

MINUTES

ALABAMA STATE BAR BOARD OF BAR COMMISSIONERS MEETING

State Bar Building
Montgomery, Alabama

Friday, November 4, 2011

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 CHIEF JUSTICE AND ATTORNEY GENERAL

President Pratt welcomed Chief Justice Chuck Malone and Attorney General Luther Strange. He asked them to make whatever remarks they wished to make. Chief Justice Malone expressed appreciation for his invitation to attend the commissioners meeting. He outlined his plan to help secure much needed funding for the judicial system by educating legislators on the importance of providing adequate funding for the judicial branch of government. He stated that his plan was to have all lawyers speak as one voice to the legislature concerning the importance of increasing the court's funding after years of severe cuts.

The Attorney General expressed his appreciation to be invited to appear before the commission. He briefly discussed the operation of the Attorney General's Office and stated that as Attorney General he plans to encourage lawyers to become involved in public service and become more collegial. He concluded by saying that it was an honor to serve as Attorney General.

President Pratt thanked the Chief Justice and the Attorney General for attending the commission meeting.

3. ROLL CALL

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

Ronnie E. Keahey	Cleve Poole	Christy Crow
Phil D. Mitchell	Rocky Watson	Leslie R. Barineau
S. Greg Burge	Augusta Dowd	Teresa G. Minor
Joseph A. Fawal	Robert E. Moorer	William A. (Pete) Short
Albert J. Trousdale, II	Henry A. Callaway, III	Billy C. Bedsole
Juan Ortega	Harry V. Satterwhite	James R. Beaird
Frank M. Wilson	Les Pittman	J. Flynn Mozingo
Cole Portis	Lee H. Copeland	F. Michael Haney
K. Scott Stapp	William Randall May	Julia C. Kimbrough
David A. McDowell	Hamp Baxley	John L. Jernigan, III
John M. Peek	Harold Stephens	L. Thomas Ryan, Jr.

Richard J.R. Raleigh, Jr.	Jerry Wayne Baker, Jr.	Samuel W. Irby
Elizabeth Parsons	Rebecca Green Thomason	J. Milton Coxwell, Jr.
H. Jerome Thompson	Don Word	Gregory M. Varner
Alex M. Smith	Meredith S. Peters	Merceria Ludgood
Monet M. Gaines	Ashley E. Swink	

The following commissioners were absent:

J. Garrison Thompson	Robert Simms Thompson	Terri O. Tompkins
Hays Webb	William H. Broome	Jack Neal
Robert G. Methvin, Jr.	Derrick A. Mills	Richard W. Whittaker
Walter H. Honeycutt	J. Dale Lawrence, Jr.	R. Wyatt Howell
Kenneth E. White, III	Allan Chason	Robert L. Rumsey
Braxton W. Ashe	Jason P. Knight	Robert H. Brogden
Roger W. Pierce	John M. Plunk	Walter E. McGowin
Claude E. Hundley, III	Alicia F. Bennett	LaBarron Boone
David K. Howard		

President-elect Phillip McCallum and Immediate Past President Alyce Spruell were present. Staff members present included Tony McLain, Laura Calloway, Brad Carr, Linda Lund, Jeremy McIntire, Robby Lusk, Sam Partridge and Christina Butler. 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. RECOGNITION OF GUESTS

Commissioner Short introduced Bessemer Bar Association president Danny Ray Davis. Will Sellers and Hank Hutchison of the Tax Section were recognized for a special presentation to President Pratt. Mr. Sellers and Mr. Hutchison awarded President Pratt an honorary LL.M in tax law to prepare President Pratt to help promote legislation establishing an independent tax court for Alabama.

President Pratt called on Jimbo Terrell of the Pro Bono Public Task Force to introduce law school students attending the commission meeting. From Cumberland: Danny Peterson, Jr. (2L), Macon, Georgia; Michelle Ortiz (3L), Huntsville, Alabama. From Jones School of Law: Emily Freed (3L), Pittsburgh, Pennsylvania; Lewis Spencer Kyle (2L), Columbus, Georgia. From the University of Alabama School of Law: Pascal Nkengla (2L), Burr Ridge, Illinois; Shaun Styers (2L), Alabaster, Alabama. President Pratt welcomed all the guests.

5. APPROVAL OF THE MINUTES OF SEPTEMBER 16, 2011 ALABAMA STATE BAR BOARD OF COMMISSIONERS MEETING

President Pratt stated that the minutes of the September 16, 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 SEPTEMBER 16, 2011 BOARD MEETING. THE MOTION WAS SECONDED AND APPROVED UNANIMOUSLY BY VOICE VOTE.

6. REPRIMANDS

6.a. Ray Thomas Kennington – Dale County, ASB 10-78

Mr. Kennington entered a guilty plea and received a public reprimand without general publication for violations of Rules 1.3, 1.4(a) of the *Alabama Rules of Professional Conduct* [ARPC].

6.b. Bradley Ryan Overton – Jefferson County, ASB 10-1664

Mr. Overton received a public reprimand without general publication for the violation of Rules 1.4(a) and 8.1(b) of ARPC.

7. PRESIDENT'S REPORT

President Pratt began his report by reminding board members to keep Ed Patterson's daughter, Elliot Williams and Jeanne Marie Leslie in their prayers. He then mentioned that Commissioner Claude Hundley had been appointed as district court judge in Madison County and that Robert Dennis of Tuscaloosa had received the International Municipal Judges Award. He informed the commission that he had signed a presidential resolution honoring Miss Alice Lee and Mr. Nicholas Hare on the occasion of their 100th birthday. Next, President Pratt commended Linda Lund for obtaining an 83 percent participation rate for Cherokee County attorneys signing up for VLP during Pro Bono Week. He also noted that United States District Judge Harold Albritton was presented with the first Harold Albritton Pro Bono Award as a part of the Pro Bono Week celebration.

President Pratt announced that Ricky McKinney had been named as Indigent Defense Services Director. He stated that Mr. McKinney will be invited to attend the commission's January meeting. He also announced that the Bar Operations Task Force would become a long range task force to handle policy issues and acknowledged that Commissioner Bedsole and Commissioner Dowd had attended the American Judicature Society training for judicial disciplinary officials in Chicago with the bar covering their expenses because of the dearth of state funds. Commissioner Bedsole and Commissioner Dowd explained that the training was a valuable educational experience and thanked the commission for making it possible for them to attend. President Pratt then thanked the secretary regarding the new budgeting format to help the commission better understand the proposed 2013 budget to be considered later in the meeting.

President Pratt concluded his remarks by thanking President-elect McCallum, Immediate Past President Spruell, Legislative Counsel Suzi Edwards and Rebecca DePalma of the Leadership Forum for their work on court costs. He explained that the report was still being prepared, but indicated that only 58 percent of local court costs actually go to court administration. He remarked that the Leadership Forum had helped obtain the local

information and that it was hoped that the report would be ready to be used at a Summit on Court Funding. President Pratt stated that the Governor, key legislators and others would be invited to the Summit in order to help re-evaluate funding of Alabama Courts. President Pratt closed by informing the commission that the bar's legislative work as a third party neutral had been reviewed by the Office of General Counsel and determined to be not in violation of any *Keller* prohibitions.

8. SECRETARY'S REPORT

The Secretary reviewed the bar examination statistics for the July bar exam and referred commissioners to the website for more detailed information. He then reviewed the year-end report for FY 2011. He asked the commission if there were any questions and there were none. The Secretary then informed the commissioners that the Examiners of Public Accounts had notified the bar that it would be conducting an audit for fiscal years 2009 through 2011.

9. REPORT OF THE OFFICE OF GENERAL COUNSEL

General Counsel Tony McLain gave a brief overview of HB56. He advised that a wait and see approach be taken in order to determine what the 11th Circuit Court of Appeals decides. He also reported that the Alabama Supreme Court had passed, by vote of 5-4, the commission's recommended amendment to the *Alabama State Bar Rules Governing Admission* concerning foreign students.

10. TASK FORCE ON CUSTODY LAWS REPORT

President Pratt called on Commissioner Crow who chaired the task force and Noah Funderburg, professor at the University of Alabama School of Law who assisted the task force. President Pratt informed the commission that the bar would not be taking a stand on the child custody law but would make a report to the legislature. Commissioner Crow gave an overview of the issue which was caused by a poorly drafted bill proposed during the last legislative session. Following that session, then President Alyce Spruell appointed a task force to work on proposed legislation that could be considered by the legislature as an alternative to the previously introduced bill. Commissioner Crow took a moment to explain the draft legislation and how it would differ from the current law. Following her report, President Pratt repeated that the draft legislation would be furnished to the legislature without any recommendation from the bar. Commissioner Crow and Professor Funderburg then answered questions from the commissioners about the proposed custody legislation. One question was how long parenting plans had been in effect. Professor Funderburg responded that several different states had adopted similar legislation very recently to incorporate parenting plans in custody matters. He also noted that the legislation as drafted would only apply in domestic cases and not juvenile cases.

President Pratt thanked Commissioner Crow, Professor Funderburg and the committee for their work on this matter.

11. PROPOSED LEADERSHIP FORUM ALUMNI SECTION

President Pratt recognized Rebecca DePalma for a report. Ms. DePalma reported that the task force to consider a Possible Formation of a Leadership Forum Alumni Section had concluded that a section would be an important way for leadership forum alumni to stay involved and there was sufficient interest in having a section for that purpose. She noted that there are already over 200 alumni of the leadership forum classes. The 2012 class would be the eighth class.

COMMISSIONER RALEIGH MOVED TO SUSPEND THE RULES IN ORDER TO VOTE ON THE CREATION OF THE LEADERSHIP FORUM ALUMNI SECTION. THE MOTION WAS SECONDED. PRESIDENT PRATT ASKED FOR A VOTE ON THE SUSPENSION OF THE RULES. THE PRESIDENT DETERMINED FROM THE VOTE OF AYES AND NAYS THAT AT LEAST TWO-THIRDS OF THE COMMISSIONERS FAVORED SUSPENDING THE RULES.

COMMISSIONER RALEIGH THEN MOVED THE CREATION OF A LEADERSHIP FORUM ALUMNI SECTION. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

12. PRO BONO WEEK REPORT

Sub-committee chair Jimbo Terrell thanked the commissioners for their support. He reported that the celebration had been successful and specifically thanked Commissioners Mazingo, Minor and Smith who served as liaisons on the committee. He commented on the number of volunteers participating in the celebration program and described some of the many events including clinics and free CLE programs held across the state. Mr. Terrell stated that a pro bono ethics CLE seminar was videotaped and will be used by the ABA.

13. SELF-REGULATION AMENDMENT

President Pratt discussed the self-regulation amendment. He stated that his opinion was that license fees should be set by the Board of Commissioners, as was the case with the majority of other professional regulatory bodies in Alabama, and not the legislature.

Commissioner comments followed the president's remarks on the self-regulation amendment. Several remarks included the suggestion of an internal policy to accompany the self-regulation amendment to limit license fees/dues increases. Other comments included support for the commission to set its own license fees without the direct action of the legislature.

14. MEMBER BENEFIT PROGRAM PROPOSALS

President Pratt asked if there were any questions about the benefit programs that were discussed at the previous meeting including Cloud-based Practice Management (Rocket Matter & Clio), Virtual Receptionist Services (Ruby Receptionists), and National Purchasing Partners (Discounts on Verizon Wireless, Staples and Global Crossing Conference Calling Service). There were no additional questions about these member benefit proposals.

COMMISSIONER POOLE MOVED THE ADOPTION OF THE THREE MEMBER BENEFIT PROGRAMS AS DISCUSSED. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

15. PERSONAL UMBRELLA INSURANCE PROPOSAL

President Pratt recognized Kate Musso, chairman of the Insurance Programs Committee. The commission was provided with a memo from Assistant Executive Director Ed Patterson as well as the materials considered by the committee describing the group personal umbrella proposal from ISI Alabama. There were no questions for Ms. Musso.

COMMISSIONER MOORER MOVED TO APPROVE THE GROUP PERSONAL INSURANCE PROPOSAL FURNISHED THROUGH ISI ALABAMA AS RECOMMENDED BY THE INSURANCE PROGRAMS COMMITTEE. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

16. MCLE RULE CHANGES

President Pratt reminded the commission that the MCLE Commission had recommended specific changes to the MCLE rules. He stated that those proposed changes had been sent out with the materials discussed by the MCLE Commission Chairman Harold Stephens at the last meeting and with the materials for the current meeting. President Pratt recognized Commissioner Stephens to answer questions. Commissioner Stephens thanked Angela Parks for her nearly three years of work on the recommended changes. There were no questions.

COMMISSIONER RALEIGH MOVED THE ADOPTION OF THE MCLE RULE CHANGES AS PROPOSED BY THE MCLE COMMISSION. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

(A copy of the proposed rule changes is attached to these minutes as Appendix A.)

17. LIMITED SCOPE REPRESENTATION

President Pratt stated that Commissioner Callaway had discussed the proposed limited scope representation recommendations at the last meeting and that they had also been included with the current meeting materials. He asked if there were any questions. There were no questions.

COMMISSIONER BEDSOLE MOVED TO APPROVE THE SUGGESTED CHANGES TO RULES 1.1, 1.2, 4.2, AND 4.3 OF THE *ALABAMA RULES OF PROFESSIONAL CONDUCT*; AND AMENDMENTS TO RULE 11 AND A NEW RULE 87 OF THE *ALABAMA RULES OF CIVIL PROCEDURE*. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

(A copy of the proposed amendments to the *Alabama Rules of Professional Conduct* and the *Alabama Rules of Civil Procedure* as well as a memo of Commissioner Callaway are attached to these minutes as Appendix B.)

18. JUDICIAL COMPENSATION COMMISSION APPOINTMENTS

President Pratt remarked that Mr. Broox Garrett and Ms. Maibeth Porter had expressed their willingness to continue on the Judicial Compensation Commission.

COMMISSIONER RALEIGH MOVED TO ELECT MR. BROOX GARRETT AND MS. MAIBETH PORTER TO ANOTHER TERM ON THE JUDICIAL COMPENSATION COMMISSION. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

19. LEADERSHIP FORUM CLASS VIII

Rebecca DePalma, chairman of the Leadership Forum Selection Committee appeared and recommended the following individuals for inclusion in Leadership Forum Class VIII:

Sela Stroud Blanton
 Katherine Rogers Brown
 Chad Wesley Bryan
 Allison Michelle Lee Dearing
 Monet McCorvey Gaines
 Ekaterina Vladimirovna Gill
 Kevin Charles Gray
 Virginia Williams Grimes
 William Roland Hankins, Jr.
 Joshua Patrick Hayes
 Joseph Lister Hubbard, Jr.
 Hamilton Robert Johnston
 Brett Ashley King
 Matthew Ben LeDuke
 Clint LaDon Maze
 Benjamin Lee McArthur
 Kelly Fitzgerald Pate
 Larkin Hatchett Peters
 Charles Price II
 Edward Simmons Sledge IV
 Julian Houston Smith III
 Ethan Tyler Tidmore
 John Edward Town
 Jessica Lynn Ventiere
 Stephen Cochran Wallace
 Timothy Paul Wasyluka, Jr.
 Huey Thomas Wells III
 Carlen Bailey Williams
 Jamie Alisa Tharp Wilson
 Onwotta Tameka Wren
Alternates
 Carolyn Ngoc Lam
 John Philip Browning
 Harrison Kimbrough Bishop
 Jaffe Silcott Pickett

COMMISSIONER PEEK MOVED TO APPROVE THE 30 INDIVIDUALS AND FOUR ALTERNATES AS RECOMMENDED FOR INCLUSION IN LEADERSHIP FORUM CLASS VIII. THE MOTION WAS SECONDED.

Pratt President recognized Commissioner Raleigh, who served on the selection committee for comments. Commissioner Raleigh told the commission how proud he was of the group recommended for inclusion in Class VIII.

THE QUESTION WAS CALLED AND THE MOTION WAS APPROVED.

President Pratt thanked Ms. DePalma and Commissioner Raleigh as well as the other members of the selection committee for their work in preparing recommendations for class VIII.

20. ALABAMA BROADCASTERS ASSOCIATION PARTNERSHIP

President Pratt informed the commission that the Alabama Broadcasters Association has asked the bar to increase the amount of its contribution (\$65,000) for the partnership by \$10,000. He explained that the increase would be phased in over three years with the contribution for FY2012 being \$68,333. The president noted that although the bar will continue to get a four to one match for its contribution, he acknowledged that the bar has always received far more than the four to one match for its contributions to the broadcasters. He reported that so far in 2011, the bar had received advertising time valued at \$1,193,723 from radio and TV stations airing spots furnished by the bar. The president noted that the spots this year have included pro bono, foreclosure and Wills for Heroes.

COMMISSIONER MITCHELL MOVED TO APPROVE THE CONTRIBUTION FOR 2012 TO THE ALABAMA BROADCASTERS ASSOCIATION IN THE AMOUNT OF \$68,333. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

21. LEGISLATIVE COUNSEL CONTRACT

President Pratt stated that it was recommended that compensation for legislative counsel be increased from \$26,000 to \$30,000. He explained that Ms. Edwards was doing more assignments for the bar that required a great deal of time in order for them to be handled properly. He said that as part of her compensation, Ms. Edwards would be furnished a parking space across from the state capitol.

COMMISSIONER GAINES MOVED INCREASING THE LEGISLATIVE COUNSEL'S ANNUAL FEE FROM \$26,000 TO \$30,000 AND FURNISHING MS. EDWARDS WITH A PARKING SPACE BEGINNING JANUARY 2012. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

22. YLS GRANT INCREASE FOR 2012

President Pratt requested that the grant for the Young Lawyers' Section be increased from \$24,500 to \$30,000 for 2012. He stated that this proposed increase was in keeping with the public service programs that benefit the bar as well as the section's participation in national and regional meetings of the American Bar Association Young Lawyers'

Division. He further reported that this proposed increase was consistent with the amount that other bars in neighboring states provide through grants to their young lawyers section.

COMMISSIONER FAWAL MOVED TO APPROVE TO INCREASE THE GRANT TO THE YOUNG LAWYERS' SECTION FROM \$24,500 TO \$30,000 BEGINNING JANUARY 2012. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

23. 2012-2013 BUDGET REQUEST

The secretary informed the commission that the requested budget for 2013 was \$6,327,386 or a \$4500 increase over the 2012 budget approved by the commission. He explained the areas to be increased as well as decreased over the previous year and also highlighted the 10 budget items of a continuing nature outlined in the supporting documentation for the budget. President Pratt asked if there were any questions concerning the proposed 2013 budget.

COMMISSIONER STEPHENS MOVED TO APPROVE THE BUDGET REQUEST FOR FY2012-2013 IN THE AMOUNT OF \$6,327,386. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

(A copy of the chart listing the budget items of continuing nature is attached to these minutes as Appendix C.)

24. 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.

James R. Pratt, III, President
Alabama State Bar

ATTEST:

Keith B. Norman, Secretary
Alabama State Bar