

MINUTES

ALABAMA STATE BAR BOARD OF BAR COMMISSIONERS MEETING

**State Bar Building
Montgomery, Alabama**

Friday, January 18, 2019

1. CALL TO ORDER

President Sam W. Irby 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 Terri Tompkins gave the invocation.

2. ROLL CALL

The secretary took the roll of the commission and the following commissioners were present:

LaBella S. Alvis	Mark S. Boardman	Robert L. Bowers, Jr.
Sally Bowers	Jeffrey L. Bowling	John A. Brinkley, Jr.
Robert H. Brogden	William H. Broome	Bradley Cornett
Latisha R. Davis	Deborah Dunsmore	Michael D. Ermert
J. Langford Floyd	Kira Y. Fonteneau	Erskine R. Funderburg, Jr.
Jana Russell Garner	Christy Williams Graham	Dana Grimes
H. Thomas Heflin, Jr.	Frederick G. Helmsing, Jr.	Scott B. Holmes
Ralph E. Holt	William R. Lancaster	Karen Laneaux
F. Patrick Loftin	David Martin	M. Clay Martin
William Randall May	Robert G. Methvin, Jr.	Charles Zackery Moore
Kenneth Moore	Larry W. Morris	J. Flynn Mozingo
J. Levi Nichols	George R. Parker	J. Lynn Perry
Taylor T. Perry, Jr.	Courtney R. Potthoff	Chuck Price II
Barry A. Ragsdale	Jeanne Dowdle Rasco	James Rebarchak
Pat Sefton	Tazewell T. Shepard, III	Scott Shipman
Allison O. Skinner	John A. Smyth	John T. Stamps
Charles C. Tatum, Jr.	James Michael Terrell	Terri O. Tompkins
Halron W. Turner	C. Gibson Vance	

The following commissioners were absent:

Emily L. Baggett	Raymond L. Bell, Jr.	Brannon J. Buck
Bryan E. Comer	Diandra S. Debrosse	Jeffery C. Duffey
Monet M. Gaines	J. Kirkman Garrett	Anne Malatia Glass
Carmen Howell	Clinton H. Hyde	Brett A. King

Donald B. Mansell
R. Cliff Mendheim
Andrew D. Stanley

Clint L. Maze
Manish H. Patel
Gregory M. Varner

Rebekah K. McKinney
Amanda Porter
Roy W. Williams, Jr.

Also in attendance was President-elect Christy Crow and Immediate Past President Augusta S. Dowd. Staff members in attendance were: Roman Shaul, Justin Aday, Diane Locke, Margaret Murphy, Alex Edwards, Linda Lund, Laura Calloway, Merinda Hall, and Ed Patterson.

3. RECOGNITION OF CHIEF JUSTICE TOM PARKER

President Irby recognized Alabama Supreme Court Chief Justice Tom Parker and asked Chief Justice Parker to address the commission. Chief Justice Parker expressed gratitude to officers and staff of the Alabama State Bar for the strong relationship that has been forged between the bar and the Supreme Court. He also thanked the commissioners for their efforts in assisting with the restoration of funding for the court system in Alabama.

4. REMARKS BY ASSOCIATE JUSTICES SARAH STEWART AND JAY MITCHELL

Associate Justice Stewart thanked the board for the invitation to make remarks at the meeting. She reflected fondly on her experience as a lawyer and trial court judge. She expressed to the commission that she is optimistic about the opportunity to serve on the Court with her fellow justices. Justice Stewart acknowledged challenges that face the Court, especially with respect to court funding, and she encouraged the commissioners to continue in their efforts to assist in securing adequate funding for the court system.

Associate Justice Jay Mitchell thanked the commission for the opportunity to make remarks and said that he looked forward to getting to know and work with the members of commission. He acknowledged the value of the Alabama State Bar and said that he looks forward to helping build a stronger relationship between the bar and the Supreme Court.

5. APPROVAL OF THE MINUTES OF THE OCTOBER 26, 2018 BOARD MEETING

President Irby stated that the minutes of the October 26, 2018 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 METHVIN MOVED TO APPROVE THE MINUTES OF THE OCTOBER 26, 2018 BOARD MEETING. THE MOTION WAS SECONDED AND APPROVED BY UNANIMOUS VOICE VOTE.

6. **INTRODUCTION OF GUESTS**

President Irby recognized special guests Past President Cole Portis; Chris Youngpeter, law clerk to Justice Sarah Stewart; Josh Hayes, president of the Alabama Civil Justice Foundation; Nikki T. Thomas, executive director of the Alabama Civil Justice Foundation; Greg Ward, Greg Hawley, current editor of The Alabama Lawyer; Honorable Jimmy Pool; Eileen Harris, director of the Alabama Center for Dispute Resolution; Alexander Calton, a first-year law student at Cumberland and a guest of Commissioner Courtney Potthoff; Ryan Duplechin and Jordan Jenkins, members of the Member Relations Task Force; Julia Weller, clerk of the Supreme Court; Lee Johnsey and Tim Garner of the Digital Communications Task Force; Tracy Daniel of the Alabama Law Foundation; and Suzi Huffaker, legislative counsel.

Also in attendance was Associate Justice Brad Mendheim who introduced a group of law students from Australia who are participating in an educational program with the Hugh F. Culverhouse, Jr. School of Law at the University of Alabama. The students toured the Heflin-Torbert Judicial Building and observed a portion of the Board of Bar Commissioners meeting.

7. **RECOGNITION OF RETIREMENT OF ASSISTANT EXECUTIVE DIRECTOR ED PATTERSON**

President Irby informed the commission that Assistant Director Ed Patterson would be retiring from the Alabama State Bar on January 31, 2019. President Irby recognized Mr. Patterson, thanked him for his many years of service to the bar and presented him with a token of appreciation on behalf of the members of the Alabama State Bar. He recognized Mr. Patterson to make brief remarks to the commission.

Mr. Patterson thanked Executive Director McCallum for the reception that was given in his honor on the evening before the commission meeting. Mr. Patterson said that it is his great honor to be a lawyer and to have served the Alabama State Bar in various capacities for nearly thirty years. He expressed his gratitude to the commissioners for the relationships he has had with them over the years.

8. **PRESIDENT'S REPORT**

President Irby recognized Commissioner Monet Gaines on her appointment as a District Court Judge in Montgomery County. He wished her well as a judge and said that he and the commissioners would miss her greatly on the commission. President Irby informed the commission that filling the at large seat held by Commissioner Gaines would be a discussion item at a future meeting and that Commissioner Fred Helmsing would serve in the executive council position being vacated by Commissioner Gaines.

President Irby informed the commission that he has appointed Commissioners John Brinkley, Karen Laneaux, Robert Bowers, Tom Heflin and Jim Rebarchak to serve as the members of the Election Supervision Committee.

President Irby congratulated Commissioner LaBella Alvis on her engagement to Birmingham attorney Chip McCallum.

President Irby reported on local bar meetings and other speaking engagements that he has attended since the last board meeting. He said that these opportunities continue to be rewarding for him and well-received by those who host representatives of the state bar. He also reported on upcoming events and encouraged commissioners to continue to invite state bar leadership to local bar meetings and other activities in their communities.

9. **RECOGNITION OF GREG HAWLEY, RETIRING EDITOR OF THE ALABAMA LAWYER MAGAZINE**

President Irby recognized Greg Hawley, editor of *The Alabama Lawyer*, and informed the commission that Mr. Hawley has decided to step aside as the editor of the publication, a position that he has held since 2011. President Irby expressed his gratitude to Mr. Hawley for all of his hard work in making *The Alabama Lawyer* one of the most prestigious legal publications in the country. President Irby presented Mr. Hawley with a resolution of the Board of Commissioners of the Alabama State Bar, which was as follows:

WHEREAS, Gregory H. Hawley, a partner in the Birmingham firm of Hawley & Nicholson PC, has practiced law for more than 35 years; and

WHEREAS, Greg graduated with honors from Harvard College in 1979 and then served for a year on the staff of the United States Judiciary Committee, at the behest of Alabama Senator Howell Heflin. He received his law degree from Georgetown University Law Center in 1983 and then served as a law clerk for the Hon. U.W. Clemon, U.S. District Judge, Northern District of Alabama; and

WHEREAS, Greg is admitted to practice before the U.S. Supreme Court, the U.S. Court of Appeals, Eleventh Circuit; the U.S. Court of Appeals, Ninth Circuit; and the U.S. District Court for the Northern, Middle and Southern Districts of Alabama. He is a member in good standing of the Alabama State Bar, the District of Columbia Bar and the State Bar of Texas; and

WHEREAS, Greg was chosen to serve as the editor of *The Alabama Lawyer* in early 2011 and has since directed the publication of more than 50 issues of the *Lawyer*; and

WHEREAS, Greg has given freely of his time in many ways to the legal profession, including serving as a member of the Alabama State Bar Board of Bar Commissioners; the Disciplinary Board, Panel V; The Alabama Lawyer Board of Editors; the

Mentoring Pilot Program Task Force; and the VLP Long-Range Planning Task Force, as well as the president of the Birmingham Bar Association in 2010; and

WHEREAS, in 2012, Greg received the Albert Vreeland Pro Bono Award from the Alabama State Bar, which is presented to an individual for their pro bono efforts; and

WHEREAS, Greg has been active in numerous charitable and civic organizations including Leadership Birmingham, the Harvard Club of Birmingham, the Indian Springs School Board of Governors and the United Way; and

NOW, THEREFORE, BE IT RESOLVED by the Board of Bar Commissioners of the Alabama State Bar, this day assembled, that Gregory H. Hawley has rendered exceptional service to the Alabama State Bar and its members and that he is hereby praised for his many years of dedication and loyalty and honored for his long-time management of *The Alabama Lawyer* magazine.

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

Done this the 18th day of January 2019.

Mr. Hawley thanked the commission for the resolution and the opportunity to have served as editor of *The Alabama Lawyer*. He recognized the members of the Board of Editors of *The Alabama Lawyer* magazine for their invaluable assistance in production of the magazine. In addition, Mr. Hawley specifically recognized his wife, Sally Hawley, his legal assistant, Tyler Florence, and Margaret Murphy, Director of Publications for the Alabama State Bar.

10. INTRODUCTION OF GREG WARD AS INCOMING EDITOR OF THE ALABAMA LAWYER MAGAZINE

President Irby introduced Greg Ward of Lanett as the incoming editor of *The Alabama Lawyer*. He said that the executive council reviewed candidates for the position and unanimously recommended Mr. Ward. President Irby welcomed Mr. Ward to the position and said that he looks forward to him serving as editor of the magazine for many years to come.

Mr. Ward thanked the commission for the opportunity to serve as editor of *The Alabama Lawyer*. He said that Alabama is blessed with lawyers from many walks of life who have come from all over the world. He encouraged commissioners to submit articles for publication in *The Alabama Lawyer*.

11. REPRIMANDS

11.a. Herbert Ervin Browder – ASB 2016-1570

Mr. Browder received a public reprimand without general publication and pay any and all costs taxed pursuant to Rule 33, *Alabama Rules of Disciplinary Procedure*, including but not limited to a \$1,000 administrative fee for violating Rules 1.5; 1.7(a) and 1.7(b); 1.8(a); 1.14(a); 3.4(a); 8.4(a), 8.4(d) and 8.4(g) of the *Alabama Rules of Professional Conduct*.

11.b. Frederic Lamar Washington – ASB 2017-1152

Mr. Washington received a public reprimand with general publication and pay any and all costs taxed pursuant to Rule 33, *Alabama Rules of Disciplinary Procedure*, including but not limited to a \$1,000 administrative fee for violating Rules 1.1; 1.3; 1.4; 1.16(a)(1); 3.3(a); 5.5(a)(1); 8.4(a), 8.4(c), 8.4(d) and 8.4 (g) of the *Alabama Rules of Professional Conduct*.

12. SECRETARY / EXECUTIVE DIRECTOR'S REPORT

Secretary/Executive Director Phillip McCallum thanked Assistant Executive Director Ed Patterson for his service to the Alabama State Bar and said that he will be greatly missed on the State Bar staff. Mr. McCallum informed the commission that Ashley Penhale had been hired as Director of Programs for the Alabama State Bar.

Mr. McCallum informed the commission that nominations are open for several Alabama State Bar awards and he encouraged commissioners to submit nominations before the deadline. He also reminded commissioners that several commission seats are up for election and that qualifying petitions for those positions are due on or before April 26, 2019.

Mr. McCallum informed the commission that he received a letter of appreciation from The Florida Bar for the monetary donation that was made by the Alabama State Bar in the aftermath of the Hurricane Michael. He also recognized Commissioner Maze for the merger of his law practice with the law firm of Wilmer and Lee.

Mr. McCallum informed the commission of the recent passing Rick Manley and Joe Calvin Cassady. Mr. Manley was a former commissioner and the father of past president Alyce Spruell. Mr. Cassady was a former commissioner and former vice president of the Alabama State Bar.

13. OFFICE OF GENERAL COUNSEL REPORT

General Counsel Roman Shaul presented the 2018 statistics of the Office of General Counsel. He informed the commission that the office conducted 72 educational programs, received 1,181 complaints against lawyers, screened out 873 complaints, and opened 303 formal investigative files. In terms of discipline, Mr. Shaul reported that in 2018 there were 32 private reprimands, 11 public reprimands, 34 suspensions, 9 disbarments, and 10 attorneys placed on disability inactive status.

14. FINANCIAL REPORT

Finance Director Merinda Hall informed the commission that the bar had a very productive start to the current fiscal year, with over eighty percent of the total annual revenue being collected in the first quarter. Mrs. Hall reported that, compared to last year, current revenues are up about 1%, with the most notable increases coming from license fees, special membership dues and bar exam fees. She also reported that, compared to last year, *Pro Hac Vice* application fees are down. Mrs. Hall reported that expenses are down approximately 3%, as compared to the prior year.

Mrs. Hall reported on the external audit performed for the fiscal year ending September 30, 2018. She reported that there were no material weaknesses or significant deficiencies found in the audit and that the net worth of the bar increased by approximately \$900,000 in the previous year.

15. LOCAL BAR COMMITTEE UPDATE

President Irby recognized Commissioner Methvin to give an update on the activities of the Local Bar Committee. Commissioner Methvin reported that members of the committee have been dispatched to local bars to receive feedback and assemble recommendations for outreach efforts of the state bar. He also reported that the committee is looking at various opportunities to communicate with lawyers across the state, including features on the newly redesigned website.

16. LEGISLATIVE UPDATE

Legislative Counsel Suzi Huffaker reported to the commission that the legislative session begins on March 5, 2019, and will likely continue until mid-June. She reported that the Legislature held its organizational session last week and that one-third of the legislators are new to the Legislature. Mrs. Huffaker reported that a committee of the Alabama Law Institute has developed recommendations for revisions to the Judicial Articles, which, if approved by the Legislature, would be the first revisions to the articles since they were enacted in the 1970s. She also reported that, as always, work on the annual budgets would be important this year, and that commissioners should be aware of state and local bills that would affect court costs.

17. NOMINATIONS FOR APPOINTMENT OF REPRESENTATIVE ON THE JUDICIAL INQUIRY COMMISSION

President Irby informed the commission that the term of Billy Bedsole on the Judicial Inquiry Commission is expiring, and that Mr. Bedsole expressed an interest in being re-appointed.

COMMISSIONER BROGDEN MOVED TO SUSPEND THE RULES AND MAKE THIS DISCUSSION ITEM AN ACTION ITEM. THE MOTION WAS SECONDED

AND APPROVED BY THE NECESSARY TWO-THIRDS VOTE. PRESIDENT IRBY ASKED THAT IT BE NOTED IN THE MINUTES THAT HE WAS NOT IN FAVOR OF SUSPENDING THE RULES.

A MOTION WAS MADE BY COMMISSIONER FLOYD TO CLOSE NOMINATIONS. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

COMMISSIONER METHVIN MOVED TO REAPPOINT BILLY BEDSOLE FOR TO THE JUDICIAL INQUIRY COMMISSION. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

18. NOMINATIONS FOR APPOINTMENTS TO THE BOARD OF BAR EXAMINERS

President Irby informed the commission that the terms of Ed Gentle and Courtney Potthoff on the Board of Bar Examiners are expiring. He reported that nominations are open and the appointments would be an action item for the next board meeting.

19. LOCAL BAR REPORT

President Irby recognized Commissioner Karen Laneaux of Montgomery for a local bar report. Mrs. Laneaux reported on the appointment of Commissioner Monet Gaines as a District Court Judge, filling the seat vacated by Judge Jimmy Pool, who was appointed as a Circuit Court Judge to the seat vacated by General Counsel Roman Shaul. She also reported that new officers of the Montgomery County Bar were installed, and she recognized the exemplary service of outgoing president Felicia Long. Commissioner Laneaux reported that, in response to a shooting that took place outside the Montgomery County Courthouse, new policies were implemented, including one that limits electronic devices in the courthouse to lawyers who have properly registered with the Montgomery County Bar. She also reported on the charitable and service activities of the Montgomery County Bar, as well as educational seminars presented by the local bar during the past year.

President Irby recognized Commissioner Dana Grimes of Ft. Payne to give a local bar report. Commissioner Grimes reported on behalf of the 9th Judicial Circuit (DeKalb and Cherokee). She reported that the circuit's annual CLE program was presented on the morning of November 30, 2018. She also reported that on the evening of November 30, 2018, a reception was held to honor Judge Randall Cole, the longest serving Circuit Court Judge in Alabama, who retired earlier this year after serving as Circuit Court Judge since 1974. Commissioner Grimes also reported that a portrait was hung in Judge Cole's courtroom to honor him. Also, a portrait was hung in the courtroom of Judge Raines, to honor his service as Circuit Court Judge in the 9th Judicial Circuit. Finally, Commissioner Grimes reported on the ongoing work of the Election Participation Task Force and encouraged commissioners to provide feedback and recommendations on increasing participation in State Bar elections.

20. UPDATE FROM ALABAMA LAW FOUNDATION

President Irby recognized Commissioner Flynn Mozingo and Judge Jimmy Pool to give an update, on behalf of the Board of Trustees of the Alabama Law Foundation, on the Alabama Law Foundation's impending relocation from the State Bar building. Mr. Mozingo gave an overview of the structure of the Alabama Law Foundation and its Board of Trustees. He reported that the Alabama Law Foundation currently has approximately \$8.5 million in assets, and that it awards approximately \$500,000 in grants each year. Mr. Mozingo reported that authority granted from the Supreme Court of Alabama, through the IOLTA program, provides for significant funding for the organization. He stated that continued growth of the Alabama Law Foundation and anticipated growth of the organization and its staff necessitated the need to relocate from the Alabama State Bar building.

Judge Jimmy Pool addressed the commission and complimented the superior leadership of the Alabama Law Foundation under executive director Tracy Daniel. Judge Pool said that both the Alabama State Bar and the Alabama Law Foundation will flourish as a result of the relocation. Further, Judge Pool stated that the move will simply allow the Alabama Law Foundation to showcase itself and that he does not think other anticipated practical or administrative changes that will occur as a result of the move.

21. DIGITAL COMMUNICATIONS COMMITTEE UPDATE

President Irby recognized Lee Johnsey and Tim Garner to give an update from the Digital Communications Committee. Mr. Johnsey informed the commission that the committee is making significant progress in reviewing the ongoing work on changes to the Alabama State Bar website. He reported that a number of subcommittees are reviewing content for the website and that review should be complete within a week.

Mr. Garner reported that security concerns are being addressed by the committee and that they are available to answer questions.

22. ADJOURNMENT

President Irby 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 and the meeting was adjourned at 11:55 a.m.

Sam W. Irby, President
Alabama State Bar

ATTEST:

Phillip W. McCallum, Secretary
Alabama State Bar