

MINUTES

ALABAMA STATE BAR BOARD OF BAR COMMISSIONERS MEETING

State Bar Headquarters
Montgomery, Alabama

Friday, September 16, 2005

1. CALL TO ORDER

President Bobby Segall convened this meeting of the Alabama State Bar Board of Commissioners at 10:05 a.m. in the board room of the Alabama State Bar headquarters in Montgomery, Alabama. Commissioner Methvin gave the invocation.

2. ROLL CALL

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

Randall K. Bozeman	Louis C. Rutland	Cooper Shattuck
Alyce M. Spruell	William H. Broome	Robert K. Jordan
Anthony A. Joseph	Jack Neal	Phillip W. McCallum
Edward P. Meyerson	Maibeth J. Porter	Joseph A. Fawal
Robert E. Moorer	Carol H. Stewart	William A. (Pete) Short
Albert J. Trousdale, II	Terry L. Butts	William M. Cunningham
Billy C. Bedsole	Celia J. Collins	Mary Margaret Bailey
Les Hayes, III	James H. Anderson	James E. Williams
Thomas J. Methvin	Sim Penton	Robert L. Bowers, Jr.
F. Michael Haney	K. Scott Stapp	Thomas B. Albritton
Joseph A. Morris	Everette A. Price, Jr.	Kenneth E. White III
L. Thomas Ryan, Jr.	John E. Paluzzi	Elizabeth Parsons
Samuel N. Crosby	R. Blake Lazenby	Robert H. Brogden
John M. Kennemer	Roy W. Williams, Jr.	Jere C. Trent
David T. Hyde, Jr.	Robert T. Meadows, III	Deborah Walker
Wayman Sherrer	Claude E. Hundley, III	Pamela H. Bucy
Merceria Ludgood	Kyra Sparks	
Dawn Wiggins Hare	Kelly T. Lee	

The following Commissioners were absent:

Ronnie E. Keahey	Phillip Henry Pitts	Oliver Kitchens
Nicholas B. Roth	S. Greg Burge	Michael D. Knight
Charles R. Stephens, Sr.	Donald R. Jones, Jr.	John E. Medaris
Harold Stephens	Richard J.R. Raleigh, Jr.	William H. Atkinson
Dan Warnes	Tut Wynne	Roger Bedford, Jr.
Timothy D. Littrell	Gerald R. Paulk	David F. Law
Walter E. McGowan	Alicia F. Bennett	

Also in attendance were President-elect Boots Gale, Immediate Past President Douglas McElvy and Young Lawyers' Section President Christy Crow. Staff members present included Tony McLain, Robby Lusk, Sam Partridge, Susan Andres, Linda Lund, Anita Hamlett, Mary Corbitt and David Russell. Also in attendance were Judy Keegan, Director of the Center for Dispute Resolution and Tracy Daniel, Director of the Alabama Law Foundation.

3. APPROVAL OF THE MINUTES OF THE BOARD OF BAR COMMISSIONERS MEETING FOR JULY 20, JULY 23 AND THE GRANDE CONVOCATION AND ANNUAL BUSINESS MEETING

President Segall stated that the minutes of the Board of Commissioners' meetings for July 20 and July 23, 2005, as well as the 2005 Grande Convocation and Annual Business Meeting had been disseminated to the Board. He asked if there were any corrections, additions or deletions.

THERE BEING NO CORRECTIONS, ADDITIONS OR DELETIONS, COMMISSIONER BEDSOLE MOVED TO APPROVE THE MINUTES OF THE MEETINGS FOR JULY 20 AND JULY 23, 2005 AS WELL AS THE MINUTES OF THE 2005 GRANDE CONVOCATION AND ANNUAL BUSINESS MEETING. THE MOTION WAS SECONDED. THE MINUTES WERE APPROVED BY UNANIMOUS VOICE VOTE.

4. PUBLIC REPRIMANDS

4.1 Sara Oswald Stoddard, Conecuh County, ASB 04-22(A)

Ms. Stoddard received a public reprimand with general publication for violation of Rules 1.15(a), 1.15(b) and 1.16(d) of the *Alabama Rules of Professional Conduct* [ARPC].

4.2 Mark Smith Nelson, Talladega County, ASB 05-057(A)

Mr. Nelson entered a conditional guilty plea and received a public reprimand without general publication for violating Rules 1.3, 1.4(b) and 8.1(b) of ARPC.

5. PRESIDENT'S REPORT

President Segall reported that the response to victims of Hurricane Katrina by the Alabama legal community so far had been overwhelming. He updated the Board on the actions of the bar to date including a joint letter by the Alabama Trial Lawyers Association, Alabama Lawyers Association, Alabama Defense Lawyers Association and the Alabama State Bar sent to all Alabama lawyers to encourage the contribution of funds either directly to charities, through the Alabama Law Foundation or the Alabama Civil Justice Foundation. President Segall stated that the state bar had also created a registry for office space and accommodations for displaced lawyers. He cited several examples of what large firms, small firms and solo practitioners had been doing in response to Katrina. He expressed his desire to establish a goal of \$2 million either through direct or indirect contributions by Alabama lawyers. He noted that it was important for the legal profession to publicize its generosity in response to Hurricane Katrina. He informed the

Commission that the bar would try and obtain this information in order to get a cumulative total of financial as well as contributed services by Alabama lawyers.

President Segall then reported on the delivery of legal services to hurricane victims and a meeting which the bar had hosted that included FEMA, in-state law schools, the Young Lawyers' Section, VLP, LSA, Paralegals Association, EMA, and other groups. He stated that the purpose of the gathering was to have all groups meet and share information about delivering legal services without duplication. President Segall recognized Christy Crow, president of the YLS, who provided an overview of the YLS referral network. President Segall asked Commissioners to encourage their constituents to sign up through the VLP to provide assistance to displaced victims of Hurricane Katrina. Commissioner Broome gave an overview of the work of the Calhoun/Cleburne County Bar Association to assist displaced victims who were being relocated to Fort McClellan. Commissioners from Mobile and Tuscaloosa highlighted ongoing work by their local bar associations on behalf of disaster victims.

President Segall concluded his remarks by discussing the misinformation that had been circulated about the merit selection proposal approved by the Board of Bar Commissioners. To refute the misinformation, President Segall stated that counterpoint information was posted on the bar's Web site. He noted that Charles S. McDowell, state bar president in 1916, first spoke about the problems of electing judges and that the current proposal had originally been adopted by the Commission in 1997 when Warren Lightfoot had served as president. He encouraged the board to help disseminate accurate information about merit selection.

6. SECRETARY'S REPORT

The Secretary informed the Commission that he had been notified by the State Comptroller about an increase in travel reimbursements. He stated that the mileage rate would increase to 48.5 cents per mile and that the per diem would likewise be increased from \$50 to \$75 per day. The Secretary next highlighted a very favorable news article about the Lawyers' Assistance Program and its director Jeanne Marie Leslie. Copies of the article were made available to members of the Commission. The Secretary then asked David Russell to provide an overview of the bar's electronic efforts regarding Hurricane Katrina. Mr. Russell guided the Commission through the Web site and the on-line information about disaster assistance as well as ways for bar members to sign up to provide office space, accommodations and legal services.

The Secretary informed the Commission that the Examiners of Public Accounts would be conducting an audit of state bar operations from fiscal year 2001 through fiscal year 2005. He then introduced Anita Hamlett as the new director of the MCLE program. He stated that Ms. Hamlett had spent the last ten years of her career at the University of

Alabama School of Law and, most recently, as associate director of ABICLE. Ms. Hamlett made a few remarks and the Commission welcomed her warmly. The Secretary next read a portion of a letter from retired Associate Justice J. Gorman Houston, Jr. thanking the Commission for bestowing upon him the 2005 Alabama State Bar Commissioners Award. The Secretary concluded his report by noting that the Alabama State Bar would serve as a co-host for the 2006 American Judicature Society meeting to be held in Birmingham. He stated that the Dean of Cumberland Law School, John Carroll, was a member of the AJS Board. He reminded the Commission of the many occasions where AJS had assisted with judicial reform in Alabama. The Secretary stated that the topic of the 2006 midyear meeting would be Judicial Selection. He closed by noting that co-hosting the event would not involve any financial commitment from the bar.

7. **COMMUNICATIONS UPDATE**

Communications Director Susan Andres reported on several communications matters, including the bar's partnership with the Alabama Broadcasters Association which, through June, had provided almost \$450,000 of announcements on radio and television stations statewide.

8. **REPORT OF THE OFFICE OF GENERAL COUNSEL**

General Counsel Tony McLain gave an update on the Cox litigation and reported on the oral argument before the Alabama Supreme Court at its session held in Hanceville. Mr. McLain then reported on the filing of the *amicus* brief with the Montgomery Circuit Court regarding the pending litigation on office overhead expense in appointed cases.

9. **RATIFICATION OF MAIL BALLOT FOR AMICUS BRIEF CONCERNING OVERHEAD EXPENSES FOR APPOINTED ATTORNEYS**

President Segall stated that the Executive Council had approved the filing of the *amicus* brief because of a constricted time frame in the pending litigation. He stated that a letter was sent to all Commissioners about whether to file the *amicus* brief. He noted that 64 ballots were returned and all 64 favored the filing of the brief.

COMMISSIONER BROOME MOVED THE RATIFICATION OF THE MAIL BALLOT AUTHORIZING THE FILING OF AN *AMICUS* BRIEF IN THE MATTER PENDING IN MONTGOMERY CIRCUIT COURT REGARDING OFFICE OVERHEAD EXPENSES FOR APPOINTED ATTORNEYS. THE MOTION WAS SECONDED. THE MOTION WAS APPROVED BY VOICE VOTE.

10. **RATIFICATION OF EXECUTIVE COUNCIL'S SELECTION OF WILLIAM LITTLE TO THE ALABAMA HISTORIC CEMETERY COMMISSION**

The Secretary stated that the legislature had established the Alabama Historic Cemetery Commission by a resolution adopted at the first 2005 special session. He noted that the resolution included a member to be appointed by the state bar. He explained that the commission had requested that the bar's representative be appointed as soon as possible because the Commission had its first scheduled meeting in early September. The Secretary noted that Mr. William Little was an assistant attorney general and had been in the attorney general's office for many years. He also noted that Mr. Little had a background in cemetery law which made him the appropriate appointment for the commission.

COMMISSIONER SPRUELL MOVED THE RATIFICATION OF THE EXECUTIVE COUNCIL'S SELECTION OF WILLIAM LITTLE TO THE ALABAMA HISTORIC CEMETERY COMMISSION. THE MOTION WAS SECONDED. THE MOTION WAS APPROVED BY VOICE VOTE.

11. **STAFF COMPENSATION FY-2005-2006**

President Segall stated that for FY 2005-2006, the Commission had budgeted \$2,241,128 for personnel costs. He stated that \$2,087,900 was recommended for FY 2005-2006.

COMMISSIONER CROSBY OFFERED A MOTION APPROVING STAFF COMPENSATION FOR FY 2005-2006 IN THE AMOUNT OF \$2,087,900. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

12. **NOMINATING COMMITTEE DISCUSSION**

President Segall stated that in view of the discussion at the last meeting, he wanted to clarify the nomination procedures. He explained that the Nominating Committee would be named by the president at the May meeting and that the Nominating Committee would make an initial report for Executive Council positions on the Wednesday before the annual meeting. He stated that the Disciplinary Commission panels and other nominations would be reported at the Saturday meeting following the Grande Convocation and Annual Business Meeting. He remarked that this procedure established a slightly different timing sequence for nomination reports than had previously been the case. He stated that all Commissioners were free to provide their suggestions for nominations to the Nominating Committee following its appointment.

President Segall then informed the Commission that Charlie Crook of Montgomery, a hearing officer for Panel V, had died several weeks earlier. He stated that because it was necessary for a replacement to be appointed as soon as possible, the Executive Council would serve as the Nominating Committee for interim appointments. President Segall noted that nominations for this position would be taken through the end of September and that a nominee would be named and materials sent to the Commission for the October meeting.

13. CHIEF JUSTICE'S COMMISSION ON INDIGENT DEFENSE

President Segall gave a brief report on the activity of the Commission. He stated that they would have a concrete proposal in the near future. President Segall recognized Commissioner Price who gave an overview of the many studies that had already been done since the early 1970s by Bob Spangenberg and others on reforming the indigent defense system in Alabama.

14. MEMBERSHIP FILE SCANNING

President Segall recognized Mary Corbitt, membership secretary. She stated that the bar had been scanning the new admittee files for several years. She noted that file space was scarce so it was necessary to move forward with the scanning all other member files. Mrs. Corbitt highlighted two options: whether to complete the scanning process of all member files in-house or to out source the operation. She stated that there were two outsourcing firms who had given proposals for the project. She informed the Commission it was her recommendation that the scanning of the remaining member files be outsourced and that Emerald Coast Software be the firm utilized to handle the project. (A detailed memo had previously been distributed to the Commission for their review outlining these proposals and the costs.)

There were several questions from the Commission about the disparity of the costs for outsourcing the scanning. Mrs. Corbitt stated that she could not explain the disparity, but one reason might be that the bar's current document management system was compatible with Emerald Coast's software. When asked about the urgency of going forward, Mrs. Corbitt stated that it would be more efficient to have a database system that operated on scanned files instead of having both hard files and scanned files with which to deal. She noted that files which have been scanned were being stored on the third floor awaiting eventual destruction. In response to other questions, Mrs. Corbitt stated that the price quoted by Emerald Coast was based on a million documents but that was merely an estimate. She said there would be no way of knowing exactly how many documents there are until the scanning was completed.

President Segall thanked Mrs. Corbitt for her report.

15. ADJOURNMENT

President Segall 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 seconded to adjourn. The motion was approved.

Bobby Segall, President
Alabama State Bar

ATTEST:

Keith B. Norman, Secretary
Alabama State Bar