

MINUTES

ALABAMA STATE BAR BOARD OF BAR COMMISSIONERS MEETING

Sandestin Hilton Hotel
Emerald Ballroom A-B
Destin, Florida

Wednesday, July 9, 2008

1. CALL TO ORDER

President Sam Crosby convened this meeting of the Alabama State Bar Board of Commissioners at 2:00 p.m. in Ballroom A-B of the Sandestin Hilton Hotel in Destin, Florida. Vice President Bennett gave the invocation.

2. INTRODUCTION OF GUESTS

President Crosby introduced Jimbo Terrell, incoming president of the Young Lawyers' Section, Access to Justice Commission chair, Ted Hosp, Honorable Jimmy Fry, executive director of Legal Services Alabama and John Pickens and Craig Baab with the Alabama Appleaseed Center.

3. ROLL CALL

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

Ronnie E. Keahey	Christy Crow	Randall S. Haynes
Cooper Shattuck	Alyce M. Spruell	John M. Gruenewald
Phil D. Mitchell	W. N. (Rocky) Watson	Anthony A. Joseph
S. Greg Burge	Jack Neal	Phillip W. McCallum
Greg Hawley	Maibeth J. Porter	Joseph A. Fawal
Robert E. Moorer	Jim Pratt	William A. (Pete) Short
Albert J. Trousdale, II	Henry A. Callaway, III	William M. Cunningham
Billy C. Bedsole	Juan Ortega	Mary Margaret Bailey
James H. Anderson	Donald R. Jones, Jr.	Cole Portis
Sim Penton	Lee H. Copeland	K. Scott Stapp
Ramona Morrison	Brian D. Mann	John L. Jerigan, III
L. Thomas Ryan, Jr.	Richard J. R. Raleigh, Jr.	R. Wyatt Howell
Kenneth E. White, III	Allan Chason	Tut Wynne
Robert L. Rumsey	Elizabeth Parsons	John M. Kennemer
Eddie Beason	J. Milton Coxwell	Christopher E. Malcom
Gerald R. Paulk	David F. Law	Alexander M. Smith
Walter E. McGowan	Merceria Ludgood	Alicia F. Bennett
Pamela H. Bucy	Kesa Johnston	

The following Commissioners were absent:

Michael E. Jones	J. Garrison Thompson	Richard W. Whittaker
James R. Beard	Les Hayes, III	F. Michael Haney
Joseph A. Morris	Harold Stephens	Ronald H. Strawbridge, Jr.
John C. Gullahorn	Jason P. Knight	Buddy Lee
Robert T. Meadows	Jerry C. Trent	Claude E. Hundley, III
Deborah Byrd Walker	LaBarron Boone	Kelly T. Lee

Also in attendance were president-elect Mark White, immediate past president Boots Gale and president-elect designate Tom Methvin. Staff members present included Tony McLain, Ed Patterson, Brad Carr, Sam Partridge, Jeremy McIntire, Robby Lusk, Diane Locke and Laura Calloway. Also in attendance was Tracy Daniel of the Alabama Law Foundation.

4. APPROVAL OF THE MINUTES OF THE BOARD OF COMMISSIONERS MEETING FOR MAY 16, 2008.

President Crosby stated that the minutes of the Board of Commissioners meeting for May 16, 2008 had been disseminated to the board. He asked if there were any corrections, additions or deletions. There were none.

COMMISSIONER BEDSOLE MOVED TO APPROVE THE MINUTES OF THE BOARD OF COMMISSIONERS MEETING FOR MAY 16, 2008. THE MOTION WAS SECONDED AND THE MINUTES WERE APPROVED BY UNANIMOUS VOICE VOTE.

5. PRESIDENT'S REPORT

President Crosby gave his farewell as president. He thanked the commissioners and staff for their support. New commissioners were introduced next:

Phil D. Mitchell, 8th Judicial Circuit, Decatur
 Henry A. Callaway, III, 13th Judicial Circuit, Place Number 1, Mobile
 Ramona J. Morrison, 18th Judicial Circuit, Columbiana
 Brian D. Mann, 19th Judicial Circuit, Wetumpka
 John L. Jernigan, III, 21st Judicial Circuit, Brewton
 John M. Peek, 22nd Judicial Circuit, Andalusia
 Eddie Beason, 34th Judicial Circuit, Russellville
 J. Milton Coxwell, 35th Judicial Circuit, Monroeville
 Chris Malcom, 36th Judicial Circuit, Moulton
 Alexander M. Smith, 41st Judicial Circuit, Oneonta
 LaBarron Boone, At-Large, Montgomery (not in attendance)

After commissioner introductions, President Crosby referred to the Alabama Legal Needs Survey and the Alabama Access to Justice Commission's 2008 annual report. Copies of both reports were disseminated to the commission. President Crosby then reported on the professionalism support initiative that was approved by the Professionalism Commission. He also reported that the mediator confidentiality law was signed by the governor and that indigent defense legislation would be introduced at the next legislative session along with legislation to establish minimum standards for judges.

6. SECRETARY'S REPORT

The Secretary informed the commission that mileage reimbursement for travel had been increased effective July 1, 2008 to the rate of 58.5 cents per mile.

7. COMMUNICATIONS UPDATE

The commission received a written report from the Communications Department.

8. PROGRAMS UPDATE

There was no programs update for the meeting.

9. OFFICE OF GENERAL COUNSEL REPORT

General Counsel Tony McLain asked if there were any questions concerning the recent slate of rules approved by the Supreme Court amending the Alabama Rules of Professional Conduct. He responded to several questions concerning the amendments.

10. RULE 6.6 – RULES OF PROFESSIONAL CONDUCT TO PERMIT SPECIAL MEMBERS OF THE BAR TO RENDER PRO BONO SERVICES

Commissioner Shattuck explained the proposed rule that would allow Alabama lawyers holding a special membership to provide pro bono services under tight restrictions. After explaining the proposal, Commissioner Shattuck asked if there were any questions and there none.

11. REPORT OF THE HISTORY AND ARCHIVES COMMITTEE

Chairman Ben Spratling updated the commission on the proposed agreement for the Bench and Bar Legal Society to cover the cost of publishing a book on the history of the legal profession in Alabama. He informed the commission that the agreement between the committee and the Bench and Bar Legal Society would be a joint venture and would allow for the publication of the manuscript which has been completed by author Pat Rumore. The Society would advance the funds to pay for the book's publication and would be reimbursed from the proceeds from the sale of the book. Any proceeds over and above the cost of publication would be divided between the Society and the Alabama Law Foundation. He reported on several other likely changes in the draft agreement which the commission had authorized at its October 2007 meeting.

12. **REQUEST FOR ABA EVALUATION OF THE CLIENT SECURITY FUND PROGRAM**

The Secretary stated that the Client Security Fund Committee requested permission to allow the American Bar Association's Standing Committee on Client Protection to conduct an on-site consultation of the program. The Secretary noted that other bar programs had received similar evaluations. He explained that a team of individuals experienced in the field of client protection including members of the ABA Standing Committee and the National Client Protection Organization (NCPO) would come to Alabama and examine the structure, operations and procedures of Alabama's Client Security Fund. He further noted that the consultation team reports its findings and recommendations and with follow-up assistance, if requested, is available to help implement recommendations outlined in the report. The Secretary stated that the cost involved the travel cost of the consultation team which would be approximately \$2,500 and be born by the Client Security Fund. This would be an action item at the September meeting.

13. **MAUD MCLURE KELLY AWARD RECIPIENTS**

President Crosby stated that the Women's Section had recommended that Louise Ingram Turner and Jane Kimbrough Dishuke both receive the Maud McLure Kelly Award for 2008.

COMMISSIONER SPRUELL MOVED TO RATIFY THE WOMEN'S SECTION SELECTION OF LOUISE INGRAM TURNER AND JANE KIMBROUGH DISHUKA AS RECIPIENTS OF THE MAUD MCLURE KELLY AWARD FOR 2008. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

14. **2008 ALABAMA LAWYER HALL OF FAME INDUCTEES**

President Crosby reported that the Selection Committee for the Alabama Lawyers Hall of Fame had recommended John B. Scott, Vernon Z. Crawford, Edward M. Friend, Jr. and Elisha Woosley Peck as the 2008 inductees for the Alabama Lawyer Hall of Fame.

COMMISSIONER WATSON MOVED THE APPROVAL OF JOHN B. SCOTT, VERNON Z. CRAWFORD, EDWARD M. FRIEND, JR. AND ELISHA WOOSLEY PECK AS INDUCTEES TO THE ALABAMA LAWYER HALL OF FAME FOR 2008. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

15. **APPOINTMENT OF BAR MEMBER TO THE STATE FAMILY LAW TASK FORCE**

President Crosby stated that the legislature in the last term passed House Joint Resolution 30 establishing a statewide family law task force to study issues related to family law. He reported that the legislation listed, the Alabama State Bar as one of the appointing authorities to select a member to serve on the task force. President

Crosby noted that Robby Lusk, assistant general counsel, had been suggested for this appointment. He asked if there were nominations from the floor. Commissioner Ryan nominated Amy Slayden of Huntsville.

COMMISSIONER ANDERSON MOVED THAT NOMINATIONS BE CLOSED. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE. PRESIDENT CROSBY ASKED FOR A SHOW OF HANDS FOR EACH OF THE NOMINEES. AFTER COUNTING THE VOTES FOR EACH OF THE NOMINEES, IT WAS DETERMINED THAT MR. LUSK WAS ELECTED TO SERVE ON THE STATE FAMILY LAW TASK FORCE.

16. AETNA INSURANCE PROPOSAL

President Crosby recognized Elizabeth Bookwalter, chair of the Insurance Programs Committee. Ms. Bookwalter introduced Mr. Bill Bass and Mr. Nathan Gardner of ISI Alabama. Ms. Bookwalter explained that the AETNA proposal would provide a second hospitalization plan for bar members. She stated the committee had unanimously recommended adopting the program. She then asked Mr. Bass to give an overview of the plan. Mr. Bass explained that the AETNA plan would join the World Insurance plan that was currently available for state bar members. He noted that while the World Insurance program was essentially a discount plan for individual policyholders, the AETNA program was a true association type plan. He gave an overview of its provisions and concluded by noting that employees of a member's firm could get coverage under the AETNA plan even if the attorney chose not to do so.

President Crosby thanked Mr. Bass and Mr. Gardner as well as Ms. Bookwalter.

COMMISSIONER HAYNES MOVED THE ENDORSEMENT OF THE AETNA HOSPITALIZATION INSURANCE PLAN RECOMMENDED BY THE INSURANCE PROGRAMS COMMITTEE. A MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

17. AMENDMENT OF SICK LEAVE POLICY FOR STATE BAR STAFF MEMBERS

The Secretary explained that the proposed amendment would abolish the current policy of advancing up to 96 hours of sick leave for staff members. He stated that because of the new annual leave policy, flex time and the large number of state holidays that can be used for personal time, advancement of sick leave was no longer necessary. The Secretary noted that the amendment would become effective January 1, 2009 if approved. A copy of the proposed sick leave policy amendment was circulated for the commission's review and discussion.

President Crosby asked if there were any questions concerning the proposed amendment to the staff sick leave policy. There were none.

COMMISSIONER PRATT MOVED THE ADOPTION OF THE SICK LEAVE POLICY AMENDMENT AS CIRCULATED TO THE COMMISSION. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

(A copy of the amended sick leave policy is included as a part of these minutes as Attachment A)

18. RULE III APPLICATIONS

President Crosby stated that Lynda Motes Hill, admittee of the Tennessee Bar, was seeking admission pursuant to Rule III of the *Alabama State Bar Rules Governing Admission*. He explained that her application had been reviewed and that it met all of the character and fitness requirements for admission under Rule III.

COMMISSIONER WHITE MOVED THE ADMISSION OF LYNDA MOTES HILL OF THE TENNESSEE BAR FOR ADMISSION TO THE ALABAMA STATE BAR PURSUANT TO RULE III OF THE *ALABAMA STATE BAR RULES GOVERNING ADMISSION*. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

19. NOMINATING COMMITTEE REPORT

President Crosby called on Commissioner Bedsole for the nominating committee report. Commissioner Bedsole made the report on behalf of the nominating committee.

20. MOTION TO ADJOURN TO DATE CERTAIN

President Crosby noted that the hour was late and there was still additional business to be considered. He asked the pleasure of the Commission.

COMMISSIONER BEDSOLE MOVED THAT UPON ADJOURNMENT FOR THE DAY, THE BOARD OF COMMISSIONERS BE ADJOURNED TO SATURDAY, JULY 12, 2008 IMMEDIATELY FOLLOWING THE GRANDE CONVOCATION AND BUSINESS MEETING. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

21. ELECTION OF ALABAMA LAW FOUNDATION TRUSTEES

President White stated that it was recommended that Richard T. Dorman, Patrick S. McCalman and Ann White Mitchell be appointed as trustees of the Alabama Law Foundation Board of Trustees.

COMMISSIONER FAWAL MOVED THE APPOINTMENT OF RICHARD T. DORMAN, PATRICK S. MCCALMAN AND ANN WHITE MITCHELL TO THE BOARD OF TRUSTEES OF THE ALABAMA LAW FOUNDATION. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

22. **LOCAL LAWYER RECOGNITION**

President White called on General Counsel Tony McLain. Mr. McLain stated that Commissioner Buddy Lee of the 33rd Judicial Circuit could not be present for the commission meeting to read a resolution recognizing James W. “Squirrel” Kelly of the 33rd Judicial Circuit for the local lawyer recognition. The following resolution was read and proposed for adoption:

WHEREAS James W. “Squirrel” Kelly, who had practiced law in Geneva County, Alabama for fifty-eight (58) years, announced his retirement from active practice in June of 2008; and

WHEREAS James W. Kelly, a native of Hartford, Alabama, who was born June 6, 1925, graduated from Geneva County High School, The University of Alabama, and on June 5, 1950 from the University of Alabama School of Law; and

WHEREAS James W. Kelly served in the United States Navy during World War II as a Naval Aviator prior to attending law school; he married his high school sweetheart and wife of sixty years, Evelyn Henry Kelly, while in law school; and

WHEREAS immediately after being admitted to practice law in Alabama on June 28, 1950, James W. Kelly returned to his beloved Geneva County where he began a long and distinguished career as a self proclaimed “Country Lawyer” and

WHEREAS James W. Kelly represented his clients in an exemplary manner with honesty, integrity, and ethics always at the forefront in his dealings with his fellow lawyers, judges and clients; and

WHEREAS James W. Kelly is not only a “lawyers” lawyer, but also a devoted husband, father, grandfather, and great-grandfather; and

WHEREAS James W. Kelly has zealously represented his clients in State and Federal Court in both Civil and Criminal matters within the confines of the Creed of the Alabama

State Bar Association, all the while serving his community as a member of the Geneva City Board of Education, the Geneva Rotary Club, and for many years as attorney for Geneva County, Wiregrass Medical Center, and the Geneva County Gas District; and

WHEREAS James W. Kelly has always earned the respect of the Judges he has appeared before and his fellow attorneys. He has not sought wealth, praise, or glory but rather has taken tremendous pride in his honesty, ethics, dedication, compassion, and last but not least, stamina.

NOW THEREFORE, BE IT RESOLVED by the Board of Commissioners of the Alabama State Bar Association that James W. Kelly be recognized, upon his retirement, by this association as one distinguished “Country Lawyer.”

DONE this the 9th day of July, 2008.

COMMISSIONER WATSON MOVED THE ADOPTION OF THE RESOLUTION HONORING JAMES W. “SQUIRREL” KELLY. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

23. ADJOURNMENT

President Crosby asked for a motion to adjourn. A motion was made and duly seconded to adjourn.