

MINUTES

ALABAMA STATE BAR BOARD OF BAR COMMISSIONERS MEETING

Alabama State Bar
Montgomery, Alabama

Friday, October 21, 2005

1. CALL TO ORDER

President Bobby Segall 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 in Montgomery. Commissioner Joseph gave the invocation. Following the invocation, Commissioner Bedsole informed the Commission that Circuit Judge Robert Kendall of Mobile and father of Commissioner Mary Margaret Bailey had died the day before.

2. ROLL CALL

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

Ronnie E. Keahey	Randall K. Bozeman	Louis C. Rutland
Oliver Kitchens	Cooper Shattuck	Alyce Spurell
William H. Broome	Nicholas B. Roth	Robert K. Jordan
Anthony A. Joseph	Jack Neal	Phillip McCallum
Maibeth Porter	Joseph A. Fawal	Robert E. Mooror
William A. (Pete) Short	Terry L. Butts	Billy C. Bedsole
Charles R. Stephens, Sr.	Les Hayes III	James H. Anderson
Donald R. Jones, Jr.	Thomas J. Methvin	Sim Penton
James E. Williams	F. Michael Haney	K. Scott Stapp
Robert L. Bowers, Jr.	Everette A. Price, Jr.	Thomas B. Albritton
Harold Stephens	L. Thomas Ryan, Jr.	Richard J. R. Raleigh, Jr.
John E. Paluzzi	William H. Atkinson	Kenneth E. White III
Dan Warnes	Samuel N. Crosby	Tut Wynne
R. Blake Lazenby	Elizabeth Parsons	Roy W. Williams, Jr.
David T. Hyde	Timothy D. Littrell	Gerald R. Paulk
Jere C. Trent	David F. Law	Wayman Sherrer
Claude E. Hundley III	Deborah Byrd Walker	Merceria Ludgood
Kyra Sparks	Pam Bucy	Kelly T. Lee

The following Commissioners were absent:

Phillip Henry Pitts	S. Greg Burge	Edward P. Meyerson
Carol H. Stewart	Albert J. Trousdale II	Michael D. Knight
William M. Cunningham	Celia J. Collins	Mary Margaret Bailey
John E. Medaris	Joseph A. Morris	John M. Kennemer
Robert H. Brodgen	Roger Bedford, Jr.	Robert T. Meadows III
Walter E. McGowan	Alicia F. Bennett	Dawn Wiggins Hare

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, Sam Partridge, Linda Lund, Anita Hamlett, Susan Andres, and Marcia Daniel. Also in attendance were Judy Keegan, Director of the Alabama Center of Dispute Resolution, and Tracy Daniel, Director of the Alabama Law Foundation.

3. **WELCOME OF GUESTS**

President Segall welcomed and acknowledged the following guests: Tina Louise Albritton Burgett, President of the Walker County Bar Association; Brian Brinyark, President of the Tuscaloosa County Bar Association; Alan Furr, President of the St. Clair County Bar Association and Kendall Dunson of the Alabama Lawyers Association.

4. **SPECIAL PRESENTATION**

President Segall recognized Tracy Daniel, Director of the Alabama Law Foundation. Ms. Daniel discussed Hurricane Katrina disaster relief efforts and the contributions by lawyers in Alabama in response to the call by the President Segall and the presidents of all statewide bar organizations. Ms. Daniel reported that, to date, \$130,000 had been raised and those funds were being distributed to the Red Cross and Salvation Army. She introduced Melissa George and Kelly Hodges, representatives of the American Red Cross. Ms. George remarked that the Red Cross was in the 56th day of relief efforts and those efforts were continuing. She stated that locally \$1.5 million had been raised, to date, and \$6.7 million statewide. She said nationally \$1.2 billion had been received by the American Red Cross. Ms. George noted that, to date, that \$2 billion had been spent by the American Red Cross on disaster relief involving 200,000 volunteers who have assisted 1.3 million people. On behalf of the American Red Cross, Ms. George thanked the lawyers of Alabama for their support and encouraged their continued support.

Ms. Daniel next introduced Major Darrell Kingsbury of the Salvation Army. Major Kingsbury expressed the Salvation Army's appreciation for the contributions. He spoke of the devastation that he had witnessed firsthand in the Gulf Coast area. After highlighting the destruction on the Gulf Coast area, he again thanked the Commission for the contributions made by all lawyers across the state of Alabama.

President Segall stated that he had asked lawyers to let him know what contributions they had made, either financial or in kind. He stated that the information he had received thus far indicated more than \$1.5 million had been contributed either in direct aid or services by the lawyers of Alabama to victims of Hurricane Katrina.

5. **APPROVAL OF THE MINUTES OF THE BOARD OF COMMISSIONERS MEETING FOR SEPTEMBER 16, 2005**

President Segall stated that the minutes of the Board of Commissioners meeting on September 16, 2005 had been disseminated to the Board. He asked if there were any corrections, additions or deletions.

THERE BEING NO CORRECTIONS, ADDITIONS OR DELETIONS, COMMISSIONER LAZENBY MOVED TO APPROVE THE MINUTES OF THE COMMISSIONERS' MEETING FOR SEPTEMBER 16, 2005. THE MOTION WAS SECONDED AND THE MINUTES WERE APPROVED BY UNANIMOUS VOICE VOTE.

6. PUBLIC REPRIMANDS

6.1 George E. Jones, Jr., Dallas County, ASB 04-241(A)

Mr. Jones received a public reprimand with general publication and was required to pay restitution of \$1,000 for violating rules 1.3, 1.4(a), 1.4(b) and 8.4(a) of the *Alabama Rules of Professional Conduct [ARPC]*.

6.2 Frank Wilson Myers, Sr., Baldwin County, ASB 01-217(B)

Mr. Myers received a public reprimand without general publication for violating rules 3.2, 8.2(a), 8.4(a), 8.4(c), 8.4(d) and 8.4(g) of *ARPC*.

6.3 Marshell Rena Jackson, Birmingham, ASB 04-213(A)

Ms. Jackson received a public reprimand without general publication for violation of Rule 1.1 of *ARPC*.

7. PRESIDENT'S REPORT

President Segall informed the Commission that he had attended the Opening of Court Ceremony on October 3rd. He noted that Immediate Past President Doug McElvy delivered the remarks for the ceremony. He stated that he had also attended the ceremony for the naming of the Heflin-Torbert Judicial Building to honor the late Senator Howell Heflin and Retired Chief Justice C.C. "Bo" Torbert. President Segall reported on the merit selection efforts headed up by retired Associate Justice Gorman Houston. He stated that Justice Houston was developing a group to lead this effort. The President noted that no legislation would be introduced in the 2006 legislative session. He explained that this decision was made at the recommendation of the Judicial Selection Committee so that none of the elections would be affected by pending legislation. President Segall concluded his remarks by noting that Ed Patterson, Director of Programs, was a new grandfather.

8. SECRETARY'S REPORT

The Secretary informed the Commission about the visitation and funeral services for Judge Robert Kendall. The Secretary then informed the Commission that Commissioner Shattuck had recently married. The Commission gave Commissioner Shattuck a round of applause. The Secretary next stated that the fall admissions ceremony had been held earlier in the week and that the son of Commissioner Medaris had been admitted to the bar. The Secretary reported the certification rate for the July examinees was 71.6 percent and detailed results of the examination are posted on the bar's Web site.

The Secretary highlighted the year-end report for FY 2004-2005. He stated that the year ended with revenues over disbursements resulted in the amount of \$123,862. After reviewing the year-end report, the Secretary answered several questions from the Commissioners concerning the year's revenues and disbursements. The Secretary concluded by noting that American Bar Association state delegate Ernestine Sapp had provided a report of the activities of the ABA House of Delegates for the 2005 Annual Meeting. He stated that a copy of the report had been circulated to each Commissioner.

9. COMMUNICATIONS UPDATE

Susan Andres, Communications Director, shared letters from Helena Henderson, Executive Director of the New Orleans Bar, and Frank Neuner, President of the Louisiana State Bar, about ways to help the lawyers in Louisiana who were devastated by Hurricane Katrina. She noted the efforts being made to help those lawyers and the requests for assistance made by both the New Orleans Bar and the Louisiana State Bar. Ms. Andres next reported that the state bar's Web site continues to have increased visitors every month. She stated that in September the Web site recorded almost 20,000 unique visitors and over one million hits. She then detailed some of the information about the utilization of the bar's Web site including the areas that were most visited.

10. PROGRAMS UPDATE

The Director of Programs, Ed Patterson, discussed presidential initiatives, committees and task forces. He encouraged the Commissioners to make nominations for the 2006 Leadership Forum. Commissioner Spruell also encouraged Commissioners to make nominations for the Leadership Forum.

11. GENERAL COUNSEL'S REPORT AND SUPPORT OF FEE AWARD PETITION IN WRIGHT V. CHILDREE (IN COX LITIGATION SETTLEMENT)

Tony McLain, General Counsel, reviewed the *Case* decision from the Alabama Supreme Court and its modification of the interim suspension rule. He also discussed the *Wright v. Childree* case. He stated that he was uncertain as to whether there would be an appeal of the Montgomery County Circuit Court's decision. Mr. McLain explained that the plaintiff's attorney, George Douglas of Birmingham, had requested a fee but was denied by the circuit court. He stated that Mr. Douglas might appeal this portion of the decision in order to secure a fee. Mr. McLain noted that the fee request was based on a common fund concept. He further stated that he was of the opinion that the plaintiff's counsel should receive a fee but he would not recommend that the bar take a position on the amount of the fee.

COMMISSIONER ANDERSON MOVED THAT THE BOARD OF COMMISSIONERS SUPPORT THE PLAINTIFF'S COUNSEL'S RECEIVING A FEE IN THE CASE OF *WRIGHT V. CHILDREE* FOR SERVICES RENDERED IN PROSECUTING THE CLAIM OF OVERHEAD OFFICE EXPENSE FOR APPOINTED COUNSEL BUT NOT TAKE A POSITION ON THE AMOUNT OF THE FEE FOR THOSE SERVICES. THE MOTION WAS SECONDED.

SEVERAL QUESTIONS ENSUED. FOLLOWING THOSE QUESTIONS, THE QUESTION WAS CALLED AND THE MOTION WAS APPROVED BY VOICE VOTE.

Mr. McLain next stated that the *Cox* litigation had been concluded based on a settlement proffered by the plaintiffs. He highlighted the settlement terms. President Segall noted that it had been necessary to act upon the offer settlement because of timing issues.

COMMISSIONER LAZENBY MOVED TO RATIFY THE SETTLEMENT OF THE CASE *COX V. ALABAMA STATE BAR*. THE MOTION WAS SECONDED. FOLLOWING SEVERAL QUESTIONS FROM THE COMMISSION, THE QUESTION WAS CALLED AND THE MOTION WAS APPROVED BY VOICE VOTE.

12. FY 2006-2007 BUDGET

The Secretary reviewed the proposed budget for fiscal year 2006-2007. He stated that the primary areas of increase were: “employee benefits” due to increased cost of health insurance and retirement related costs; “in-state travel” due to increased mileage reimbursement expenses and the fact that the 2007 annual meeting would be in-state; and in “professional services” due to the cost of Casemaker and the potential cost associated with scanning of membership files. He further stated that the requested budget amount of \$5,141,324 represented a 12 percent increase over the current year budget. The Secretary responded to several questions from the Commissioners regarding the 2006-2007 budget.

COMMISSIONER SPRUELL MOVED THE ADOPTION OF THE 2006-2007 BUDGET AS PROPOSED. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

13. CITIZENS’ JUDICIAL CAMPAIGN OVERSIGHT COMMITTEE INFORMATION

President Segall introduced Mark White of Birmingham and Bill Gordon, retired Circuit Judge of Montgomery. Mr. White informed the Commission of the work of the task force which was to help organize a citizens’ committee that would be independent of the state bar and the Judicial Inquiry Commission. He stated that the individuals who are taking a lead in operating the citizens’ committee are retired Appellate Court Judge Bill Bowen, Reginald Hamner, Reverend Karl Steagall, Carlos Williams and Judge Bill Gordon. Mr. White explained that they would be responsible for picking the citizens’ oversight committee. He acknowledged that the only power that the citizens’ oversight committee would really have would be was the integrity of its members. Mr. White stated that one of the citizens’ committee’s principle functions will be to serve as a resource for all judicial candidates. He further noted that the National Center for State Courts had provided a grant for training of citizen committee members. Judge Gordon asked the Commission members to submit the names of any individuals they would recommend to serve on the citizens’ committee. He encouraged them to let him know of any recommendations they had as soon as possible. President Segall thanked Mr. White and Judge Gordon for appearing before the Commission.

14. HEARING OFFICER FOR PANEL V VACANCY

President Segall stated that the Commissioners had recommended four people to fill the vacancy on Panel V. They were Ben Bowden of Andalusia, Robert Gonce of Florence, Tom Perry of Demopolis and Bruce Rogers of Birmingham. President Segall stated that the name of Bruce Rogers was placed in nomination and that the floor was open for other nominations. The names of Ben Bowden and Tom Perry were also placed in nomination.

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

President Segall recognized Commissioners who chose to speak on behalf of each of the nominees. Commissioners White, Broome, Keahey and Sparks spoke on behalf of Mr. Perry. Commissioners Raleigh, Albritton and Bucy spoke on behalf of Mr. Bowden. Commissioners Porter, McCallum and Moorner spoke on behalf of Mr. Rogers.

After extensive comments from the floor, President Segall explained that unless there was a clear majority on the first ballot, a second ballot would be held between the two nominees receiving the most votes on the first ballot.

ON THE FIRST BALLOT, MR. ROGERS RECEIVED 22 VOTES, MR. PERRY RECEIVED 24 VOTES AND MR. BOWDEN RECEIVED FIVE VOTES. ON THE SECOND BALLOT, MR. ROGERS RECEIVED 25 VOTES AND MR. PERRY RECEIVED 28 VOTES. PRESIDENT SEGALL ANNOUNCED MR. PERRY AS THE NEW HEARING OFFICER TO FILL THE VACANCY ON DISCIPLINARY PANEL V.

15. RATIFICATION OF PRESIDENT SEGALL'S LETTER TO CONGRESSIONAL DELEGATION REGARDING THE BANKRUPTCY AMENDMENTS AND HURRICANE KATRINA VICTIMS

President Segall stated that he sent a letter to the members of Alabama's congressional delegation requesting a delay in the effective date of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 on behalf of victims of Hurricane Katrina.

COMMISSIONER BEDSOLE MOVED THE RATIFICATION OF THE ACTION OF THE PRESIDENT SENDING A LETTER TO ALABAMA'S CONGRESSIONAL DELEGATION REQUESTING A DELAY IN THE EFFECTIVE DATE OF THE BANKRUPTCY ABUSE AND PREVENTION CONSUMER PROTECTION ACT OF 2005 ON BEHALF OF VICTIMS OF HURRICANE KATRINA. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

16. RATIFICATION OF CHANGE TO THE VLP STUDENT AWARD CRITERIA

The President stated that it had been necessary since the last meeting to change the VLP Law Student Award Criteria so that Alabama law students could receive credit toward the VLP Law Student Award for assisting Hurricane Katrina victims who were evacuated to Tuscaloosa. This change was requested by the Tuscaloosa County Bar.

In order for students to be recognized for the VLP Law Student Award they must meet the following three criteria: (1) Assist in an office [that] is partially funded through local, municipal, state, federal or IOLTA funds or is one that serves an eleemosynary purpose. (2) The office [must be one that] primarily serves clients who have a household income of no more than 125 percent over poverty level or who have been adversely impacted by a disaster. (3) [Assist in an office that] carries professional liability insurance (pursuant to an approved schedule). The President stated that there was no change to the third criterion and the changes (as underlined in these minutes) were noted in the first two criteria.

COMMISSIONER RALEIGH MOVED THE RATIFICATION OF THE CHANGES TO THE VLP LAW STUDENT AWARD CRITERIA AS NOTED. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

17. DEBRA HEMBREE RE-ELECTED AS BAR EXAMINER

The President stated that Ms. Debra Hembree of Mobile had served a four-year term as an examiner and agreed to continue serving if reappointed by the Commission.

COMMISSIONER BEDSOLE MOVED THE RE-ELECTION OF DEBRA HEMBREE OF MOBILE AS BAR EXAMINER FOR A FOUR YEAR TERM. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

18. SCANNING MEMBERSHIP FILES – DEMONSTRATION OF DOCUMENT MANAGEMENT SYSTEM

Membership Director Mary Corbitt and assistant Emily Farrior provided a demonstration of the scanning process and of scanned files in the bar's document management system. Following the demonstration, Ms. Corbitt answered questions from Commissioners concerning the database management system and file scanning procedures.

19. RENEWAL OF ALABAMA STATE BAR/ALABAMA BROADCASTERS PARTNERSHIP

Ms. Andres stated that the Public Relations Committee recommended that this program be continued. She said that through the third quarter of 2005 the bar had received more than \$625,000 of air time on both radio and television stations across the state. This amount exceeded the guaranteed amount by almost \$360,000. Ms. Andres stated that there was still the fourth quarter to go for the current year. President Segall recognized Commissioner Bedsole. Commissioner Bedsole stated that \$500,000 had been spent since the program was initiated. He asked if there was any tangible evidence to show that the image of the legal profession had been improved as a result of the expenditure. He opined that the best way to improve the profession's image was by working with the clients and not necessarily by putting ads on radio and TV.

20. LOCAL LAWYER RECOGNITION

Commissioners Spruell and Shattuck nominated attorney Joe Powell of Tuscaloosa for the Local Lawyer Recognition Award.

COMMISSIONER RYAN MOVED THE ADOPTION OF THE FOLLOWING RESOLUTION HONORING ATTORNEY JOE POWELL OF TUSCALOOSA FOR THE LOCAL LAWYER RECOGNITION AWARD. THE MOTION WAS SECONDED AND APPROVED.

The resolution reads as follows:

WHEREAS, Joseph Edward Powell, partner in the firm of Spruell and Powell, LLC, of Tuscaloosa, Alabama, has practiced law for seven years; and

WHEREAS, Joseph Edward Powell, in addition to rendering service to his clients and to his profession has rendered great service to the public; and

WHEREAS, for the past eight years Joe has served as an elected member of the Tuscaloosa City Council, serving the citizens of Tuscaloosa with great vision and judgment, having been elected to this public office at the age of 25 while a student at the University of Alabama School of Law; and

WHEREAS, in addition to his distinguished record of public service as a city council member, Joe serves his community through his participation and leadership in the Kiwanis Club of Greater Tuscaloosa, the Exchange Club of Tuscaloosa and the Exchange Club of Tuscaloosa Foundation, Inc.; and

WHEREAS, Joe's record of service epitomizes **Lawyers Rendering Service** to his clients, to the public and to the profession.

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners of the Alabama State Bar this day assembled offers its highest praise to Joseph Edward Powell of Tuscaloosa for his distinguished record of service to the public and encourages his continued participation in the realm of public service.

BE IT FURTHER RESOLVED that a copy of this resolution be spread across the minutes of this association and a copy be presented to Joseph Edward Powell.

21. GUESTS COMMENTS

Mr. Dunson, Mr. Furr and Ms. Burgett expressed their appreciation for their invitation to attend the meeting and for the work of the Commission.

22. 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