

MINUTES

ALABAMA STATE BAR BOARD OF BAR COMMISSIONERS MEETING

Due to the COVID-19 pandemic, this meeting of the Board of Bar Commissioners was held 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, January 22, 2021

1. CALL TO ORDER

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

2. ROLL CALL

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

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|--------------------------|----------------------------|----------------------------|
| Raymond L. Bell, Jr. | Edgar Black | Mark S. Boardman |
| Sally Bowers | Jeffrey L. Bowling | John A. Brinkley, Jr. |
| Robert H. Brogden | William H. Broome, Jr. | Brannon J. Buck |
| Clay Carr | Bryan E. Comer | 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 |
| Dana Grimes | Frederick G. Helmsing, Jr. | Erik S. Heninger |
| Scott B. Holmes | Carmen Howell | Richard M. Kemmer |
| 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 |
| J. Levi Nichols | Manish H. Patel | Taylor T. (Tom) Perry, Jr. |
| Amanda Porter | Chuck Price II | Barry A. Ragsdale |
| John Rea | James Rebarchak | Chrissy Riddle |
| Jeanne Dowdle Rizzardì | Holly Sawyer | Pat Sefton |
| Allison O. Skinner | Elizabeth Smithart | John A. Smyth |
| John T. Stamps | Andrew D. Stanley | 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:

| | | |
|--------------------|-------------------|-------------------|
| Anne Malatia Glass | Christy W. Graham | Brett A. King |
| Jason P. Knight | F. Patrick Loftin | Donald B. Mansell |
| Clint L. Maze | Tina Moon | Kenneth Moore |
| Larry W. Morris | George R. Parker | J. Lynn Perry |
| Freddy Rubio | | |

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, Doris McDaniel, Savannah Deininger and Suzi Huffaker.

3. **APPROVAL OF THE REVISED AGENDA OF THE JANUARY 22, 2021 BOARD MEETING**

President Methvin stated that a revised agenda of the January 22, 2021 Board Meeting had been published prior to the meeting. He asked if there were any corrections, additions or deletions.

COMMISSIONER LAMBERTH MOVED TO APPROVE THE REVISED AGENDA OF THE JANUARY 22, 2021 BOARD MEETING. THE MOTION WAS SECONDED AND UNANIMOUSLY APPROVED.

4. **INTRODUCTION OF GUESTS**

President Methvin recognized special guests including Associate Justice Will Sellers, Julia Weller, Clerk of the Supreme Court of Alabama, Judge John Carroll, Michael Upchurch, and Ryan Robichaux.

5. **PRESIDENT'S REPORT**

President Methvin informed the Board of the passing of Dr. Scotty McCallum. Dr. McCallum was the father of Past President and former Executive Director Phillip McCallum and father-in law of Commissioner LaBella McCallum. President Methvin asked commissioners to keep the McCallum family in their thoughts and prayers.

President Methvin informed the Board that Commissioner Parker's father is currently hospitalized. He also reported that Autumn Caudell's sister-in-law passed away.

President Methvin reported that Doris McDaniel is retiring from the bar. Ms. McDaniel has worked for the bar for eight years, first in CLE and most recently with the VLP. Prior to her time at the bar, Ms. McDaniel worked for another state agency. President Methvin thanked Ms. McDaniel for her service to the bar and wished her

well in retirement. President Methvin also introduced Savannah Deininger who was hired to take Ms. McDaniel's place with the VLP.

President Methvin reported that he recently gave a presentation to a civic group on the importance of the court system and the legal profession in Alabama. He reported that he had received positive feedback from the presentation and that the Lawyer Public Relations Task Force will modify the presentation to be given to civic organizations across the state. He encouraged commissioners to reach out to the task force with suggestions of any civic group in their area so that the task force can schedule a presentation. He reported that it was his goal to have the task force speak to at least one civic organization in each county by the summer. Mr. Methvin reported that the task force is also looking at some advertising opportunities via digital media and other means.

President Methvin reported that he had received an email from a bar member being critical of one of the nominees for the Lawyers Hall of Fame. He reported that more information would be forthcoming for the Board to consider whether to eliminate the Lawyers Hall of Fame category honoring a lawyer who has been deceased more than 100 years.

President Methvin reported that he believes the issue has been resolved with hiring Ellen Brooks as Interim Executive Director and that he hopes she will be able to start soon.

Mr. Methvin reported that the MCLE Commission has met and decided to extend the waiver on the requirement that 6 CLE credits be from live programs. The waiver will be effective for 2021, and the MCLE Commission will also require that attorneys may not receive credit from completing the same on-demand program in consecutive years.

President Methvin reported that he has appointed Commissioners Tompkins, Sefton and Bell as co-chairs of the Governance and Internal Operations Task Force. He said that he hopes to appoint the other members of the task force in the coming days.

President Methvin reminded commissioners that March 15, 2021, is the deadline for nominations for the Commissioners' Award, Award of Merit, Tony McLain Professionalism Award, and Bill Scruggs Service to the Bar Award. Mr. Methvin asked commissioners to send any nominations to Acting Secretary Justin Aday.

6. PRESIDENT-ELECT REPORT

President-elect Taze Shepard updated the Board on the bar's on-demand CLE platform. He stated that there are currently 27 courses on the platform, including several ethics hours. He commended President Methvin for his vision in assisting Alabama lawyers by making free CLE programs available as a member benefit. Mr. Shepard reported that in 2020 there were over 20,000 hours of CLE credit earned on the platform and that lawyers continue to take advantage of the platform in 2021.

Mr. Shepard reported that the CLE Review and Revision Task Force has begun its work and will soon poll target groups on the future of CLE in Alabama. He reported the task force is digesting information on CLE requirements in other states and that he expects the task force to submit its final report by April.

7. **ACTING SECRETARY REPORT**

Acting Secretary Justin Aday reported to the Board that day-to-day operations of the bar continue to run smoothly. He reported that planning continues for the February bar exam and that a good plan is in place to administer the exam in person. Mr. Aday reminded commissioners about the 2021 bar elections and he stated that information is in the meeting materials with qualifying deadlines and the commission seats that up for election.

8. **OFFICE OF GENERAL COUNSEL REPORT**

General Counsel Roman Shaul stated that he had no formal report and would reserve his time for the discussion of amendments to the advertising rules and Disciplinary Panel layperson appointments.

9. **FY2021 FIRST QUARTER FINANCIAL REPORT**

Director of Finance Merinda Hall reported that the fiscal year is off to a good start with revenues down only 1% compared to the first quarter in the prior year. Mrs. Hall reported that 80% of the bar's total expected revenue has been collected already. Mrs. Hall reported that expenses are down 12% compared to the previous year, most notably in personnel costs related to reduced staffing levels and retirements. Mrs. Hall reported that the annual financial audit has been completed and the bar received an unmodified opinion.

COMMISSIONER FLOYD MOVED TO APPROVE THE FIRST QUARTER FINANCIAL REPORT OF THE ALABAMA STATE BAR FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 2021. THE MOTION WAS SECONDED AND UNANIMOUSLY APPROVED.

10. **COST OF LIVING ADJUSTMENT (COLA) FOR ASB STAFF EMPLOYED TWO YEARS OR LONGER**

President Methvin reported that this discussion item was carried over from the previous meeting. He asked that commissioners make their comments brief so that everyone who wishes to speak has an opportunity to do so. After discussion of this item, President Methvin reminded the Board that this is a discussion item only and would be on the agenda as an action item at the next Board meeting.

11. **LEGISLATIVE UPDATE & REPORT ON ECONOMIC IMPACT STUDY**

Legislative Counsel Suzi Huffaker reported to the Board that the legislative session starts on February 2, 2021. She stated that the bar will once again provide weekly legislative updates and that she encourages commissioners to stay informed about the session.

Mrs. Huffaker reported that the Economic Impact Study got off to a slow start due to the pandemic. She stated that the survey is being expanded to include more attorneys and that the bar will be sending the link instead of the University of Alabama. She reported that the results will still go to the University of Alabama only and remain confidential. Mrs. Huffaker encouraged commissioners to be looking for the survey and respond.

12. **LEGAL FOOD FRENZY UPDATE**

VLP Director Linda Lund informed the Board that the Legal Food Frenzy will take place April 20 – May 4, 2021. She stated that this year's competition would once again be held online only and participants would be making monetary donations to benefit the food banks in Alabama. She asked commissioners to have anyone interested in volunteering to work on the Legal Food Frenzy to contact her.

13. **PROPOSED REVISIONS TO THE RULES GOVERNING ELECTION & SELECTION OF PRESIDENT-ELECT AND MEMBERS OF THE BOARD OF COMMISSIONERS**

Judge John Carroll, co-chair of the Elections Rules & Revision Task Force, reported to the Board that the task force has approved a set of recommended revisions to the bar's election rules. Judge Carroll reported that the task force spent considerable time reviewing the election rules and procedures of other states in developing the current recommendations. He explained the major changes that are being recommended, including a transition to less regulation of candidates and the adoption of a set of best practices that guide the conduct of candidates in bar elections.

President Methvin explained that the qualification deadline for President-elect candidates is February 1, 2021. He stated that if only one candidate qualifies the changes to the election rules would be voted on at the March meeting, and if more than one candidate qualifies a special meeting will be held to vote on the changes to the election rules.

14. **ELECTION, ETHICS & GOVERNMENT RELATIONS LAW SECTION BYLAWS CHANGES**

Ryan Robichaux, chair of the Elections, Ethics & Government Relations Section, reported to the Board that the section has approved changes to its bylaws. Mr. Robichaux indicated that a summary and complete set of the revisions were provided

in the meeting materials. He stated that the revisions are meant to allow the section to operate with more flexibility and work more efficiently.

15. RULE 7 SERIES (ADVERTISING RULES) REVISIONS

Michael Upchurch, co-chair of the Disciplinary Rules and Enforcement Committee stated that the committee is continuing its work and trying to report out the best set of rules for the Board's consideration. He stated that the current form of the rules was provided in the meeting materials, but that he expects additional changes. President Methvin thanked Mr. Upchurch and the committee for their hard work and said that he looks forward to having a final set of rules to be voted on by the Board.

16. REDUCTION OF OCCUPATIONAL LICENSE FEE FROM \$325 TO \$300

President Methvin stated that he thinks it is appropriate to reduce the occupational license fee from \$325 to \$300 for the license year beginning October 1, 2021. He stated that the reduction would be for one year and that the Board should reconsider the amount of the license fee on an annual basis. He stated that the reduction of the occupational license fee and the corresponding reduction of the special membership fee will result in a reduction of revenues of approximately \$400,000.

17. EXECUTIVE DIRECTOR SEARCH

President Methvin reported that the Executive Director Search Task Force has met to begin organizing for its work. He stated that January 15, 2021, was the deadline to receive applications for the position and that 80 applications were received. He reported that of the 80 applications, approximately half were from out-of-state applicants and approximately half are non-lawyers. Mr. Methvin reported that he will leave it to the task force as to whether one or multiple candidates are presented to the Board for consideration. He stated that the task force will continue to review other aspects of filling the position, including compensation and residency requirements, and provide additional information for consideration by the Board.

18. COMMISSIONER UPDATE – MANISH PATEL

Commissioner Patel informed the Board that times are tough in his circuit, as they are at many other places around the state. He stated that there has been one jury trial in the 22nd Judicial Circuit since the pandemic began, due to the fact that there is an older courthouse that doesn't have sufficient space for distancing and other precautions. Commissioner Patel said that he hopes things will improve soon so that the practice of law can begin to get back to some sense of normalcy.

19. **COMMISSIONER COMMENTS REGARDING LIVESTREAMING EXECUTIVE COUNCIL MEETINGS**

Commissioner Brinkley was recognized to address the Board regarding livestreaming of Executive Council meetings. Mr. Brinkley stated that he had researched the statutory authority of the Board and the requirements of Alabama's Open Meetings Act. Mr. Brinkley concluded, in his opinion, that the Board is in violation of the Open Meetings Act by not giving notice of Executive Council meetings or taking minutes of such meetings. He encouraged the Board to consider livestreaming Executive Council meetings and requiring minutes of those meetings in order to keep the Board more informed and comply with the Open Meetings Act.

20. **EXECUTIVE SESSION**

President Methvin recognized Commissioner Boardman to make a motion regarding the Board going into executive session.

COMMISSIONER BOARDMAN ASKED FOR UNANIMOUS CONSENT TO AMEND THE AGENDA AND MOVE INTO EXECUTIVE SESSION. PRESIDENT METHVIN ASKED THE COMMISSION IF THERE WERE ANY OBJECTIONS. HE RECEIVED NONE AND THEN ASKED FOR A MOTION.

COMMISSIONER BOARDMAN MOVED THAT THE BOARD GO INTO EXECUTIVE SESSION TO DISCUSS MATTERS COVERED UNDER *ALABAMA CODE* SECTION 35-25A-7(a)(3), LEGAL RAMIFICATIONS OF LITIGATION AND POTENTIAL LITIGATION. MR. BOARDMAN CERTIFIED TO THE BOARD THAT IT CAN MEET IN EXECUTIVE SESSION TO DISCUSS THE LEGAL RAMIFICATIONS OF AND LEGAL OPTIONS FOR PENDING LITIGATION, CONTROVERSIES NOT YET LITIGATED BUT IMMINENTLY LIKELY TO BE LITIGATED, OR CONTROVERSIES IMMINENTLY LIKELY TO BE LITIGATED IF THE COMMISSION PURSUES A PROPOSED COURSE OF ACTION. MR. BOARDMAN ALSO CERTIFIED THAT ANY ACTION THE COMMISSION TAKES, HOWEVER, MUST BE DELIBERATED IN PUBLIC. MR. BOARDMAN ESTIMATED THAT THE EXECUTIVE SESSION WOULD LAST 30 MINUTES. THE MOTION WAS SECONDED AND APPROVED UNANIMOUSLY.

At 12:25 p.m., the Board of Bar Commissioners convened in Executive Session and all non-board members were excused from the meeting for the duration of the executive session. The executive session concluded at 1:30 p.m. and the regular session resumed immediately thereafter.

21. **APPOINTMENTS TO JUDICIAL COMPENSATION COMMISSION**

President Methvin reported that the terms of Broox Garrett and Tatum Turner on the Judicial Compensation Commission are expiring. He stated that Mr. Garrett and Mr.

Turner have both indicated a willingness to continue serving on the Judicial Compensation Commission, and that no other nominations have been received to date.

COMMISSIONER GARNER MOVED TO CLOSE NOMINATIONS FOR APPOINTMENTS TO THE JUDICIAL COMPENSATION COMMISSION. THE MOTION WAS SECONDED AND APPROVED UNANIMOUSLY.

COMMISSIONER PERRY MOVED TO APPOINT BROOX GARRETT AND TATUM TURNER AS MEMBERS OF THE JUDICIAL COMPENSATION COMMISSION. THE MOTION WAS SECONDED AND APPROVED UNANIMOUSLY.

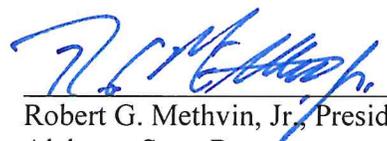
22. **APPROVAL OF CARRYING OVER ACTION ITEMS TO NEXT MEETING**

President Methvin asked if there was a motion regarding the remaining action items on the agenda.

COMMISSIONER PERRY MOVED TO CARRY OVER THE REMAINING ACTION ITEMS FROM THE CURRENT AGENDA TO THE NEXT REGULARLY SCHEDULED MEETING OF THE BOARD. THE MOTION WAS SECONDED AND APPROVED UNANIMOUSLY.

23. **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 1:42 p.m.



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

ATTEST:

Justin C. Aday, Acting Secretary
Alabama State Bar