

MINUTES

ALABAMA STATE BAR BOARD OF BAR COMMISSIONERS MEETING

Alabama State Bar
Montgomery, Alabama

Friday, December 2, 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 Bedsole gave the invocation.

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 M. Spruell
Robert K. Jordan	Anthony A. Joseph	S. Greg Burge
Phillip W. McCallum	Edward P. Meyerson	Joseph A. Fawal
William A. (Pete) Short	Albert J. Trousdale, II	Michael D. Knight
William M. Cunningham	Billy C. Bedsole	Celia J. Collins
Charles R. Stephens, Sr.	James H. Anderson	Donald R. Jones, Jr.
Thomas J. Methvin	Sim Penton	James E. Williams
K. Scott Stapp	John E. Medaris	Robert L. Bowers, Jr.
Joseph A. Morris	Everette A. Price, Jr.	Harold Stephens
Richard J.R. Raleigh, Jr.	Johnny Paluzi	Kenneth E. White, III
Dan Warnes	Samuel N. Crosby	Tut Wynne
R. Blake Lazenby	Elizabeth Parsons	Roy W. Williams, Jr.
Robert H. Brogden	Roger Bedford, Jr.	Gerald R. Paulk
Jere C. Trent	Wayman Sherrer	Claude E. Hundley, III
Merceria Ludgood	Pamela H. Bucy	Dawn Wiggins Hare
Kelly T. Lee	William H. Broome	

The following Commissioners were absent:

Phillip Henry Pitts	Jack Neal	Maibeth Porter
Robert E. Moorer	Carol H. Stewart	Terry L. Butts
Mary Margaret Bailey	Les Hayes, III	F. Michael Haney
Thomas B. Albritton	L. Thomas Ryan, Jr.	William H. Atkinson
John M. Kennemer	David T. Hyde, Jr.	Timothy D. Littrell
Robert T. Meadows, III	David F. Law	Walter E. McGowin
Deborah Byrd Walker	Alicia F. Bennett	Kyra Sparks

Also in attendance were President-elect Boots Gale. Staff members present included Tony McLain, Gil Kendrick, Sam Partridge, Linda Lund, Laura Calloway, Anita Hamlett, Susan Andres, Jeanne Marie Leslie and Ed Patterson. Also in attendance was Tracy Daniel, Director of Alabama Law Foundation.

3. **INTRODUCTION OF GUESTS**

President Segall welcomed Les Stallworth, President of the Monroe County Bar Association.

4. **GIL KENDRICK'S PENDING RETIREMENT**

President Segall noted that Assistant General Counsel Gil Kendrick would be retiring in January and that this would be his last board meeting. The President stated that Mr. Kendrick will be missed and praised him for his 15 years of service to the Alabama State Bar. The Board of Commissioners gave Mr. Kendrick an ovation.

5. **APPROVAL OF THE MINUTES OF THE BOARD OF COMMISSIONERS MEETING FOR OCTOBER 21, 2005**

President Segall stated that the minutes of the Board of Commissioners meeting on October 21, 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 FAWAL MOVED TO APPROVE THE MINUTES OF THE COMMISSIONERS' MEETING FOR OCTOBER 21, 2005. THE MOTION WAS SECONDED AND THE MINUTES WERE APPROVED BY UNANIMOUS VOICE VOTE.

6. **PUBLIC REPRIMANDS**

6.1 **John Allen Bivens, Jr., Tuscaloosa, ASB 03-69(A)**

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

6.2 **Greg Lee Smith, Birmingham, ASB 04-172(A)**

Mr. Smith received a public reprimand with general publication for violating Rules 1.1, 1.3, 1.4(a) and 8.1(b) of ARPC.

7. **PRESIDENT'S REPORT**

President Segall commenced his report by praising the Commission for their excellent job in representing the lawyers of the state. He next noted that the Judicial Oversight Committee was moving towards formalizing its organization and selecting its members. President Segall remarked that he felt the committee would do a good job because it would be comprised of well respected citizens.

The President then discussed the Indigent Defense Commission appointed by the Chief Justice. He noted that a draft of the bill by that commission was posted on the bar's web site. President Segall stated that national expert Bob Spangenberg, who has assisted Alabama on many occasions in the past, would be reviewing the draft and recommending possible changes. He emphasized that the draft legislation calls for an indigent defense commission structure. He emphasized that no decisions would be made by the Indigent Defense Commission if the further legislation is approved, without local input. President Segall stated that the current draft of the legislation would eliminate office overhead expense and go to a flat rate hourly fee for both in court and out of court time. He also noted that there were caps on the fee amounts for various types of cases. President Segall encouraged the Commission members to read the bill and be familiar with it. He reminded the Commission that the proposed legislation was the result of much work by many people and it would be discussed in more detail as an action item at the next meeting. President Segall then read a letter from Judge John B. Crawley, presiding judge of the Alabama Court of Civil Appeals concerning the proposed legislation. Following the reading of Judge Crawley's letter, President Segall asked the Secretary to forward a copy of the letter to the Chief Justice's Commission on Indigent Defense.

President Segall concluded his report by discussing issues involving criticism of the court. He noted that he had received several calls from lawyers about this issue. He informed the Commission that the Judicial Liaison Committee was looking at the issue and reviewing the Commission's past policy. He stated that the committee will be issuing a report in January concerning its conclusions.

8. **SECRETARY'S REPORT**

The Secretary informed the Commission that since its last meeting, Commissioner Alicia Bennett had given birth to a daughter, Samantha. The Secretary reported that mother and daughter were doing fine. The Secretary then informed the Commission that the Alabama Supreme Court on October 27, 2005 adopted Rule IX to the Rules Governing Admission to the Alabama State Bar. He stated that this new rule provides for the registration and certification of in-house counsel who are employed in such positions in Alabama. He explained that the legislation allowed the Commission to set the fees and that this would be considered at the next meeting.

The Secretary next informed the Commission that on January 12 at 8:00 a.m. there would be a breakfast for lawyer legislators at the RSA Terrace hosted by President Bobby Segall and President-elect Boots Gale. He further stated that all Commission members were

invited to attend and that one of the items to be discussed with the lawyer legislators was the fee increase bill that had failed in the last regular session and would be reintroduced in the 2006 Regular Session. The Secretary informed the Commission that Representative Marcel Black of Tusculumbia, chair of the House Judiciary Committee had again agreed to introduce the bill and would in fact pre-file the bill on behalf of the Alabama State Bar.

The Secretary then stated that the Mobile Bar Association had transmitted three resolutions memorializing Judge Cain Kennedy, Henry Fonde and William Brigham to be placed in the Alabama State Bar Book of Memorial Resolutions.

COMMISSIONER COLLINS MOVED THE ACCEPTANCE OF THE RESOLUTIONS FROM THE MOBILE BAR ASSOCIATION MEMORIALIZING JUDGE CAIN KENNEDY, HENRY FONDE AND WILLIAM BRIGHAM AND THAT THE RESOLUTIONS BE PLACED IN THE ALABAMA STATE BAR BOOK OF MEMORIAL RESOLUTIONS. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

The Secretary concluded his remarks by noting that Commissioner Price would soon undergo chemotherapy treatments and he requested that Commission members keep Commissioner Price in their thoughts and prayers over the next few months during the course of his treatment.

9. PROGRAMS UPDATE

Director of Programs Ed Patterson highlighted several CLE items including new information on the bar's website with easy to locate instructions answering CLE questions. He stated that Anita Hamlett and the CLE staff had worked hard to offer this information in an easy to understand format. Mr. Patterson next highlighted the Law Office Management Assistance Program Practice Management Seminar that was held in November with the assistance of a grant from Lexis Nexis. He stated that the program was a sell out and very beneficial to those who attended. He informed the Commission that the Insurance Programs Committee was studying a possible health insurance program plan for bar members. He stated that efforts were underway to reestablish such a program. He reminded the Commission that there was presently no endorsed bar health insurance program. Mr. Patterson concluded by discussing the statistics concerning the Leadership Forum class. He stated that there were 71 applications for the 2006 Leadership Forum Class which almost doubled last year's number. He said that this indicated there was a great deal of interest in the Leadership Forum Program for which he was very glad.

10. ALABAMA STATE BAR LEADERSHIP FORUM – 2006 CLASS

President Segall called on Commissioner Spruell to discuss the program and recommendations from the Leadership Forum Committee. Commissioner Spruell stated that it was a difficult selection process but the subcommittee met twice to review the applications and to select recommended candidates for the 2006 class. Commissioner Spruell stated that the committee recommended the following 30 class members and five alternates for the 2006 Bar Leadership Forum:

Christopher F. Abel	Gadsden
F. Wendell Allen	Birmingham
A.Vernon Barnett, IV	Montgomery
Robert E. Battle	Birmingham
Brannon J. Buck	Birmingham
Tracy W. Cary	Dothan
Shayana Boyd Davis	Birmingham
Helen Kathryn Downs	Birmingham
Missy Homan Hibbett	Tuscumbia
James F. Hughey, III	Birmingham
Wyndall A. Ivey	Birmingham
Keith Jackson	Birmingham
Tracie B. Lee	Mobile
Tara Waller Lockett	Daphne
Jonathan M. Lusk	Guntersville
Champ Lyons, III	Birmingham
Foster Fitzpatrick Marshall	Anniston
Kim Bessiere Martin	Huntsville
Robert G. Methvin, Jr.	Birmingham
Matthew C. Minner	Birmingham
Julie Sorrells Moody	Andalusia
Joseph E. Powell	Tuscaloosa
Thomas A. Radney	Alexander City
Patrick L.W. Sefton	Montgomery
Roman Ashley Shaul	Montgomery
Pamela B. Slate	Montgomery
Brian R. Smith	Livingston
Sandra Ingram Speakman	Montgomery
Aldos S. Vance	Birmingham
Jon G. Waggoner	Auburn

Alternates:

1st Sandra Parker Hoffpauir	Huntsville
2 nd Robert Hays Webb	Tuscaloosa
3 rd Norman G. Winston, Jr.	Birmingham
4 th Margaret Holladay Alves	Mobile
5 th Russell C. Buffkin	Mobile

COMMISSIONER SPRUELL MOVED THE ADOPTION OF THE 2006 LEADERSHIP FORUM CLASS AS RECOMMENDED BY THE LEADERSHIP FORUM COMMITTEE. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

President Segall thanked Commissioner Spruell and the Leadership Forum Committee for their fine work.

11. **RENEWAL OF ALABAMA STATE BAR AND ALABAMA BROADCASTERS ASSOCIATION PARTNERSHIP**

President Segall recognized Susan Andres, Director of Communications. Ms. Andres introduced Scotty Colson, chair of the Public Relations Committee and Gregg Everett, long time member of the Public Relations Committee. Ms. Andres addressed the genesis of the program and addressed the concerns that had been expressed previously regarding the times that the commercials have run on radio and TV stations across the state. Ms. Andres exhibited the voluminous affidavits sent in by broadcasters detailing times which the commercials over the past year have been aired. The announcements currently running on radio and TV were also shown for the benefit of the commission. In response to concerns about ways to measure the effectiveness of the nine year old program Ms. Andres remarked that image marketing is very difficult to measure. She stated that the Public Relations Committee will be working on new commercials to help do some measurement over the next year.

Mr. Colson spoke next. He discussed the partnership. He stated that while the results cannot be directly measured, he noted that 50 lawyer volunteers spoke at 30 different schools across the state as a part of the "Athletes, Academics and the Law, Play It Smart" program. He also noted that the Life Plan program distributed more than 17,000 brochures to the public. He explained that although market surveys are very costly, it is possible to show how many people request information when commercials informing the public about the information are broadcast. Mr. Colson stated that the bar's \$65,000 contribution, which represents less than 1 1/2% of the bar's budget, has resulted in the bar receiving in some years more than one million dollars in airtime. Mr. Colson concluded by emphasizing the fact that it is important that the state bar tell its own story on behalf of its members. Mr. Everett next addressed the Commission. He concurred with Mr. Colson's analysis and discussed the popularity of the Life Plan program as an example of the effectiveness of the partnership with the Alabama Broadcasters Association. He emphasized that if the bar discontinued the program it would be very difficult to participate in the future because of the number of non-profit organizations who want to participate in the program with the broadcasters association.

COMMISSIONER SPRUELL MOVED TO AUTHORIZE THE EXPENDITURE OF \$65,000 IN ORDER FOR THE ALABAMA STATE BAR TO CONTINUE ITS PARTNERSHIP WITH THE ALABAMA BROADCASTERS ASSOCIATION. THE MOTION WAS SECONDED.

President Segall asked if there was discussion. Commissioner Bedsole inquired about how the price of the non-commercial advertisements are determined. Ms. Andres explained that the radio and TV stations assign a value to the 30 or 60 second commercials they run. She stated that when the commercials are run, the stations are obligated to provide affidavits indicating when those commercials ran and how often. Commissioner White asked what percentage of TV time was in the evening. Ms. Andres

indicated that right off hand she did not know. He also asked what evidence there was that this media program had enhanced the profession's image. Mr. Colson explained that it would be necessary to do a poll and then do a survey at great expense in order to make that determination.

THE QUESTION WAS CALLED. PRESIDENT SEGALL ASKED FOR A VOTE ON THE MOTION. THE MOTION WAS APPROVED BY VOICE VOTE.

President Segall thanked Mr. Colson and Mr. Everett and the Public Relations Committee.

12. LEGISLATIVE COUNSEL CONTRACT RENEWAL

The President stated that this was the annual renewal for the legislative counsel contract for Tom McGregor who serves as legislative counsel. He stated that the contract was in the amount of \$17,500 which was the same amount as last year.

COMMISSIONER ANDERSON MOVED TO APPROVE THE RENEWAL OF THE LEGISLATIVE COUNSEL CONTRACT WITH TOM MCGREGOR IN THE AMOUNT OF \$17,500. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

13. MEMBERSHIP FILES SCANNING PROJECT

President Segall discussed the proposals to scan membership files. He stated that his understanding was that there was concern among the commission about controlling the cost of the project without the benefit of having an approved license fee increase.

COMMISSIONER SPRUELL MOVED TO TABLE ANY ACTION ON THE PROPOSAL. THE MOTION DIED FOR LACK OF A SECOND.

COMMISSIONER LUDGOOD MOVED TO AUTHORIZE THE ENGAGEMENT OF THE SERVICES OF EMERALD COAST SOFTWARE COMPANY TO COMPLETE THE SCANNING OF ALL MEMBERSHIP FILES WITH THE COST OF SERVICES PROVIDED IN ANY ONE FISCAL YEAR NOT TO EXCEED \$90,000 UNLESS THE EXECUTIVE DIRECTOR IN CONSULTATION WITH THE EXECUTIVE COMMITTEE DETERMINES THAT STATE BAR FINANCES CAN REASONABLY SUPPORT AN INCREASED EXPENDITURE FOR SERVICES TO COMPLETE THE SCANNING PROJECT. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

14. ADR COMMITTEE LEGISLATIVE REPORT

President Segall stated that the Center for Dispute Resolution had asked him to mention the fact that the mediator confidentiality bill would again be introduced at the upcoming legislative session. President Segall noted that this same bill had been introduced the last five or six sessions of the legislature without success but that it was hoped this year the bill would be adopted.

15. JOINT PROFESSIONALISM AWARD

President Segall stated that the Chief Justice's Commission on Professionalism had indicated an interest in creating an award that would be awarded in conjunction with the bar to recognize a judge or lawyer for his or her contributions in enhancing the professionalism of Alabama lawyers. He stated that the criteria and the process for selecting recipients would be made available to the commission at the next meeting.

16. COMMENTS

President Segall recognized Les Stallworth. Mr. Stallworth thanked the commission for his invitation and expressed his appreciation for the work of the commission. President Segall next recognized Commissioner Bedsole who related a story of a close friend who recently died unexpectedly. Commissioner Bedsole indicated that none of us knows how much time we have so it is important for each of us to appreciate the time that we have.

Commissioner Anderson was recognized. He stated that the Secretary and his family had been recognized by the Family Guidance Center as one of Montgomery's Families of the Year for 2005.

17. 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