (Place 5), and 15th Judicial Circuit (Place 5) had been sent out earlier in the week to approximately 8,000 members. He reported that more than 1,000 votes had already been cast in those races.

The secretary then reviewed the financial report for the second quarter. He asked if there were any questions following his report. There were none. The secretary also highlighted the fact that Laura Calloway, director of service programs compiles a bi-monthly column for *Law Practice* magazine which is published by the Law Practice Management Section of the American Bar Association. He stated that Ms. Calloway's article in this national publication brings recognition and credit to the Alabama State Bar. Finally, the secretary informed the Commission that the Mobile Bar Association had forwarded resolutions in memory of T. Massey Bedsole and Ralph John Perry for inclusion in the Alabama State Bar Book of Memorial Resolutions.

COMMISSIONER BEDSOLE MOVED THAT THE RESOLUTIONS FROM THE MOBILE BAR ASSOCIATION IN MEMORY OF T. MASSEY BEDSOLE AND RALPH JOHN PERRY BE PLACED IN THE ALABAMA STATE BAR BOOK OF MEMORIAL RESOLUTIONS. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

7. **INDIGENT DEFENSE LEGISLATION**

President Spruell recognized Mr. Shattuck for a report on the indigent defense legislation. He summarized the bill that has been introduced and praised the efforts of President Alyce Spruell in helping formulate this legislation which will make the current system more efficient, yet ensure local participation in the decision-making process for indigent defense services. After his remarks, President Spruell announced that Chief Justice Cobb had sent a letter to local clerks and others supporting the legislation that was introduced. She also noted the state bar's role in selecting the director of the indigent defense services and remarked that she had appointed a standing committee on indigent defense to work with the local bars and the state office. The committee would include Commissioners Hays, Callaway, Baker, Keahey, Poole, Peek and Fawal. She also stated that there would be three spots for lawyer legislators on the committee and that Linda Lund and Sam Partridge would serve as staff liaisons. In addition to the standing committee on indigent defense, President Spruell stated that Commissioner Crow would chair a committee on custodial and family law and that a task force to address court costs was in the works as well.

8. **OGC REPORT**

General Counsel Tony McLain reported on public adjusters and explained to the commission that Alabama law does not recognize public adjusters as do some states including Florida. He stated that the services provided by public adjusters constitutes unauthorized practice of law under Alabama's practice of law definition. He answered several questions and Brad Carr noted that a press release was being issued on Monday warning tornado victims about public adjusters.

9. **UPL COMMITTEE REPORT**

A written report was included with the materials for the commissioners.

10. **CREATION OF ELECTIONS, ETHICS AND GOVERNMENT RELATIONS LAW SECTION**

President Spruell stated that the Task Force on the Possible Creation of an Elections, Ethics and Government Relations Law Section had issued its report. She praised the task force for the completeness of its report and its recommendation to create this new section.

COMMISSIONER POOLE MOVED TO SUSPEND THE RULES IN ORDER TO VOTE ON THE CREATION OF THE NEW SECTION. THE MOTION WAS SECONDED AND APPROVED BY THE NECESSARY TWO-THIRDS VOTE.

COMMISSIONER RALEIGH MOVED TO APPROVE THE TASK FORCE REPORT TO CREATE THE ELECTIONS, ETHICS AND GOVERNMENT RELATIONS LAW SECTION OF THE ALABAMA STATE BAR. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

11. MCLE REPORT

Commissioners Stephens, who also serves as chair of the MCLE Commission reported that the commission will be forthcoming with recommended changes to the current MCLE rules and regulations. He stated that there would be three main areas addressed by the proposed rule changes including bringing Alabama's rules up to current practices and finally to addressing seven substantive areas currently covered by the rules. He stated that a detailed report would be circulated shortly and he expressed the hope that this could be an action item at the next meeting.

12. ELECTION OF COMMISSIONER BEDSOLE TO A FULL FOUR YEAR TERM ON THE JUDICIAL INQUIRY COMMISSION

President Spruell stated that at the last meeting the commission elected Commissioner Bedsole to fill the unexpired term of Boots Gale which was scheduled to expire in October. After reviewing Article VI, §156 of the Constitution of Alabama regarding when a vacancy occurs on the Judicial Inquiry Commission, she reported that this constitutional provision provides that vacancies are filled for full four year terms. She stated that this action will clarify that Commissioner Bedsole is to serve a full four year term relating back to his selection by the commission on March 25, 2011.

COMMISSIONER POOLE MOVED TO ELECT COMMISSIONER BILLY BEDSOLE TO A FULL FOUR YEAR TERM ON THE JUDICIAL INQUIRY COMMISSION RELATING BACK TO MARCH 25, 2011. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

13. JUDICIAL INQUIRY COMMISSION VACANCY

President Spruell stated that the term of current state bar appointee Norman Waldrep concluded in April. She explained that he was held over to finish several cases as the chair of the commission. Commissioner Raleigh nominated Commissioner Augusta Dowd for the position. President Spruell asked if there were any other nominations. Commissioner White nominated Commissioner Moorer. Commissioner Moorer declined the nomination.

COMMISSIONER MCCALLUM MOVED TO CLOSE NOMINATIONS AND TO ELECT AUGUSTA S. DOWD WITH HER TERM COMMENCING ON JULY 1, 2011. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

14. MAUD MCLURE KELLY AWARD NOMINATION

President Spruell stated that the Women's Law Section had recommended that Carol Jean Smith receive this award posthumously for 2011.

COMMISSIONER CROW MOVED TO APPROVED THE WOMEN'S LAW SECTION NOMINATION OF CAROL JEAN SMITH TO RECEIVE THE MAUD MCLURE KELLY WARD POSTHUMOUSLY FOR 2011. THE MOTION WAS APPROVED BY VOICE VOTE.

15. JUDICIAL AWARD OF MERIT

President Spruell reported that the Judicial Conference Committee had reviewed the nominations received for the Judicial Award of Merit and recommended from those nominations that The Honorable Joel Dubina, Chief Judge of the Eleventh Circuit Court of Appeals receive the award for 2011.

COMMISSIONER POOLE MOVED THAT JOEL DUBINA RECEIVE THE JUDICIAL AWARD OF MERIT FOR 2011. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

16. RULE III APPLICATIONS

President Spruell stated that Carol Kay Black (GA), Allen David Brufsky (CT), Barry Hassell (MS) and Craig Lawrence Hymowitz (PA) be approved for admission on motion pursuant to Rule III of the *Rules Governing Admission to the Alabama State Bar*. She stated that each of the candidates had met all of the requirements of Rule III.

COMMISSIONER CROW MOVED THE ADMISSION OF CAROL KAY BLACK, ALLEN DAVID BRUFISKY, BARRY HASSELL AND CRAIG LAWRENCE HYMOWITZ PURSUANT TO RULE III OF THE *RULES GOVERNING ADMISSION TO THE ALABAMA STATE BAR*. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

17. ELECTION OF AT-LARGE COMMISSIONERS

President Spruell noted that 11 individuals had submitted applications for nomination for three at-large positions. She explained to the commission that names of all 11 applicants would be submitted to the commission for its consideration. The applicants for the 2011 at-large nominations were: LaBarron Boone, Montgomery; Greg Griffin, Montgomery; Kelly T. Lee, Elmore; Meredith Shay Peters, Andalusia; David E. Rains, Tuscaloosa; Fred Rubio, Birmingham; Ashley E. Swink, Gulf Shores; Mark Allen Treadwell, III, Dadeville; Debra Byrd Walker, Birmingham; Adrienne Dionne Ward, Hoover and Carlos O. Williams, Mobile.

President Spruell stated that there would be an opportunity for commissioners to speak on behalf of each of the candidates and a vote would be taken by a show of hands for each of the candidates with each commissioner being permitted to vote for three candidates. Incumbent at-large commissioner LaBarron Boone was excused from the room and the commissioners took the opportunity to speak on behalf of the different candidates.

FOLLOWING REMARKS ABOUT EACH OF THE NOMINEES, PRESIDENT SPRUELL ASKED FOR A SHOW OF HANDS ON EACH OF THE NOMINEES. AFTER TALLYING THE VOTES, PRESIDENT SPRUELL ANNOUNCED THAT MEREDITH SHAY PETERS AND ASHLEY E. SWINK HAD BEEN ELECTED AND COMMISSIONER LABARRON BOONE RE-ELECTED AS AT-LARGE MEMBERS OF THE BOARD OF BAR COMMISSIONERS.

18. 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