

MINUTES

ALABAMA STATE BAR BOARD OF BAR COMMISSIONERS MEETING

The Grand Hotel
Point Clear, Alabama

Wednesday, July 15, 2009

1. CALL TO ORDER

President Mark White convened this meeting of the Alabama State Bar Board of Commissioners at 2:00 p.m. in the Azalea Salon C-F of the Grand Hotel in Point Clear, Alabama. President White recognized Immediate Past President Sam Crosby who 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
Randall S. Haynes	Cooper Shattuck	John M. Gruenewald
Phil D. Mitchell	Rocky Watson	Leslie R. Barineau
S. Greg Burge	Jack Neal	Phillip W. McCallum
Augusta S. Dowd	Maibeth J. Porter	Joseph A. Fawal
Robert E. Moorer	Jim Pratt	William A. (Pete) Short
Albert J. Trousdale, II	Henry A. Callaway, III	Walter H. Honeycutt
Billy C. Bedsole	Juan Ortega	Mary Margaret Bailey
Les Pittman	Cole Portis	Sim Penton
Lee Copeland	K. Scott Stapp	Ramona Morrison
Brian D. Mann	Hamp Baxley	John M. Peek
Harold Stephens	L. Thomas Ryan, Jr.	Richard J.R. Raleigh, Jr.
R. Wyatt Howell	Kenneth E. White III	Jerry Wayne Baker, Jr.
Allan Chason	Tut Wynne	Jason P. Knight
Buddy Lee	Eddie Beason	J. Milton Coxwell, Jr.
Don Word	Alexander M. Smith	Walter E. McGowan
Deborah Byrd Walker	Alicia F. Bennett	LaBarron Boone
David K. Howard		

The following Commissioners were absent:

J. Garrison Thompson	Hays Webb	Richard W. Whittaker
James R. Beard	Les Hayes, III	Donald R. Jones, Jr.
F. Michael Haney	Julia C. Kimbrough	John L. Jernigan, III
J. Dale Lawrence, Jr.	Robert L. Rumsey	Elizabeth Parsons
John M. Kennemer	Christopher E. Malcom	Robert T. Meadows, III
Jere C. Trent	David F. Law	Claude E. Hundley, III
Merceria Ludgood	Kesa Johnston	Kelly T. Lee

President-elect Tom Methvin, Immediate Past President Sam Crosby and President-elect Designate Alyce Spruell were present. Staff members present included Tony McLain, Ed Patterson, Brad Carr, Jeremy McIntire, Sam Partridge, Robby Lusk, Diane Locke, Laura Calloway, Linda Lund, Angela Parks and Jeanne Marie Leslie.

3. **APPROVAL OF THE MINUTES OF THE BOARD OF COMMISSIONERS MEETING FOR APRIL 3, 2009**

President White stated that the minutes of the Board of Commissioners meeting for April 3, 2009 had been disseminated to the board. He asked if there were any corrections, additions or deletions. There were none.

COMMISSIONER FAWAL MOVED TO APPROVE THE MINUTES OF THE BOARD OF COMMISSIONERS MEETING FOR APRIL 3, 2009. THE MOTION WAS SECONDED AND APPROVED BY UNANIMOUS VOICE VOTE.

4. **INTRODUCTION OF NEW COMMISSIONERS AND GUESTS**

President White introduced the new commissioners:

Cleveland Poole
Replacing Michael E. Jones, 2nd Judicial Circuit

Robert Hays Webb
Replacing Alyce Spruell, 6th Judicial Circuit, Place 2

Leslie R. Barineau
Replacing Anthony Joseph, 10th Judicial Circuit, Place 1

Augusta Dowd
Replacing Greg Hawley, 10th Judicial Circuit, Place 5

Walter Honeycutt
Replacing Billy Cunningham, 13th Judicial Circuit, Place 2

Les Pittman
Replacing James Anderson, 15th Judicial Circuit, Place 2

Julie Kimbrough
New Commissioner, 18th Judicial Circuit, Place 2

Hamp Baxley
Replacing Joseph A. Morris, 20th Judicial Circuit

J. Dale Lawrence, Jr.
Replacing Ronald H. Strawbridge, Jr, 24th Judicial Circuit

Jerry Wayne Baker, Jr.
Replacing John C. Gullahorn, 27th Judicial Circuit

Don Word
Replacing Gerald R. Paulk, 38th Judicial Circuit

David K. Howard
Replacing Pam Bucy, At-Large, Place 7

The new commissioners were welcomed to the board with a round of applause.

President White introduced the following guests: Bob Bailey, YLS president-elect; John Pickens, Executive Director, Alabama Appleseed; Ted Hosp, chairman of the Access to Justice Commission; Lee Ann Pasker, director of the Huntsville VLP program and Blakely Davis, director of the Mobile VLP program. Andrew Hairston, a native of Fort Payne and current law student, was introduced by Commissioner Watson.

5. **PRESIDENT'S REPORT**

President White thanked the staff for their devotion and hard work throughout his bar year. He expressed appreciation to President-elect Methvin for the president-elect's dedication as well. President White then read a note from Eleventh Circuit Court of Appeals Judge Phyllis Kravitch thanking the bar for its joint resolution with the state bars of Florida and Georgia.

President White mentioned that Attorney General Troy King had indicated in a letter to him that his office was declining to take any action concerning its investigation of television advertising purchased by out of state interests during the general election in the Supreme Court associate justice race.

President White thanked Commissioner Pratt, bar legislative counsel Suzi Edwards and Kim Adams as well as the entire legislative committee for their efforts in helping secure the passage of the minimum experience bill and the bar exam fee bill. He noted that during the legislative session the Panel of Neutrals had been very successful and much appreciated by the legislature. President White then recognized Commissioner Pratt for remarks.

Following remarks by Commissioner Pratt, President White thanked the special projects committee of the Leadership Forum, and Jenna Bedsole in particular, for their work in analyzing the spending of discretionary funds by the legislature.

He then commented on the Technology Committee that had been appointed to work on e-filing and related issues. He stated President-elect Designate Alyce Spruell and Clay Alspaugh would head up this committee. He encouraged commissioners to let them know of concerns and problems in the context of e-filing and technology as it relates to the practice of law and the courts.

6. **SECRETARY'S REPORT**

The Secretary read a letter from former commissioner Everette Price who expressed his regrets for not being in attendance at the annual meeting due to surgery. The Secretary then reviewed the financial report for the third quarter. After reviewing the report, he asked if there were any questions. There were none.

7. **COMMUNICATIONS REPORT**

Mr. Carr stated that there was no oral report.

8. **PROGRAMS UPDATE**

Assistant Executive Director Ed Patterson gave a brief report.

9. **OGC UPDATE**

General Counsel Tony McLain reported that 96 lawyers who had been reimbursed in an excess of \$100,000 in the last fiscal year for indigent defense costs had received a letter requesting information on behalf of the Disciplinary Commission. He stated that at this point there was no investigation but merely a request for information from the 96 attorneys in question.

10. **REPORT OF THE CLIENT SECURITY FUND TASK FORCE**

President White stated that the report on the Alabama State Bar Client Security Fund by the Standing Committee on Client Protection of the American Bar Association would be discussed at a future commission meeting. He asked commissioners, however, to review the report in order to be familiar with it.

11. **PROPOSED AMENDMENT TO RULE 6.1 FOR REPORTING PRO BONO PUBLIC SERVICE**

President White recognized Commissioner Cooper Shattuck who informed the commission of the request of the VLP Committee to amend Rule 6.1 of the *Rules of Professional Conduct*. The proposed amendment would require Alabama attorneys to report how many hours of pro bono service they render each year. He reminded commissioners that this was only a discussion item for this meeting. There were several questions following his remarks. Commissioner Shattuck was asked if the reporting requirement was mandatory and he stated that it would not be mandatory at this time. Concern was expressed over the privacy of information that would be collected on pro bono service. Another inquiry was whether or not this was merely the first step on making it mandatory to render a certain number of pro bono hours each year. Commissioner Shattuck replied that any decision to make pro bono mandatory would first require approval of the Board of Bar Commissioners.

12. REPORT ON THE ALABAMA JUDICIAL SYSTEM

President White gave a brief status report on the Alabama Judicial System study. He noted that the Supreme Court had said that it would accept no oral arguments concerning the study but would only accept written reports.

13. PRO BONO WEEK REPORT

President White recognized Commissioners Raleigh and Mitchell for a report. They explained that the First Annual National Celebration of Pro Bono Week would occur October 25-31. Commissioner Mitchell stated that a task force had been appointed to help plan and implement the celebration in Alabama. He reported that much work had been done but there was still much to be completed in preparation for the celebration. Commissioner Mitchell informed the commission that Governor Riley had signed a proclamation honoring pro bono week and that the three judges associations in Alabama along with a number of mayors across the state had also signed similar resolutions honoring pro bono week. Commissioner Mitchell stated that all segments of the legal community, from students to judges, were planning activities in circuits and counties across the state. Commissioner Raleigh encouraged the commissioners spread the word among civic groups in their circuits and that talking points would be available to be used for speaking at civic clubs and before other public groups in their communities. Commissioner Mitchell discussed the proposed budget of \$10,000 to help publicize the event. He stated that the budget covered approximately \$8,000 of budgeted items and \$2,000 to cover miscellaneous costs if necessary. Commissioner Raleigh also asked the commission to consider adopting the following resolution in support of the National Pro Bono Week celebration. The resolution read as follows:

WHEREAS, last year one in every four of the 940,872 Alabamians living in poverty experienced legal problems, with the majority of these civil problems being consumer issues (creditor harassment, utility non-payment, bankruptcy issues), health issues (Medicaid, government insurance, nursing home), family law issues (divorce, child support/custody, abuse), employment issues (unemployment benefits, pension, lost job), and housing issues (unsatisfactory repairs, foreclosure, eviction, poor living conditions); and

WHEREAS, each year the low-income citizens of Alabama lack access to legal assistance for their legal problems that are often critical to their safety and independence, forcing them to resolve complex legal problems on their own; and

WHEREAS, the need for legal aid in Alabama is dire, since unlike in the criminal defense system, funding for low-income Alabamians who need civil legal assistance has not yet been fully met, with the consequences being a lack of access to justice which is devastating for the poor and which weakens our democratic society as a whole; and

WHEREAS, Alabama attorneys donated over 5200 hours of pro bono legal services last year and made generous financial contributions to legal aid organizations in Alabama to help address the huge unmet need for legal assistance to Alabama's poor; and

WHEREAS, the American Bar Association has designated October 25-31, 2009 as the first National Pro Bono Week Celebration to recognize the valuable pro bono contributions made by lawyers throughout the year, and to increase pro bono participation across the country to narrow the justice gap;

NOW, THEREFORE, BE IT RESOLVED that the Board of Bar Commissioners of the State Bar of Alabama recognizes the week of October 25-31, 2009, as the first National Pro Bono Week Celebration, commends Alabama attorneys for their ongoing pro bono contributions, and reminds all members that by engaging in pro bono work and providing financial support they can make a significant difference in the lives of Alabama's poor who would not otherwise have access to the legal system.

COMMISSIONER RALEIGH MOVED TO SUSPEND THE RULES IN ORDER TO ALLOW THE COMMISSION TO CONSIDER THE EXPENDITURE OF FUNDS TO CELEBRATE NATIONAL PRO BONO WEEK AND ADOPT THE RESOLUTION RECOGNIZING PRO BONO WEEK. THE MOTION WAS SECONDED.

PRESIDENT WHITE ASKED FOR A SHOW OF HANDS TO SUSPEND THE RULES. THE MOTION TO SUSPEND THE RULES WAS APPROVED BY THE NECESSARY TWO-THIRDS VOTES.

COMMISSIONER FAWAL MOVED TO APPROVE OF THE EXPENDITURE OF UP TO \$10,000 FOR THE CELEBRATION OF NATIONAL PRO BONO WEEK AND TO ADOPT THE RESOLUTION RECOGNIZING THE NATIONAL PRO BONO WEEK CELEBRATION. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

President White thanked Commissioners Mitchell and Raleigh and the task force for their work in organizing and planning the celebration for National Pro Bono Week.

14. APPROVAL OF THE 2009 CLASS OF THE ALABAMA LAWYERS HALL OF FAME

President White reported the Hall of Fame Selection Committee had recommended that Francis Hare, Jr., Michael A. Figures, Sam A. Pipes be inducted in the Alabama Lawyers Hall of Fame for 2009. He stated that the committee had also recommended that Clement Comer Clay and James G. Birney be inducted in the category for lawyers who have been deceased at least 100 years.

In making these recommendations for the 2009 class, President White reported that the Selection Committee had asked the commission to allow the Selection Committee to select and recommend at least five members per year, three of whom would be in the category of having been deceased at least two years and not more than 100 years.

COMMISSIONER GRUENEWALD MOVED THE APPROVAL OF THE SELECTION COMMITTEE'S RECOMMENDATION FOR THE CLASS OF 2009 AND TO ALLOW THE SELECTION COMMITTEE TO RECOMMEND AT LEAST THREE INDUCTEES WHO HAVE BEEN DECEASED AT LEAST TWO YEARS AND NOT MORE THAN 100 YEARS. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

15. RULE III APPLICATIONS

President White stated that Jonathan R. Coe (Georgia); Kelly R. Horwitz (D.C.); Nicholas J. Landau (Virginia); Mark B. Link (Georgia); Susan Lynn Turley (Texas); David King Bowsher (D.C.); David Walter Cyback (Illinois); Paul P. Clemens (Kentucky) and Erich M. Neiderlehner (Texas) had filed applications for admission by motion pursuant to Rule III of the *Rules Governing Admission to the Alabama State Bar*. He stated that each applicant complies with Rule III including character and fitness requirements necessary for admission.

COMMISSIONER MITCHELL MOVED TO APPROVE JONATHAN R. COE (GEORGIA); KELLY R. HORWITZ (D.C.); NICHOLAS J. LANDAU (VIRGINIA); MARK B. LINK (GEORGIA); SUSAN LYNN TURLEY (TEXAS); DAVID KING BOWSHER (D.C.); DAVID WALTER CYBACK (ILLINOIS); PAUL P. CLEMENS (KENTUCKY) AND ERICH M. NEIDERLEHNER (TEXAS) FOR ADMISSION PURSUANT TO RULE III OF THE *RULES GOVERNING ADMISSION TO THE ALABAMA STATE BAR*. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

16. REAPPOINTMENT OF BAR EXAMINER AND APPROVAL OF NEW BAR EXAMINER

President White stated that Karen Laneaux had indicated her willingness to serve another four year term on the Board of Bar Examiners if reappointed. He also stated that Al Vance of Birmingham had been recommended to the board for appointment to an existing vacancy. He stated Ms. Laneaux's new term and Mr. Vance's term would commence with the July bar exam.

COMMISSIONER RALEIGH MOVED THE REAPPOINTMENT OF KAREN LANEUX AS BAR EXAMINER AND APPOINTMENT OF AL VANCE AS A NEW EXAMINER WITH THEIR RESPECTIVE TERMS TO COMMENCE WITH THE JULY 2009 BAR EXAMINATION. THE MOTION WAS SECONDED AND APPROVED.

17. BAR EXAM FEE INCREASE

President White stated the bar exam fee bill had passed in the last legislative session. He noted that the Board of Bar Commissioners was now able to increase both exam fees and investigative report fees that were previously capped. He stated that the following new fees were being recommended effective for the February 2010 application: Bar Exam Fee: \$475; Investigative Fee (for out-of-state applicants): \$275; Investigative Fee (foreign applicants): \$600.

COMMISSIONER BEDSOLE MOVED TO INCREASE THE BAR EXAM FEE TO \$475; INVESTIGATIVE FEES FOR OUT OF STATE APPLICANTS TO \$275 AND FOR FOREIGN APPLICANTS TO \$600. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

18. APPROVAL OF FED-EX MEMBERSHIP BENEFIT AGREEMENT

President White stated this member benefit would replace the previous program the bar had with DHL that was cancelled by the shipper. Under the contract for FedEx service, enrolled bar members would redeem a discount up to 32 percent off base tariffs with the bar to receive a one percent royalty. He stated that this was very similar to the previous discount arrangement with DHL.

COMMISSIONER RALEIGH MOVED TO APPROVE THE MEMBERSHIP BENEFIT AGREEMENT WITH MERIDIAN (FEDEX). THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

19. LEGAL SERVICES ALABAMA BOARD APPOINTMENTS

President White stated that John Saxon had been recommended to replace Frances Heidt and that Jim Roberts had been recommended to replace Alyce Spruell on the LSA Board of Directors.

COMMISSIONER GRUENEWALD MOVED THE APPOINTMENT OF JOHN SAXON AND JIM ROBERTS TO THE LSA BOARD OF DIRECTORS. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

20. APPOINTMENT TO THE REAL PROPERTY ELECTRONIC RECORDING COMMISSION

President White stated that the Electronic Recording Commission was to appoint two candidates to the new commission. He reported that the Real Property and Trust Law Section had recommended the names of 10 individuals for this newly created commission. He read the names of the nominees who included Jenna Stephens, John Holliman, Paul Pate, Angie Godwin McEwen, Brian Mann, Jeff Lees, Walter F. Scott, John Pickering, Martin Woosley and Palmer Smith. President White explained that voting would be conducted by show of hands. Each commissioner would be allowed to vote for two of the candidates. He asked for comments from the floor about any of the candidates. Following comments, Commissioner Mann was excused from the room.

COMMISSIONER GRUENEWALD MOVED TO CLOSE NOMINATIONS. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

PRESIDENT WHITE RECITED THE NAMES OF EACH CANDIDATE AND ASKED FOR A SHOW OF HANDS FOR EACH. BRIAN MANN AND PALMER SMITH RECEIVED THE HIGHEST NUMBER OF VOTES AND WERE DECLARED ELECTED TO THE ELECTRONIC RECORDING COMMISSION.

21. **AMENDMENT TO THE STATEMENT OF POLICIES FOR SECTION TO INCORPORATE LANGUAGE FOR SUPPORTING PRO BONO SUBCOMMITTEES**

President White stated that the current statement of policy for sections makes no provision for the appointment of a pro bono subcommittee. As proposed, the new language would read as follows: “(6) Committees. The section shall designate a pro bono committee whose purpose and scope shall be to encourage and facilitate the ability of its members to meet their professional responsibilities under Rule 6.1 of the *Rules of Professional Conduct*. The pro bono committee is encouraged to coordinate its activities with the appropriate committees of the bar and the organized pro bono programs in the state. The section may designate such additional committees as it deemed appropriate and shall establish the jurisdiction of the committees.”

COMMISSIONER MITCHELL MOVED THE APPROVAL OF THE AMENDMENT TO THE STATEMENT OF POLICIES FOR THE SECTIONS. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

22. **APPOINTMENTS TO THE CHIEF JUSTICE’S COMMISSION ON PROFESSIONALISM**

President White stated that the terms of Douglas McElvy, Leon Ashford, Sam Franklin, Sam Crosby and Ernestine Sapp had concluded. He stated that each had expressed a willingness to continue to serve on the commission if reappointed.

COMMISSIONER MCCALLUM MOVED THE REAPPOINTMENT OF DOUGLAS MCELVY, LEON ASHFORD, SAM FRANKLIN, SAM CROSBY, AND ERNESTINE SAPP TO THE CHIEF JUSTICE’S COMMISSION ON PROFESSIONALISM. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

23. **MOTION TO ADJOURN TO A DATE CERTAIN**

President White stated that the hour was late and there were still items on the agenda to be covered. He asked the pleasure of the commission.

COMMISSIONER POOLE MOVED THAT UPON ADJOURNMENT THE COMMISSION ADJOURN TO A DATE CERTAIN, SPECIFICALLY SATURDAY, JULY 18, 2009 IMMEDIATELY FOLLOWING THE GRAND CONVOCATION. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

