

MINUTES

ALABAMA STATE BAR BOARD OF BAR COMMISSIONERS MEETING

Ross Bridge Golf Resort & Spa
Birmingham, Alabama

Due to the COVID-19 pandemic, this in-person meeting of the Board of Bar Commissioners was also available via video teleconference in accordance with the provisions of Section III of the First Supplemental State of Emergency: Coronavirus (COVID-19) issued by Proclamation of the Governor of the State of Alabama on March 18, 2020.

Friday, December 4, 2020

1. CALL TO ORDER

President Bob Methvin convened this meeting of the Alabama State Bar Board of Commissioners at 10:00 a.m. Commissioner Bob McMillian gave the invocation.

2. ROLL CALL

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

Raymond L. Bell, Jr.	Edgar Black	Mark S. Boardman
Sally Bowers	Jeffrey L. Bowling	John A. Brinkley, Jr.
William H. Broome, Jr.	Brannon J. Buck	Clay Carr
Joel Connally	Bradley Cornett	Mark Debro
Diandra S. Debrosse	Deborah Dunsmore	Michael D. Ermert
J. Langford Floyd	Kira Y. Fonteneau	Jana Russell Garner
J. Kirkman Garrett	Anne Malatia Glass	Christy W. Graham
Dana Grimes	Frederick G. Helmsing, Jr.	Erik S. Heninger
Scott B. Holmes	Carmen Howell	Brett A. King
Edwin Lamberth	William R. Lancaster	Leigh Anne Landis
Karen Laneaux	David Langston	Felica Long
David Martin	M. Clay Martin	LaBella S. McCallum
Rebekah K. McKinney	Bob McMillan	R. Cliff Mendheim
Tina Moon	Kenneth Moore	J. Levi Nichols
George R. Parker	J. Lynn Perry	Chuck Price II
Amanda Porter	Barry A. Ragsdale	John Rea
James Rebarchak	Chrissy Riddle	Jeanne Dowdle Rizzardi
Freddy Rubio	Holly Sawyer	Pat Sefton
Allison O. Skinner	Elizabeth Smithart	John A. Smyth
John T. Stamps	Charles C. Tatum, Jr.	James M. (Jimbo) Terrell
Terri O. Tompkins	Halron W. Turner	C. Gibson Vance

Mallory B. Whitley

The following commissioners were absent:

Robert H. Brogden	Bryan E. Comer	Richard M. Kemmer
Jason P. Knight	F. Patrick Loftin	Donald B. Mansell
Clint L. Maze	Larry W. Morris	Manish H. Patel
Taylor T. (Tom) Perry, Jr.	Andrew D. Stanley	

Also in attendance was President-elect Taze Shepard and Immediate Past President Christy Crow. Staff members in attendance were: Roman Shaul, Justin Aday, Merinda Hall, Ashley Penhale, Robyn Bernier, Melissa Warnke, Megan Hughes, Margaret Murphy, Michelle Shaw, Linda Lund, and Suzi Huffaker.

3. **APPROVAL OF THE REVISED AGENDA OF THE DECEMBER 4, 2020 BOARD MEETING**

President Methvin stated that a revised agenda of the December 4, 2020 Board Meeting had been published prior to the meeting. He asked if there were any corrections, additions or deletions.

COMMISSIONER RIZZARDI MOVED THAT THE AGENDA BE REVISED TO CARRY FORWARD THE DISCUSSION ITEM TO CONSIDER A COST OF LIVING ADJUSTMENT FOR STAFF EMPLOYED TWO YEARS OR LONGER. THE MOTION WAS SECONDED AND UNANIMOUSLY APPROVED.

COMMISSIONER MENDHEIM MOVED TO APPROVE THE REVISED AGENDA OF THE DECEMBER 4, 2020 BOARD MEETING. THE MOTION WAS SECONDED AND UNANIMOUSLY APPROVED.

4. **INTRODUCTION OF GUESTS**

President Methvin recognized special guests including Associate Justice Tommy Bryan, Associate Justice Will Sellers, Matthew Cannova, Mike Hicks and Joey Marquez.

5. **PRESIDENT'S REPORT**

President Methvin welcomed President-elect Taze Shepard to the meeting and expressed that many having been thinking about and praying for Mr. Shepard following his recent surgery and recovery.

President Methvin reported to the Board that the Alabama Ethics Commission held a hearing on the complaint involving former Executive Director Phillip McCallum and it found that he had committed 17 minor violations of the Ethics Act. Mr. Methvin stated that the Ethics Commission voted to administratively resolve each of the violations

and that the administrative resolutions must be approved by the Attorney General. Mr. Methvin stated that attorneys for the bar are negotiating with Mr. McCallum's attorneys on the details of a severance package.

President Methvin reported that he is forming a Governance and Internal Operations Task Force and he asked that commissioners send him suggestions for appointments to the task force. Mr. Methvin reported that he has reached out to consultants who have experience in the area of bar operations and that he expects to engage John Phelps, former Executive Director of the Arizona State Bar, to provide consulting services for the Alabama State Bar.

President Methvin reported that, after consultation with the Circuit and District Judges Association, the decision was made to cancel the Mid-Winter Meeting.

President Methvin updated the Board on the work of the Lawyer Voices for Survivors Task Force. He stated that the task force will work with the West Alabama Human Trafficking Task Force to put together a presentation for judges and lawyers on how to spot victims and what resources are available for victim assistance.

President Methvin concluded with an update on proposed changes to the lawyer advertising rules. He stated that some lawyers had issues with the proposed changes, especially as they related to digital advertising. Mr. Methvin said that there has been no resolution on the comments, but he would like to see them resolved and to vote on the proposed changes at the next Board meeting.

6. ACTING SECRETARY REPORT

Acting Secretary Justin Aday reported to the Board that internal operations of the bar continue to run smoothly during the time of transition. He said that end-of-year licensing and CLE activity is picking up, but not out of the ordinary as compared to previous years. Mr. Aday reminded the Board of the free online CLE platform, which currently has 24 hours of content, including 3 ethics hours. Mr. Aday reported that approximately 1,500 attorneys have accessed the platform and completed over 7,500 hours of courses.

Mr. Aday reported that the final audit report of the Examiners of Public Accounts was included in the meeting materials. He reviewed the three findings and reported to the Board that internal adjustments are being made to address each of them.

Mr. Aday reported that the migration of the bar's IT infrastructure to a cloud-hosted environment is complete. He stated that this will give the bar employees the flexibility to work remotely if doing so is required in extraordinary circumstances such as the COVID-19 pandemic. He also reported that the IT consultant engaged by the Board has provided a draft RFP for the database modernization and that the RFP is being reviewed internally and will be presented to the Board for its consideration at a future meeting.

Mr. Aday concluded by reporting that the first application was submitted by a military spouse under the Military Spouse Rule, which adopted by the Board and approved by the Supreme Court. He also reported that the Alabama Heroes Welcome initiative of the Alabama Military Stability Commission is now aware of the Military Spouse Rule and will add the Alabama State Bar to its list of state licensure boards that provide a pathway to licensure for military families.

7. **OFFICE OF GENERAL COUNSEL REPORT**

General Counsel Roman Shaul reported that Disciplinary Clerk Stacey Mosely recently had an article published in the National Association of Legal Assistants (NALA) national magazine. Mr. Shaul reported that the number of CLE presentations given by OGC staff is down for 2020 and that there are dates available if any commissioner knows of a group that would be interested in a presentation. Mr. Shaul also requested that commissioners send him suggestions for article topics for *The Alabama Lawyer* magazine.

8. **HOLIDAY MENTAL HEALTH TIPS**

ALAP Director Jeremy Rakes presented to the Board on how to effectively cope with stress during the holidays. Mr. Rakes encouraged commissioners to develop healthy strategies designed to be physically, emotionally and mentally prepared for the stresses caused by the holidays. He gave several examples of how to effectively address each of these areas.

9. **ASSOCIATION HEALTH PLAN GOVERNANCE DOCUMENTS AND BCBS PREMIUM CREDIT OPPORTUNITY**

Matthew Cannova of Maynard Cooper & Gale addressed the Board regarding the need to formalize the governance documents of the Association Health Plan (AHP) previously approved by the Board. Mr. Cannova informed the Board that the AHP Trust must be approved by the Board and then an initial Board of Trustees would be appointed until the first regular election of trustees. The Board of Trustees will have ultimate control and fiduciary responsibilities for the AHP Trust, and will make decisions as it relates to the AHP and the Trust.

President Methvin stated that a resolution formalizing the creation of the AHP trust has been prepared, and must be considered for adoption by the Board.

COMMISSIONER RAGSDALE MOVED TO SUSPEND THE RULES TO CONSIDER ADOPTION OF THE RESOLUTION FORMALIZING THE CREATION OF THE AHP TRUST. THE MOTION WAS SECONDED AND APPROVED BY THE NECESSARY TWO-THIRDS VOTE.

The resolution formalizing the creation of the AHP Trust, which was read in its entirety by the Acting Secretary, is as follows:

**RESOLUTIONS OF
THE BOARD OF COMMISSIONERS OF
THE ALABAMA STATE BAR ASSOCIATION**

I, the undersigned, president of the Alabama State Bar Association (the “ASB”), hereby certify that the following resolutions were duly presented to, voted on, and approved by the Board of Commissioners of the Alabama State Bar (the “Board”) at a regularly called meeting held on December 4, 2020:

WHEREAS, the ASB wishes to establish and sponsor a health and welfare benefit trust (the “Trust”) for the sole purpose of providing health and welfare benefits to the employees of Alabama law firms; and

WHEREAS, the ASB intends for the Trust—in addition to serving as a funding vehicle for the health and welfare benefits to be offered thereunder—to act as a bona fide group or association of employers for purposes of the Employee Retirement Income Security Act of 1974, as amended, and the regulatory and subregulatory guidance issued thereunder.

NOW, THEREFORE, BE IT RESOLVED, that the Board hereby approves the establishment of the Trust and the adoption of a trust agreement, substantially in the form attached hereto as Exhibit A (the “Trust Agreement”), which shall govern the Trust and serve as its Bylaws;

FURTHER RESOLVED, that the Board hereby authorizes the Executive Council of the ASB to execute the Trust Agreement and to take such further actions as are necessary to establish the Trust and implement the terms and purposes of the Trust Agreement;

FURTHER RESOLVED, that in order to fully carry out the intent and effectuate the purposes of the foregoing resolution, the appropriate officers of the ASB are hereby authorized and directed to take all such further actions and to execute and deliver any and all documents relating thereto, which shall in their judgment be necessary, proper, or advisable in order to carry out these resolutions, including, but not limited to, executing the Trust Agreement; and

FURTHER RESOLVED, that a copy of these resolutions shall be placed with the permanent records of the ASB.

* * * * *

IN WITNESS WHEREOF, the undersigned President of the ASB has executed this instrument effective as of the date first above written.

PRESIDENT OF THE ALABAMA STATE BAR:

Robert G. Methvin, Jr.

COMMISSIONER MENDHEIM MOVED TO APPROVE THE RESOLUTION FORMALIZING THE CREATION OF THE AHP TRUST. THE MOTION WAS SECONDED AND APPROVED UNANIMOUSLY.

10. DISCIPLINARY PANEL LAYPERSON MEMBER APPOINTMENTS

President Methvin reminded the Board that the *Alabama Rules of Disciplinary Procedure* require that each Disciplinary Panel have a designated lay member. He stated that a lay member vacancy exists due to the resignation of Dr. Ken Jordan. Mr. Methvin also reported that the rules allow for appointment of nine lay members to be available for service on the Disciplinary Panels. He stated that nominations will be accepted and up to nine appointments will be made at the next Board meeting.

11. APPOINTMENT TO ALABAMA BOARD OF COURT REPORTING

Acting Secretary Justin Aday informed the Board that it is responsible for recommending no more than three names to the Lt. Governor for an appointment to the Alabama Board of Court Reporting. He reported that Jennifer Egbe is the current appointee of the Lt. Governor and her term is expiring in January 2021. Ms. Egbe has indicated her willingness to continue serving on the Alabama Board of Court Reporting. Mr. Aday stated that nominations would be received and at its next meeting the Board will vote on the nominations and transmit no more than three names to the Lt. Governor for an appointment to be made to the Alabama Board of Court Reporting.

12. APPOINTMENTS TO JUDICIAL COMPENSATION COMMISSION

President Methvin reported that the terms of Broox Garrett and Tatum Turner on the Judicial Compensation Commission are expiring. Mr. Garrett and Mr. Turner have both indicated a willingness to continue serving on the Judicial Compensation Commission. President Methvin stated that nominations would be received and at its next meeting the Board will vote on two appointments to the Judicial Compensation Commission.

13. PRO BONO MONTH UPDATE

Commissioner John Stamps provided an update on the 2020 Pro Bono Month Celebration. Mr. Stamps reported that the Pro Bono Month Celebration activities were held virtually this year due to the COVID-19 pandemic. Mr. Stamps reported that Chief Justice Tom Parker entered an Order designating October as Pro Bono Month and sent a letter to new bar admittees encouraging them to make pro bono service a priority. Mr. Stamps reported that Governor Ivey signed a proclamation designating October as Pro Bono Month. Mr. Stamps reviewed other activities offered during Pro Bono Month, including a free CLE series, a law student video contest, and Pro Bono Snapshots videos by Alabama lawyers. Mr. Stamps credited Linda Lund, director of the Alabama State Bar Volunteer Lawyers Program, and Scott Holmes, chair of the Pro Bono Celebration Task Force, for all of their hard work in coordinating the Pro Bono Month Celebration activities.

14. EXECUTIVE DIRECTOR SEARCH

Mr. Methvin reported to the Board that an Executive Director Search Task Force has been formed. He stated that the task force is diverse in racial, gender, geographic and practice areas. He reported that the task force will soon have its first meeting and that it has a goal of making a recommendation to the Board by April 1, 2021. Mr. Methvin stated that the Board has ultimate authority to hire the Executive Director, regardless of the recommendation of the task force. Mr. Methvin also reported that OnBoard Search is assisting the task force with the administrative aspects of the search process.

Commissioner Rebarchak inquired as to how the Board can obtain information about the candidates for the position in the event that the task force only recommends one candidate to the Board. President Methvin stated that he is open to further conversations with the Board about presenting multiple candidates and that he would discuss that with the task force, but he stated that the wanted to protect the confidentiality of those applying for the position.

Commissioner Brinkley inquired as to where the position announcement had been posted and what the specific requirements are for the position, including salary and residency requirement. President Methvin stated that the task force is still considering those issues and will finalize the particulars with OnBoard Search.

15. REQUEST FOR EMAIL ADDRESS LIST OF ALABAMA LAWYERS FOR LAWYERS RENDER SERVICE, INC.

Immediate Past President Christy Crow addressed the Board on behalf of Lawyers Render Service, Inc. She stated that the nonprofit organization is interested in sending an email to all bar members asking them to support the organization and its license plate initiative with a year-end contribution.

COMMISSIONER SKINNER MOVED TO SUSPEND THE RULES TO CONSIDER THE REQUEST OF LAWYERS RENDER SERVICE, INC. TO OBTAIN A BARWIDE MEMBER EMAIL LIST FOR THE ORGANIZATION TO SEND AN EMAIL SOLICITING YEAR-END CONTRIBUTIONS. THE MOTION WAS SECONDED AND APPROVED BY THE NECESSARY TWO-THIRDS VOTE.

COMMISSIONER DEBROSSE MOVED TO APPROVE THE REQUEST OF LAWYERS RENDER SERVICE, INC. TO OBTAIN A BARWIDE MEMBER EMAIL LIST FOR THE ORGANIZATION TO SEND AN EMAIL SOLICITING YEAR-END CONTRIBUTIONS. THE MOTION WAS SECONDED AND APPROVED UNANIMOUSLY.

16. **COMMISSIONER UPDATE**

Commissioner Jeanne Rizzardi was recognized to give an update to the Board. Commissioner Rizzardi said that since the Board meeting in September she has challenged herself to become more familiar with the operational aspects of the State Bar and the role of the Board in governance of the State Bar. Mrs. Rizzardi urged commissioners to become more familiar with the statutory authority of the Board and to offer themselves for positions of leadership to work to move the bar forward. Mrs. Rizzardi said that she has enjoyed her time on the Board, appreciates the efforts of President Methvin, and values the friendships she has with her fellow commissioners.

17. **ELECTION RULES & REVISION TASK FORCE UPDATE**

Commissioner Holly Sawyer was recognized to present an update from the Election Rules & Revision Task Force. Ms. Sawyer reported to the Board that the task force started its work by reviewing the election rules of bars in other jurisdictions. She stated that the task force found that the election rules reviewed could be generally categorized as passive or active. The task force evaluated the features of each category and made an initial decision to take the approach of revising the bar's election rules to have a more passive identity. She reported that the task force has other meetings scheduled with a goal of presenting a set of recommended revisions to the Board at its next meeting.

18. **HIRING OF ELLEN BROOKS AS INTERIM EXECUTIVE DIRECTOR**

President Methvin reported to the Board that a great deal of time has been spent to identify someone to serve as Interim Executive Director of the State Bar. Mr. Methvin reported that the general consensus is that the Interim Executive Director would not be a candidate for the full-time position. He also reported that a number of candidates had been contacted and declined the offer.

President Methvin stated that Ellen Brooks, former Montgomery County District Attorney, has agreed to take the interim position. He stated the Ms. Brooks' resume is

impressive and was included in the meeting materials. Mr. Methvin reported that Ms. Brooks has agreed to compensation of \$16,500 per month during the interim period, which will begin on January 11, 2021, and end on July 2, 2021. He also reported that Ms. Brooks intends to be in the office at the bar for at least three days per week.

Commissioner Brinkley inquired as to whether Ms. Brooks can remain in the interim position beyond July 2, 2021, if needed. President Methvin stated that Ms. Brooks has some prior commitments in July, but that she would likely be available beyond July 2, 2021, if needed. Commissioner Brinkley recommended that the Board consider an additional meeting between the regularly scheduled meetings in March and May, in order to review the progress of the Executive Director Search Task Force and to take any necessary actions related to the search.

Commissioner Floyd inquired as to whether Ms. Brooks' status as a supernumerary district attorney would present any problems with her service as Interim Executive Director. President Methvin stated that Ms. Brooks has consulted with RSA to ensure that service as Interim Executive Director will not impact her retirement and that he will have further discussions with her about any potential issues given her supernumerary status.

COMMISSIONER MENDHEIM MOVED THAT ELLEN BROOKS BE HIRED AS INTERIM EXECUTIVE DIRECTOR OF THE ALABAMA STATE BAR FOR A PERIOD BEGINNING ON JANUARY 11, 2021, AND ENDING ON JULY 2, 2021. THE MOTION WAS SECONDED AND APPROVED UNANIMOUSLY WITH ONE ABSTENTION.

19. **APPOINTMENTS TO ALABAMA BOARD OF BAR EXAMINERS**

President Methvin stated that revisions to the *Rules Governing Admission to the Alabama State Bar* provided for restructuring the Board of Bar Examiners from fifteen members to seven members. The appointment of members to the Board of Bar Examiners was discussed at a previous Board meeting and nominations were accepted. The nominations received to date are David Hymer, Charles James, Dan Johnson, Susan Kennedy, Forrest Latta, Tara Lockett, and Robert Lockwood.

COMMISSIONER BOWLING MOVED TO CLOSE NOMINATIONS FOR APPOINTMENTS TO THE ALABAMA BOARD OF BAR EXAMINERS. THE MOTION WAS SECONDED AND APPROVED UNANIMOUSLY.

COMMISSIONER FONTENEAU MOVED TO APPOINT DAVID HYMER, CHARLES JAMES, DAN JOHNSON, SUSAN KENNEDY, FORREST LATTA, TARA LOCKETT, AND ROBERT LOCKWOOD AS MEMBERS OF THE ALABAMA BOARD OF BAR EXAMINERS. 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 unanimously approved and the meeting was adjourned at 12:28 p.m.



Robert G. Methvin, Jr., President
Alabama State Bar

ATTEST:

Justin C. Aday, Acting Secretary
Alabama State Bar