

## MINUTES

### ALABAMA STATE BAR BOARD OF BAR COMMISSIONERS MEETING

State Bar Building  
Montgomery, Alabama

Friday, March 30, 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. ROLL CALL

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

Cleve Poole	Christy Crow	J. Garrison Thompson
Terri O. Tompkins	Hays Webb	William H. Broome
Phil D. Mitchell	Rocky Watson	Leslie R. Barineau
S. Greg Burge	Augusta S. Dowd	Joseph A. Fawal
Robert E. Mooror	Derrick A. Mills	William A. (Pete) Short
Albert J. Trousdale II	Henry A. Callaway III	Walter H. Honeycutt
Billy C. Bedsole	Juan Ortega	Harry V. Satterwhite
James R. Beaird	Les Pittman	Jeffery C. Duffey
Lee H. Copeland	F. Michael Haney	K. Scott Stapp
William Randall May	Hamp Baxley	John L. Jernigan, III
John M. Peek	Harold Stephens	L. Thomas Ryan, Jr.
Richard J.R. Raleigh, Jr.	J. Dale Lawrence, Jr.	Kenneth E. White, III
Jerry Wayne Baker, Jr.	Samuel W. Irby	Robert L. Rumsey
Braxton W. Ashe	H. Jerome Thompson	John M. Plunk
Gregory M. Varner	Alex M. Smith	Walter E. McGowan
David K. Howard	Monet M. Gaines	Ashley E. Swink

The following commissioners were absent:

Ronnie E. Keahey	Robert Simms Thompson	Jack Neal
Robert G. Methvin	Teresa G. Minor	Richard W. Whittaker
Frank M. Wilson	J. Flynn Mozingo	Cole Portis
Julia C. Kimbrough	David A. McDowell	R. Wyatt Howell
Allan Chason	Elizabeth Parsons	Jason P. Knight
Robert H. Brogden	Rebecca Green Thomason	J. Milton Coxwell, Jr.
Roger W. Pierce	Don Word	Claude E. Hundley, III
Meredith S. Peters	Merceria Ludgood	Alicia F. Bennett
LaBarron Boone		

President-elect Phillip McCallum and Immediate Past President Alyce Spruell were in attendance. Staff members present included Tony McLain, Laura Calloway, Brad Carr, Linda Lund, Jeremy McIntire, Diane Locke, Margaret Murphy, Angela Parks, Christina Butler, Mary Frances Garner, Mark Moody and Ed Patterson. 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.

**3. APPROVAL OF THE MINUTES OF JANUARY 13, 2012 ALABAMA STATE BAR BOARD OF COMMISSIONERS MEETING**

President Pratt stated that the minutes of the January 13, 2012 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 JANUARY 13, 2012 BOARD MEETING. THE MOTION WAS SECONDED AND APPROVED UNANIMOUSLY BY VOICE VOTE.

**4. RECOGNITION OF GUESTS**

Attending the meeting were Tazewell Shepard, III, president-elect of the Huntsville-Madison County Bar Association and John J. Lloyd, president of the Tuscaloosa County Bar Association. Also attending the meeting was Hon. Ralph Cook, retired associate justice of the Alabama Supreme Court and former state bar president Wade Baxley.

**5. REPRIMANDS**

5.a. Larry Joel Collins – Russell County, ASB 2011-986

Mr. Collins received a public reprimand without general publication for violation of Rules 1.9(a) and 8.4(a) of the *Alabama Rules of Professional Conduct*.

**6. SPECIAL PRESENTATION TO COMMISSIONER PEEK**

President Pratt presented Commissioner Peek with the “Three O’Clock in the Morning Somewhere Award” for his astute observations made during Governor Bentley’s visit at the January commission meeting.

**7. PRESIDENT’S REPORT**

President Pratt mentioned his attendance at the Leadership Alumni Forum Section Meeting in February and praised the work of the Elections, Ethics and Government Relations Section for their well received Campaign Finance Seminar and the accompanying legal guide that was prepared, copies of which were delivered to all state legislators. President Pratt then reported on the 2012 legislative session stating that the bar’s self regulation bill had been filed and should pass unless it became caught up in a log jam. He mentioned that lawyer legislators in both the House and Senate were handling the bill. In the Senate the bill is sponsored by Senators Ward and Brooks, and Representative DeMarco, is the sponsor of the legislation in the House. He asked the commission to be ready to help with other legislative matters if called upon including House Bill 607. President Pratt stated that the state bar along with 47 other licensing

boards and agencies have been included in this bill which would allow the legislature to access the funds of these boards and commissions that heretofore have been held in separate accounts in the state treasury and not otherwise accessible to the legislature. President Pratt apprised the commission that every effort would be made to exclude the state bar from the bill but in the event those efforts proved unsuccessful, the commission would be called upon to contact their legislators. He stated that the commission would be kept apprised of all developments because of the seriousness of the situation.

President Pratt then turned his attention to court funding and reported that additional funding for Alabama courts appeared unlikely. He informed the commission about the work being done to help get a supplemental appropriation for the court system but noted that because of the extreme financial crisis, those efforts would likely to be fruitless. He also reported that the Judicial Inquiry Commission budget could be cut to the extent that it would be impossible for the agency to continue its operations. President Pratt stated that efforts by the bar and others to help JIC avoid this fate were underway. He then discussed the pretrial diversion bill and explained its genesis with the district attorneys association and how it would operate. He explained that under the present bill, district attorneys would receive all of the funds instead of those funds going to the court system. He said that progress has been made to mediate concerns that have been expressed by several groups about this bill. President Pratt then praised Immediate Past President Alyce Spruell for the job that she has done thus far at AOC in helping navigate the court system through this financial crisis.

President Pratt concluded his report by reading the following resolution honoring Diane Locke.

WHEREAS, Diane Locke began her career at the Alabama State Bar as a high school student working part-time in 1978; and

WHEREAS, Diane became a fulltime staff member in 1982, working with the mandatory continuing legal education program at its inception and handling, among other things, committee records and scheduling committee meetings; and

WHEREAS, as administrative assistant for programs, Diane served three successive directors of programs until her promotion in 1996 to membership director; and

WHEREAS, in 2003 Diane assumed the position of executive assistant to the Executive Director, which included budget and personnel responsibilities as well as working directly with the Board of Commissioners; and

WHEREAS, Diane was named Director of Personnel and Operations in 2011; and

WHEREAS, Diane has served the Alabama State Bar longer than any staff member before or since.

NOW, THEREFORE, BE IT RESOLVED by the Board of Bar Commissioners of the Alabama State Bar meeting this day assembled that Diane Locke is hereby praised for her unparalleled record of service and loyalty and honored for her dedication and numerous contributions in so many facets of the bar's operations.

BE IT FURTHER RESOLVED that this resolution be recorded in the permanent minutes of this association and that Ms. Locke be presented a copy in grateful appreciation for her many years of service.

He then asked the commission to adopt the resolution.

A MOTION WAS MADE BY COMMISSIONER RALEIGH THAT THE RESOLUTION BE ADOPTED UNANIMOUSLY AND THE RESOLUTION WAS SECONDED AND PASSED UNANIMOUSLY.

#### **8. REPORT OF ALYCE SPURELL, IMMEDIATE PAST PRESIDENT**

Immediate Past President Alyce Spruell discussed the court budget and the effects of proration. She explained that the cuts would not affect court personnel in the field. She stated that all layoffs would be at the Administrative Office of Courts. She then described the steps that are being taken to implement the cuts and gave a foreshadowing of what was likely to occur in fiscal years 2013 and 2014. She remarked that if no changes were made, 442 positions would be eliminated. She stated that with level funding 100 positions would be cut as well as the possible loss of e-filing. Past-President Spurell further stated that with such deep cuts, there is an extreme loss of institutional knowledge. Consequently, an effort is being made to ramp up training for remaining personnel to overcome the loss of institutional knowledge. Past President Spruell noted that AOC is selling all of its cars to fund the training. She encouraged commissioners to talk to their local court clerks about how much they have lost in institutional knowledge and management experience by the personnel cuts required by proration. (Past President Spruell circulated documents that she asked to be included in the minutes regarding the judicial system budget request for FY2013 and a level funding analysis for FY2012 as well as a chart on manpower formula for FY2009-10. These attachments are included with these minutes as Appendix A.)

Past President Spruell further reported that because of the dire financial circumstances facing the court and the fact that any supplemental appropriations from the legislature are unlikely, a court cost increase of \$30 would be recommended to keep the courts operating. She explained how offensive such an increase was given the current court cost structure statewide, but stated that without it the courts would be unable to operate. She stated that the courts cannot be allowed to close and this increase would help sustain the judicial system. Ms. Spruell encouraged commissioners to be advocates for the judicial system and asked them for any funding ideas that could be implemented to support the courts. She concluded her remarks by highlighting security issues and the need to update the password rules for Alafile access. A copy of that memo is attached to these minutes as Appendix B.

President Pratt thanked Ms. Spruell for her report. The commission gave Ms. Spruell an ovation.

#### **9. SECRETARY'S REPORT**

The Secretary gave an update on the condition of Jeanne Marie Leslie. He next reminded the commission members about the election petition deadline which will be April 27. He then called the commission's attention to the Economic Survey of Alabama Lawyers

prepared by the Practice Management Assistance Program as well as the Department Measurements for FY2011. The Secretary also reminded the commission members of the ABA House of Delegates report submitted for their review by state delegate Clark Cooper. After reviewing the financial report for the first quarter of FY2011-12, the Secretary reported that he had received two memorial resolutions, one from the Mobile Bar Association honoring United States District Judge Alex Howard and the other from the Covington County Bar Association honoring former bar commissioner Sid Fuller.

COMMISSIONER BEDSOLE MOVED TO RECEIVE THE MEMORIAL RESOLUTION FROM MOBILE BAR ASSOCIATION HONORING JUDGE ALEX HOWARD AND THE MEMORIAL RESOLUTION FROM THE COVINGTON COUNTY BAR ASSOCIATION HONORING SID FULLER AND TO PLACE BOTH RESOLUTIONS IN THE ALABAMA STATE BAR BOOK OF MEMORIAL RESOLUTIONS. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

**10. OFFICE OF GENERAL COUNSEL REPORT AND DISCUSSION OF PROPOSED RULES 4.2, 1.15(a) AND 1.16**

General Counsel Tony McLain reported that the vacancy created by the resignation of Assistant General Counsel Sam Partridge had been recently filled by attorney Mark Moody who he introduced to the commission. He next commended Commissioner Callaway on his appearance before the Supreme Court regarding the limited scope representation rules. He stated that Commissioner Callaway had carried the weight of presenting the rule changes to the court which were recently approved by the court.

Mr. McLain then discussed the proposed amendment to Rule 4.2 of the *Rules of Professional Conduct*. He stated that the amendment would change the word “represented person” to “represented party” so as to clarify the language of the rule based on the reading of the comments. Next, Retired Justice Ralph Cook, chairman of the Disciplinary Rules Committee, was introduced to discuss the proposed changes to Rule 1.15(a) regarding client trust account records. He explained the rationale for the amendment which would clarify the rule’s meaning. Discussion ensued on the wording of the proposal from several commissioners.

Then Justice Cook discussed the proposed amendment to Rule 1.16 which also dealt with client trust account records. He stated that the proposed amendment would clarify which specific records must be retained for six years. There were no questions regarding this proposed rule change. All three proposed changes would be an action item at the next meeting.

President Pratt thanked Justice Cook for his report.

**11. PROGRAMS REPORT**

Assistant Executive Director Ed Patterson provided an update on the last two leadership forums conducted. He stated that Auburn would be the location of the leadership forum next month and then the leadership forum would return to Birmingham for graduation. He discussed the reorganization of the program department and stated that Christina Butler will be the Director of External Relations. He then introduced Mary Frances

Garner as the newest member of the staff who will be the Assistant Director of External Relations.

**12. REGULATORY PROGRAMS**

The Director of Regulatory Programs, Angela Parks, introduced Doris McDaniel as the department's newest staff member filling the vacancy in that department.

**13. RULE III APPLICATIONS**

President Pratt stated that applications from Anastasia Alexander (GA); Margaret Bell Drew (MA); Jennifer Johnson Grace (VA); Jason Godwin (GA); Brander Harper (MS); Abner Collins Oglesby (MS); Danny Ray Scott, Jr. (TX) and Elizabeth Jane Simpson (GA) had been received. He stated that all applicants meet the requirements of Rule III of the *Rules Governing Admission to the Alabama State Bar* as well as satisfy all character and fitness requirements.

COMMISSIONER RALEIGH MOVED THE ADMISSION OF ANASTASIA ALEXANDER (GA); MARGARET BELL DREW (MA); JENNIFER JOHNSON GRACE (VA); JASON GODWIN (GA); BRANDER HARPER (MS); ABNER COLLINS OGLESBY (MS); DANNY RAY SCOTT, JR. (TX) AND ELIZABETH JANE SIMPSON (GA) PURSUANT TO RULE III. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

**14. RENEWING ALABAMA SECURITIES COMMISSION APPOINTMENT RECOMMENDATIONS**

President Pratt reminded the Board of Bar Commissioners that Annie Jo Dike of Mobile, LaVeeda Morgan Battle of Birmingham and Everette A. Price, Jr. of Brewton were recommended to the Governor for possible appointment to the Securities Commission. He stated that the bar was later informed by the Governor's Office that the existing term of office for the state bar appointee did not expire in 2011 but would expire in 2012. President Pratt said that all three nominees were notified of this mix-up and advised that their names would be resubmitted to the Governor in 2012. He stated that Andy Campbell of Birmingham currently holds the position that is expiring.

COMMISSIONER BEDSOLE MOVED TO RECOMMEND TO THE GOVERNOR ANNIE JO DIKE, LAVEEDA MORGAN BATTLE AND EVERETTE A. PRICE, JR. AS NOMINEES FOR THE ALABAMA SECURITIES COMMISSION. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

**15. AMENDMENT TO BOARD POLICIES STAFF LEAVE AND HOLIDAY LEAVE**

The Secretary explained that the proposed amendments to the annual leave policy, sick leave policy as well as the State of Alabama holiday policy were all necessitated by concerns raised by the examiner performing the Alabama State Bar's compliance audit. The proposed amendment to the annual leave policy would clarify that longevity pay is tied to total service time in the state retirement systems and make that amendment retroactive to 2006; the sick leave policy amendment would clarify that employees with prior employment service with a state entity would be permitted to transfer accumulated

sick leave upon employment by the Alabama State Bar and the proposed amendment to the State of Alabama holiday policy would clarify that the Mardi Gras holiday accrues as of January 1 each year.

COMMISSIONER COPELAND MOVED TO APPROVE THE AMENDMENTS TO THE LEAVE POLICIES AS DISCUSSED BY THE SECRETARY. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

[A copy of each of the leave policies reflecting the amendments noted above are included with these minutes as Appendix C.]

**16. VACANCY ON LEGAL SERVICES ALABAMA BOARD OF DIRECTORS**

President Pratt informed the commission that Retired Chief Justice Sue Bell Cobb was being recommended to replace Circuit Judge Jim Roberts on the LSA Board of Directors.

COMMISSIONER BROOME MOVED TO APPOINT RETIRED CHIEF JUSTICE SUE BELL COBB TO THE VACANCY CREATED BY THE RESIGNATION OF JUDGE JIM ROBERTS ON THE LSA BOARD OF DIRECTORS. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

**17. ADOPTION OF \$300 LICENSE FEE IN CONJUNCTION WITH SELF REGULATION AMENDMENT**

President Pratt explained that in anticipation of the passage of the self regulation legislation currently before the legislature, it was necessary for the commission to approve a license fee so that when the bill passes and becomes effective, the bar's license fee would be established at the current \$300 amount. He stated that this would avoid any gaps that might impact the bar's ability to collect the license fee for FY2012-13.

COMMISSIONER MOORER MOVED THE ADOPTION OF THE \$300 LICENSE FEE TO COINCIDE WITH THE PASSAGE OF THE SELF REGULATION AMENDMENT CURRENTLY BEFORE THE LEGISLATURE. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

**18. MAUD MCLURE KELLY AWARD NOMINATION**

President Pratt reported that the Women's Section had recommended Marjorie Fine Knowles to receive the Maud McLure Kelly Award for 2012.

COMMISSIONER WHITE MOVED TO APPROVE MARJORIE FINE KNOWLES AS THE 2012 RECIPIENT OF THE MAUD MCLURE KELLY AWARD. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

**19. THE DEATH OF FORMER COMMISSIONER GRUENEWALD'S MOTHER**

President Pratt reported that Mrs. Audrey Maples Gruenewald, mother of former bar commissioner John Gruenewald, passed away on March 27. He encouraged commission members to drop former commissioner Gruenewald a note or a card.

**20. 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