

MINUTES

ALABAMA STATE BAR BOARD OF BAR COMMISSIONERS MEETING

State Bar Building
Montgomery, Alabama

Friday, September 11, 2009

1. CALL TO ORDER

President Tom Methvin 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 in Montgomery, Alabama. President Methvin recognized Commissioner Bedsole who gave the invocation.

2. ROLL CALL

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

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| Ronnie E. Keahey | Cleve Poole | Christy Crow |
| Hays Webb | John M. Gruenewald | Phil D. Mitchell |
| Rocky Watson | Leslie Barineau | S. Greg Burge |
| Jack Neal | Phillip W. McCallum | Augusta S. Dowd |
| Maibeth J. Porter | Joseph A. Fawal | Robert E. Moorner |
| Jim Pratt | William A. (Pete) Short | Henry A. Callaway, III |
| Walter H. Honeycutt | Billy C. Bedsole | Juan Ortega |
| James R. Beard | Les Pittman | Cole Portis |
| Sim Penton | Lee Copeland | F. Michael Haney |
| K. Scott Stapp | Julia C. Kimbrough | Brian D. Mann |
| 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 |
| Allan Chason | Tut Wynne | Elizabeth Parsons |
| John M. Kennemer | Jason P. Knight | Buddy Lee |
| Eddie Beason | J. Milton Coxwell | Christopher E. Malcom |
| Don Word | Jere C. Trent | Alexander M. Smith |
| Walter E. McGowan | Claude E. Hundley | Merceria Ludgood |
| David K. Howard | Kelly T. Lee | |

The following Commissioners were absent:

| | | |
|-------------------------|----------------------|----------------------|
| J. Garrison Thompson | Randall S. Haynes | Cooper Shattuck |
| Albert J. Trousdale, II | Richard W. Whittaker | Mary Margaret Bailey |
| Les Hayes, III | Donald R. Jones | Ramona Morrison |
| R. Wyatt Howell | Robert L. Rumsey | Robert T. Meadows |
| David F. Law | Deborah Byrd Walker | Alicia F. Bennett |
| LaBarron Boone | Kesa Johnston | |

President-elect Alyce M. Spruell and Past President Mark White were present. Staff members present included Angela Parks, Laura Calloway, Brad Carr, Jeanne Marie Leslie, Sam Partridge, Robby Lusk, Ed Patterson and Tony McLain. Bob Bailey of the Young Lawyers' Section was also present as were Judy Keegan of the Alabama Center for Dispute Resolution and Tracy Daniel of the Alabama Law Foundation.

3. **INTRODUCTION OF GUESTS**

The following guests were recognized: Brandon Stone, President of the Elmore County Bar Association; Paul Brunson, President of the Third Judicial Circuit Bar Association; John Paul Burson, President of the Marshall County Bar Association and Suzi Edwards, Alabama State Bar legislative counsel.

4. **APPROVAL OF THE MINUTES OF THE BOARD OF COMMISSIONERS MEETING**

President Methvin stated that the minutes of the Board of Commissioners meeting for July 15 meeting and its continuation on July 18, 2009 as well as the minutes for the 2009 Grande Convocation and Annual Business Meeting 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 JULY 15, 2009 AND ITS CONTINUATION ON JULY 18, 2009 AS WELL AS THE MINUTES OF THE 2009 GRANDE CONVOCATION AND ANNUAL BUSINESS MEETING. THE MOTION WAS SECONDED AND THE MINUTES WERE APPROVED BY UNANIMOUS VOICE VOTE.

5. **PUBLIC REPRIMANDS**

5.1. Loretta Denise Collins, Denver, CO, **ASB 05-42(A)**

Ms. Collins received a public reprimand after a finding of guilty for violating Rules 1.5(a), 1.5(c) of the *Alabama Rules of Professional Conduct [ARPC]*.

5.2. John Edward Cunningham, Gadsden, **ASB 06-109 (A)**

Mr. Cunningham received a public reprimand for violating Rules 8.4(a), 8.4(b), 8.4(c) and 8.4(g) of *ARPC*.

5.3 Barry Dean Woodham, Shelby County, **ASB 08-05 (A)**

Mr. Woodham entered a conditional guilty plea for violating Rule 1.3 of *ARPC* and received a public reprimand.

6. **PRESIDENT'S REPORT**

President Methvin informed the commission that the proposed amendment to Rule 6.1 of the *Alabama Rules of Professional Conduct* providing for mandatory pro bono reporting had been taken off of the agenda and referred back to the committee for further study. President Methvin next mentioned the letter he received from Governor Bob Riley thanking the Alabama State Bar's Panel of Neutrals including, in particular, Jim Pratt, Drayton Nabers, U.W. Clemon and Mark White for their invaluable assistance on both the legal and legislative fronts to help forge a "consensus" in the Jefferson County occupational tax matter. President Methvin also expressed his thanks and that of the bar for their outstanding work. The commission gave Commissioner Pratt and Immediate Past President White a round of applause for their service.

President Methvin then reported on his activities thus far as president. He discussed progress being made on the various aspects of the access to justice project including increasing legislative funding, local bar involvement, legal clinics and other aspects of the initiative. He praised, in particular, the work of the Mobile Bar Association and the efforts of the Huntsville and Birmingham bars to restructure their VLP programs along the lines of the Mobile program. Finally, the President stated that he addressed the Probate Judges Association meeting in Orange Beach and was warmly received at that meeting.

7. **SECRETARY'S REPORT**

The Secretary called on General Counsel Tony McLain to introduce Julie Lee, Mr. McLain's new assistant following the retirement of long-time staff member Vivian Freeman. The Secretary informed the commission that President Methvin had received from the Alabama Cystic Fibrosis Foundation the 2009 Sheena Diane Ayers Humanitarian Award and that Commissioner Cole Portis and his family had been favorably portrayed in an article in the September issue of the *Montgomery Living* magazine entitled "Portrait of Love – Meet the Portis Family." The Secretary next called on Ms. Jeanne Marie Leslie who informed the commission that General Counsel Tony McLain had been awarded the CoLAP Meritorious Service Award for 2009.

The Secretary discussed a letter from bar member William J. Freeman, a civil law notary, regarding the need to increase the standards of attorneys to the level of civil law notary in the closing of international financial transactions. The Secretary told the commission a memorial resolution honoring the late J. Rufus Bealle had been received from the Tuscaloosa County Bar Association to be placed in the Book of Memorial Resolutions.

COMMISSIONER BEDSOLE MOVED TO RECEIVE THE MEMORIAL RESOLUTION HONORING J. RUFUS BEALLE FROM THE TUSCALOOSA COUNTY BAR ASSOCIATION AND PLACE IT IN THE ALABAMA STATE BAR BOOK OF MEMORIAL RESOLUTIONS. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

Finally, the Secretary mentioned the Department of Human Resources letter responding to former President White's letter to the department concerning restrictions being placed by the department on attorneys who seek to become foster parents. President-elect Spruell briefly addressed the matter and stated that the department had failed to adequately address concerns raised in former President White's letter and that she and some other bar members would be meeting with the department to discuss these concerns and ways to alleviate unnecessary restrictions on attorneys wishing to serve as foster parents.

8. PROGRAMS UPDATE

Assistant Executive Director Ed Patterson stated that beginning next spring efforts would begin to update the bar's 2005 strategic plan. He then informed the commission that Leadership Forum applications were being accepted and encouraged commission members to encourage lawyers to apply for the program.

9. OGC UPDATE

General Counsel Tony McLain updated the commission about the letters that were authorized by the Disciplinary Commission and sent to 95 attorneys concerning their billings for indigent defense cases. Mr. McLain stated that responses had been received from all but seven attorneys. He then read the names of those who had not responded and stated that the Disciplinary Commission was reviewing its next step concerning these lawyers who had failed to respond. He stated that staff members were currently reviewing the information furnished by the other 88 attorneys.

10. PRO BONO TASK FORCE UPDATE

President Methvin recognized Commissioners Mitchell and Raleigh for a report on the Pro Bono Celebration Week. Commissioners Mitchell and Raleigh gave an overview of activities to date including a review of the bar's Web site featuring Pro Bono Week Celebration activities. They took time to discuss many of the activities that are underway to publicize the celebration and highlighted the proclamations that had already been signed by the Governor and several mayors. They concluded by highlighting all of the resources available on the Web site for bar members to use for publicizing the Pro Bono Week Celebration including speeches appropriate for civic clubs and other groups. Commissioner Raleigh then gave an update on the work underway to revamp the VLP program in Huntsville.

Commissioner Chason informed the commission about recent his talk at a local rotary club and offered his suggestions about the way to approach pro bono issues so that civic groups do not get the wrong idea that lawyers are promoting litigation by providing civil legal services to indigents. He stated that most of the pro bono services provided are domestic or family related and very seldom involve commercial issues.

11. BLUE BOOK LEGAL DIRECTORY

The Secretary highlighted a proposal from Legal Directories Publishing Company to provide a royalty to the bar for endorsing the Blue Book Legal Directory as the official bar directory of the Alabama State Bar. He stated that many bar members currently purchase the Blue Book Directory and that by endorsing the publication the bar could return the royalty to its members. He stated that the directory's current price is \$39.50 and that the royalty returned to the members would provide a discount of approximately \$6.30.

COMMISSIONER PEEK OFFERED A MOTION TO MAKE THE ENDORSEMENT OF THE BLUE BOOK LEGAL DIRECTORY AN ACTION ITEM. THE MOTION WAS SECONDED. THE MOTION WAS APPROVED BY THE NECESSARY TWO-THIRDS VOTE.

COMMISSIONER PEEK THEN MOVED TO ENDORSE THE ALABAMA BLUE BOOK LEGAL DIRECTORY PUBLISHED BY LEGAL DIRECTORIES PUBLISHING COMPANY AS MEMBER BENEFIT AND TO RETURN THE ROYALTY PAID TO THE BAR AS A DISCOUNT TO THE ALABAMA STATE BAR MEMBERS WHO PURCHASE IT. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

12. LEGISLATIVE FUNDING FOR ACCESS TO JUSTICE

President Methvin called on Commissioner Pratt who discussed plans to approach the legislature about providing financial support for civil legal needs for the poor. He then recognized the good work of the state bar's legislative counsel Kim Adams and Suzi Edwards in the past legislative session and noted that they would be vital to the bar in this effort and other matters in the next legislative session.

13. PROPOSED ELECTION RULE AMENDMENTS TO PERMIT ON-LINE VOTING IN COMMISSIONER AND PRESIDENT-ELECT RACES

President Methvin recognized Commissioner Fawal who discussed the work of the task force appointed to consider on-line elections for the Alabama State Bar. He stated that the task force included Commissioners Baxley, Copeland, Dowd and Hundley. Commissioner Fawal discussed that the task force believed on-line voting would save money and generate greater member participation in elections. He explained that the on-line voting system would maintain the anonymity of the voting member and discussed the Birmingham Bar Association's favorable experience with on-line voting. He concluded by saying that bar members who do not have access to the Internet would still be able to vote by requesting a paper ballot and submitting it for tabulation.

14. COURT OF THE JUDICIARY ALTERNATES

President Methvin stated that the terms of the current alternates, Judy Whalen Evans of Birmingham and Mark Stephen Andrews of Dothan would conclude on September 18, 2009. He stated that Commissioner Jason Knight and Commissioner Merceria Ludgood were being recommended to fill the upcoming vacancies as alternates.

COMMISSIONER MCCALLUM MOVED TO MOVE THIS ITEM TO AN ACTION ITEM. THE MOTION WAS SECONDED AND APPROVED BY THE NECESSARY TWO-THIRDS VOTE.

COMMISSIONER STEPHENS THEN MOVED THAT NOMINATIONS BE CLOSED. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

COMMISSIONER TRENT MOVED TO SELECT JASON P. KNIGHT AND MERCERIA LUDGOOD AS ALTERNATES TO THE ALABAMA COURT OF THE JUDICIARY. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

15. RULE III APPLICATIONS

President Methvin stated that nine lawyers had submitted applications for admission pursuant to Rule III, *Rules Governing Admission to the Alabama State Bar*. He explained that each of the applicants had met the necessary requirements for admission on motion under Rule III including character and fitness requirements. He then read the names of the Rule III applicants: Laurie Andrijeski (TN), John Coleman (MS), Jeffery Leonard (GA), Nicholas Panayotopoulos (GA), Sonya Pence (MA), John Shaffer, Jr. (TX), David Slawkowski (IL), Andrew Turner (VA) and Courtney Williams (IN).

COMMISSIONER FAWAL MOVED TO ADMIT LAURIE ANDRIJESKI, JOHN COLEMAN, JEFFERY LEONARD, NICHOLAS PANAYOTOPOULOS, SONYA PENCE, JOHN SHAFFER, JR., DAVID SLAWKOWSKI, ANDREW TURNER AND COURTNEY WILLIAMS PURSUANT TO RULE III, *RULES GOVERNING ADMISSION TO THE ALABAMA STATE BAR*. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

16. SENIOR LAWYERS SECTION BY-LAWS

Commissioner Bedsole stated that the Task Force to Consider a Senior Lawyer Section had recommended the creation of a section for the Alabama State Bar. He noted that there had been an overwhelming response for creating such a section with modest dues.

COMMISSIONER GRUENEWALD MOVED THE ADOPTION OF BY-LAWS FOR SENIOR LAWYER SECTION OF THE ALABAMA STATE BAR. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

17. COMMISSION RESOLUTION REGARDING PER DIEM AND MILEAGE EXPENSE FOR STATE BAR ANNUAL MEETING

The Secretary explained that the State Comptroller had requested the commission to approve a new resolution authorizing the acceptance of the same reimbursement for out-of-state meetings as allowed by the state for in-state meetings (mileage plus \$75 per day per diem). The Secretary stated that the commission had followed this policy for the last seven or eight years.

COMMISSIONER BEDSOLE MOVED THE BOARD'S ACCEPTANCE OF THE SAME REIMBURSEMENT FOR OUT-OF-STATE MEETINGS AS ALLOWED BY THE STATE FOR IN-STATE MEETINGS. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

18. LETTER TO SUPREME COURT SUPPORTING RECOMMENDATIONS OF THE JUDICIAL STUDY COMMISSION SUBCOMMITTEE ON THE ABA'S REPORT ON THE ALABAMA JUDICIAL DISCIPLINE SYSTEM

President Methvin recognized Commissioner McCallum who discussed the ABA's report and the recommendations of the Judicial Study Commission's subcommittee chaired by Judge Scott Donaldson. He stated that the Supreme Court will consider recommended changes to the judicial discipline rules at its September 30, 2009 meeting. He noted that the court had encouraged the bar and other interested groups to provide it with written comments concerning the ABA's recommended changes to the judicial discipline rules.

COMMISSIONER RALEIGH MOVED THAT ALABAMA STATE BAR PRESIDENT THOMAS J. METHVIN WRITE A LETTER TO THE CHIEF JUSTICE AND ASSOCIATE JUSTICES OF THE ALABAMA SUPREME COURT EXPRESSING THE COMMISSION'S SUPPORT OF THE JUDICIAL STUDY COMMISSION'S SUBCOMMITTEE RECOMMENDATIONS CONCERNING THE ABA'S ALABAMA JUDICIAL DISCIPLINE SYSTEM REPORT. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

19. STAFF COMPENSATION FY2009-2010

President Methvin reviewed the process by which the staff compensation recommendations were derived. He stated that the proposed amount of compensation would include an amount to cover a recently announced health insurance premium increase mandated by the State Employees Health Insurance Board to be paid by every employee under the state plan. This was the first time employees covered under the state plan had been required to cover a portion of these premiums. The President recommended \$2,549,366 as staff compensation for FY2009-2010.

COMMISSIONER COPELAND MOVED TO APPROVE THE STAFF COMPENSATION FOR FY2009-2010 IN THE AMOUNT OF \$2,549,366. THE MOTION WAS SECONDED AND APPROVED UNANIMOUSLY.

20. ADJOURNMENT

President Methvin 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.

Thomas J. Methvin, President
Alabama State Bar

ATTEST:

Keith B. Norman, Secretary
Alabama State Bar