

## MINUTES

### ALABAMA STATE BAR BOARD OF BAR COMMISSIONERS MEETING

State Bar Building  
Montgomery, Alabama

Friday, January 13, 2012

#### 1. CALL TO ORDER

President Pratt 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 Bedsole gave the invocation.

#### 2. REMARKS FROM THE GOVERNOR OF THE STATE OF ALABAMA

President Pratt welcomed Governor Robert Bentley who was greeted by a standing ovation. Governor Bentley thanked the commission members specifically for their service and recognized lawyers in general for representing the citizens of the state. He commented that he had the good fortune of being advised by lawyers in key positions of the government including David Perry his chief of staff, and former bar commissioner, Cooper Shattuck, his legal advisor. The Governor extolled the qualities of each of his assistants and explained that Mr. Shattuck, in particular, had been an excellent legal advisor and a leader protecting the interest of the state of Alabama in the BP litigation as well as in many other areas. Governor Bentley mentioned that the other lawyers on his staff have been very helpful to him and played a major role in the various issues confronting the state.

Governor Bentley thanked the commission and the bar for its help during the last legislative session on tort reform legislation and reforming the indigent defense system among others. Before taking questions from commissioners, the Governor stated that he and Commissioner Short had known one another for many years, having served together in the Air Force. After taking questions, the Governor thanked the commission for allowing him to address them. President Pratt thanked the Governor for coming to the bar and speaking to the commission.

#### 3. ROLL CALL

The Secretary called the roll of the commission and the following commissioners were present:

Ronnie E. Keahey

Hays Webb

Rocky Watson

Robert G. Methvin, Jr.

Robert E. Moorer

Albert J. Trousdale, II

Billy C. Bedsole

J. Flynn Mozingo

J. Garrison Thompson

William H. Broome

Leslie R. Barineau

Augusta S. Dowd

Derrick A. Mills

Henry A. Callaway, III

Harry V. Satterwhite

Cole Portis

Terri O. Tompkins

Phil D. Mitchell

S. Greg Burge

Teresa G. Minor

William A. (Pete) Short

Walter H. Honeycutt

James R. Beard

Jeffery C. Duffey

William Randall May	David A. McDowell	Hamp Baxley
John L. Jernigan III	John M. Peek	Harold Stephens
L. Thomas Ryan, Jr.	R. Wyatt Howell	Allan Chason
Samuel W. Irby	Elizabeth Parsons	Braxton W. Ashe
Rebecca Green Thomason	H. Jerome Thompson	Don Word
Alexander M. Smith	Walter E. McGowin	Merceria Ludgood
Alicia F. Bennett	LaBarron Boone	Monet M. Gaines
Meredith S. Peters		

The following commissioners were absent:

Cleve Poole	Christy Crow	Robert Simms Thompson
Jack Neal	Joseph A. Fawal	Richard W. Whittaker
Juan Ortega	Frank M. Wilson	Les Pittman
Lee H. Copeland	F. Michael Haney	K. Scott Stapp
Julia C. Kimbrough	Richard J.R. Raleigh, Jr.	J. Dale Lawrence
Kenneth E. White III	Jerry Wayne Baker, Jr.	Robert L. Rumsey
Jason P. Knight	Robert H. Brogden	J. Milton Coxwell, Jr.
Roger W. Pierce	John M. Plunk	Gregory M. Varner
Claude E. Hundley III	David K. Howard	Ashley Swink

President-elect Phillip McCallum was in attendance. Staff members present included Tony McLain, Laura Calloway, Brad Carr, Linda Lund, Jeremy McIntire, Robby Lusk, Sam Partridge, Angela Parks, Ed Patterson and Diane Locke. Also in attendance was Tracy Daniel, Director of the Alabama Law Foundation, Judy Keegan, Director of the Alabama Center for Dispute Resolution and Suzi Edwards, Legislative Counsel.

4. **APPROVAL OF THE MINUTES OF NOVEMBER 4, 2011 ALABAMA STATE BAR BOARD OF COMMISSIONERS MEETING**

President Pratt stated that the minutes of the November 4, 2011 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 BEDSOLE MOVED TO APPROVE THE MINUTES OF THE NOVEMBER 4, 2011 BOARD MEETING. THE MOTION WAS SECONDED AND APPROVED UNANIMOUSLY BY VOICE VOTE.

5. **RECOGNITION OF GUESTS**

Attending the meeting was former commissioner and current legal advisor to the Governor, Cooper Shattuck. Also attending the meeting was Brandon C. Stone, president of the Elmore County Bar Association; Jeffery Pino, president of the Shelby County Bar Association and Renay Bertella, president of the St. Clair Bar Association. Commissioner Mitchell introduced special guest Anderson Mitchell, his son. President Pratt thanked all of the guests for attending.

6. **RICKY MCKINNEY, DIRECTOR OF OFFICE INDIGENT DEFENSE SERVICES**

President-elect McCallum introduced Ricky McKinney, the new director of the Office of Indigent Services. In his remarks, Mr. McKinney stated that he had enjoyed his work

thus far but noted the many challenges that he has faced and will continue to encounter as the indigent defense legislation is implemented. He remarked that he will need the assistance of the bar in making the new legislation work. He then discussed some of the things that are being done to streamline the payment process including the payment of expert witnesses and the online fee declaration process.

Mr. McKinney informed the commission that the main issue is one of funding indigent defense. The approximate \$40 million shortfall in the Fair Trial Tax Fund must be paid from the general fund. He stated that for the new legislation to be successfully implemented, it will require everyone's cooperation. Eventually the system will be able to work more efficiently and smoothly than ever. Mr. McKinney then responded to questions from commissioners. Following questions, President Pratt thanked Mr. McKinney on behalf of the commission.

7. **RECOGNITION OF ROBERT M. MCCURLEY ON HIS SERVICE WITH THE ALABAMA LAW INSTITUTE AND INTRODUCTION OF OTHNI J. LATHRAM AS THE NEW ALI DIRECTOR**

President Pratt recognized Mr. McCurley informing the commission that he had retired as director of the Alabama Law Institute after 37 years in that position. In recognition of his service, President Pratt and the commission gave Mr. McCurley a standing ovation. Mr. McCurley addressed his remarks to the commission. He explained the commission's instrumental role in creating ALI and discussed his career and the work of ALI including its first major code revision, the criminal code. Mr. McCurley stated that ALI was a model law reform organization and that it had succeeded because of all of the volunteer time donated to the drafting projects that ALI undertakes. He thanked the commission for their foresight in helping create ALI to facilitate the law reform process in Alabama.

Mr. Lathram was introduced as the new director and he addressed the commission. He discussed the extent of the work accomplished during Mr. McCurley's tenure (almost a hundred major pieces of legislation) as well as numerous publications and workshops. He stated that Mr. McCurley had left a tremendous legacy. Mr. Lathram echoed Mr. McCurley's comment that the legal profession was and is instrumental to the success of the institute and its law revision mission. He asked for the continued support of the legal profession for ALI's future projects.

President Pratt stated that ALI was the best organization of its type in the country and that it needs the continued support of the legal profession so that it can continue its important mission as the state's chief law reform agency. He thanked Mr. McCurley and Mr. Lathram for attending the meeting.

8. **PRESIDENT'S REPORT**

President Pratt recognized Diane Locke, Director of Personnel and Operations for her 30 years of service to the state bar. He noted that Ed's daughter Erin had given birth to Ellison Ann Joye. He then took a moment to mention Squire Gwin, David Wooldridge and Eason Mitchell because of their willingness to step up their efforts to help the Alabama Lawyers Assistance Program during the illness of Jeanne Marie Leslie. The President then reported on several projects including the success of the court funding summit, a planned seminar on campaign finance sponsored by the state bar's new Government/Ethics Section, and the soon to be held gathering of the leadership forum

alumni. He then explained that he had been working with local legislators as a third party neutral to hopefully address, in a constructive way, the financial problems confronting Jefferson County as well as requests by Federal Judge Lynwood Smith to help mediate the long standing Jefferson County personnel litigation.

**9. DONATED LEAVE POLICY**

President Pratt next mentioned the need to adopt a formal donated leave policy. He explained the draft policy which read as follows:

“A full-time employee of the Alabama State Bar may donate accrued and unused sick or annual leave to a state bar employee who has suffered a catastrophic illness or injury or is a caregiver for a member of his or her immediate family suffering a catastrophic illness or injury. A doctor’s verification may be requested by the employer. As a condition to receiving donated leave, the recipient employee must exhaust all his or her annual and sick leave. A donated leave form must be completed and donated leave will be credited as sick leave for the recipient employee. Donated leave that is unused by the recipient employee cannot be returned to the donating employee.”

COMMISSIONER STEPHENS MOVED TO SUSPEND THE RULES. THE MOTION WAS SECONDED. PRESIDENT PRATT DETERMINED THAT THE MOTION PASSED BY THE NECESSARY TWO-THIRD VOTES. COMMISSIONER GAINES MOVED TO ADOPT THE DONATED LEAVE POLICY AS OUTLINED. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

**10. PRESIDENT-ELECT’S REPORT**

President-elect McCallum discussed the anticipated work of the Government Liaison Committee (composed of Commissioners Mozingo, Broome, Swink and legislative counsel Edwards). He then highlighted some of the issues that are likely to be at the forefront of the legislative session and of interest to the legal profession including court funding, public adjusters, custody legislation, CASA legislation, private judging, TBOR, charter schools, and tort reform issues (including loser pay, workers comp and road builders immunity). Mr. McCallum then discussed several meetings held during the previous week to discuss several of these issues including custody legislation, CASA legislation and the public adjusters’ bill. He noted that while much of the legislation introduced was unlikely to move very far legislatively, he expressed the need for the bar to be prepared to deal with these and other possible pieces of legislation. He concluded by stating that the lawyer-legislator breakfast will be held February 15 and that invitations would be forthcoming.

**11. PROGRAM UPDATE**

Ed Patterson thanked the commission for their support during the recent challenges experienced by his family. He updated the commission on the committees as well as the leadership forum.

**12. OFFICE OF GENERAL COUNSEL REPORT**

Tony McLain reported that the petition for limited scope representation had been filed with the Alabama Supreme Court.

**13. UPDATE ON SPECIAL WEBSITE APP**

Brad Carr, Director of Communications and Laura Calloway, Director of Service Programs, demonstrated the web-based app that will be provided as a free member benefit for the enhanced delivery of information from the website for membership, elected officials and OGC opinions. The board was also shown the “job source” webpage on the bar’s website which will help lawyers looking for jobs and firms looking for employees to better connect with one another.

**14. TASK FORCE ON SECTION TO STUDY THE CREATION OF A CONSTRUCTION INDUSTRY SECTION**

President Pratt recognized Mr. Alec Moseley, chair of the task force to give a report. Mr. Moseley furnished a written report concerning their findings about the interest to create a section on the construction industry. He reported that there was significant interest in doing so and the task force urged the commission to consider establishing this section.

COMMISSIONER MITCHELL MOVED TO SUSPEND THE RULES IN ORDER TO VOTE ON CREATING A SECTION ON THE CONSTRUCTION INDUSTRY. PRESIDENT PRATT ASKED FOR A VOICE VOTE ON THE MOTION AND DETERMINED THAT THE MOTION PASSED WITH THE NECESSARY TWO-THIRDS VOTE.

COMMISSIONER MITCHELL MOVED TO CREATE THE SECTION OF THE ALABAMA STATE BAR ON THE CONSTRUCTION INDUSTRY. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

President Pratt thanked Mr. Moseley and the task force for their work.

**15. RULE III APPLICATIONS**

The secretary stated the following individuals submitted applications for admission by motion pursuant to Rule III of the *Rules Governing Admission to the Alabama State Bar*. They were as follows: Donnel Collins, (GA); Mathew Scott Gray, (MA); Benjamin David Joffe, (TN); Artisha Charleta Johnson, (GA); David Matthew Kittrell, (MS); Kristin Elizabeth Kubas, (TN); Bruce MacKenzie, (TX); William Lester Meck, II, (GA); John Aubrey Neeley, (GA); Tamara Neeley, (GA) and Amy Savoie, (TX). The secretary reported that the applicants had met all of the requirements including character and fitness review to be considered for admission under Rule III.

COMMISSIONER BEDSOLE MOVED THE ACCEPTANCE OF THE RULE III APPLICANTS AS PROPOSED. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

**16. SELF REGULATION AMENDMENT**

President Pratt stated that Vice President Watson headed up a task force to study possible proposed internal rules in the event the commission supported the self regulation amendment. Mr. Watson discussed proposed internal rules and highlighted four requirements concurred in by the task force. They were: (1) recommend increase in bar

dues cannot be passed by the commission without having appeared as a discussion item on at least one meeting agenda prior to the meeting where it is passed and there can be no suspension of the rules to pass an increase when it appears on the agenda as a discussion item, (2) written stand alone notice should be given to the Board of Commissioners at least ten (10) days prior to the meeting at which any increase in bar dues will be a discussion item, (3) any increase in bar dues requires approval by 66 2/3 percent of the commissioners voting on the issue, at a meeting where a quorum is present, and (4) any amendment to these four policies requires approval by 66 2/3 percent of the commissioners' vote on the issue at a meeting where a quorum is present. Discussion ensued and a motion was offered without the internal rules. That motion was withdrawn.

FOLLOWING FURTHER DISCUSSION AND COMMENTS BY THE COMMISSIONERS, COMMISSIONER WATSON MOVED THAT ALABAMA STATE BAR SEEK APPROPRIATE LEGISLATION TO PERMIT THE BOARD OF COMMISSIONERS BE SELF REGULATING AND SET ITS OWN LICENSE FEES AND THE ADOPTION OF THE FOUR INTERNAL RULES AS DISCUSSED. THE MOTION WAS SECONDED. THE MOTION WAS APPROVED BY VOICE VOTE.

**17. LAWYER RECOGNITION**

President Pratt recognized Commissioner Billy Bedsole who received the Howell Heflin Award from the Mobile Bar Association. Commissioner Bedsole stated that he was humbled to receive the award and expressed his feelings that the award belonged not just to him but to all members of the commission and staff.

**18. ADJOURNMENT**

President Pratt 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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James R. Pratt, III, President  
Alabama State Bar

ATTEST:

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Keith B. Norman, Secretary  
Alabama State Bar