

*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 provision of Section IV of the State of Emergency: Coronavirus (COVID-19) issued by Proclamation of the Governor of the State of Alabama on August 13, 2021, Amended October 8, 2021.*

## MINUTES

### ALABAMA STATE BAR BOARD OF BAR COMMISSIONERS MEETING

Embassy Suites Hotel and via Zoom  
300 Tallapoosa Street  
Montgomery, Alabama 36104

Friday, October 29, 2021

#### **INVOCATION:**

Prior to convening the Board of Bar Commissioners meeting, Associate Justice Mike Bolin gave the invocation.

#### **CALL TO ORDER**

President Taze Shepard convened this meeting of the Alabama State Bar Board of Commissioners at 10:05 a.m. at the Embassy Suites Hotel, 300 Tallapoosa Street, Montgomery Alabama.

#### **PLEDGE OF ALLEGIANCE AND GUEST SPEAKER**

Cumberland School of Law student led the Pledge of Allegiance and Guest Speaker Chief Justice Tom Parker shared brief remarks.

#### **ROLL CALL**

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

Raymond Bell	Edgar Black
Mark Boardman	Sally Bowers
Jeff Bowling	Will Broome
Clay Carr	Joel Connally
Brad Cornett	Mark Debro
Mike Ermert	Lang Floyd
Scott Foster	Kirk Garrett
Anne Glass	Christy Graham
Dana Grimes	Fred Helmsing
Erik Heninger	Scott Holmes
Mitch Kemmer	Brett King

Edwin Lamberth  
 Karen Laneaux  
 Felicia Long  
 Clay Martin  
 Clint Maze  
 Rebekah McKinney  
 Kenneth Moore  
 Manish Patel  
 Tom Perry  
 John Rea  
 Chrissy Riddle  
 Holly Sawyer  
 Taze Shepard  
 Allison Skinner  
 Angeline Sperling  
 Jimbo Terrell  
 Hal Turner  
 Leila Watson

Leigh Anne Landis  
 David Langston  
 David Martin  
 Doug Martinson  
 LaBella McCallum  
 Bob McMillan  
 George Parker  
 Lynn Perry  
 Barry Ragsdale  
 Jim Rebarchak  
 Ryan Robichaux  
 Pat Sefton  
 Jason Simmons  
 Elizabeth Smithart  
 John Stamps  
 Terri Tompkins  
 Gibson Vance  
 Mallory Whitley

The following commissioners were absent:

Bob Brogden  
 Bryan Comer  
 Kira Fonteneau  
 Carmen Howell  
 Jason Knight  
 Pat Loftin  
 Cliff Mendheim  
 Tina Moore  
 Freddy Rubio  
 Kyra Sparks  
 Charles Tatum

Aaron Chastain  
 Deborah Dunsmore  
 Leon Hampton  
 Angela Kennedy  
 Bill Lancaster  
 Don Mansell  
 Bob Methvin  
 Chuck Price  
 John Smyth  
 Andrew Stanley

### **APPROVAL OF AGENDA**

On a motion by Mark Boardman and seconded by Fred Helmsing the motion to approve the previously prepared agenda, with the addition of an Executive Session prior to Action Items and the addition of an action item, if any, as a result of the Executive Session.

THE MOTION WAS SECONDED AND UNANIMOUSLY APPROVED.

### **APPROVAL OF THE MINUTES OF THE SEPTEMBER 17, 2021 BOARD MEETINGS**

President Shepard stated that the minutes of the Board Meetings had been transcribed and circulated prior to the meeting. He asked if there were any corrections, additions or deletions. There were none.

BARRY RAGSDALE MADE THE MOTION TO APPROVE THE MINUTES OF THE SEPTEMBER 17, 2021 BOARD MEETINGS. THE MOTION WAS SECONDED BY JAMES REBARCHAK AND APPROVED BY UNANIMOUS VOTE.

### **INTRODUCTION OF GUESTS**

President Shepard recognized special guests including Chief Justice Tom Parker, Associate Justice Mike Bolin, Associate Justice Brad Mendheim, Justice Will Sellers, Alabama Supreme Court Clerk Julia Weller, Lynn D. Hogewood – Director, Academic Support Program, Meagan Corcoran, 3L, Tyler Flowers, 3L, Kristen Gochett, 3L, Fran Pecci, 3L, and Taylor Sims, 3L, Matt McDonald, Chair of Alabama Law Foundation and Dawn Hathcock, Executive Director of Alabama Law Foundation.

### **REPRIMANDS**

Bradley Alan Green, Birmingham  
Beverly Jean Howard, Montgomery  
Brett Ashley King, Locust Fork  
Lawrence Buford Hammett, II, Nashville, TN

### **PRESIDENT'S REPORT**

President Taze Shepard recapped the themes for each month and highlighted the positive response that had been received. The themes have afforded many opportunities for CLEs and engagement with our attorneys. The themes have also given the bar staff excellent content and new contributors each month. President Shepard reminded the Commissioners of many tools available to our lawyers through the ASB website and articles from *The Alabama Lawyer* that can now be accessed digitally and by audio. He shared that the Past Presidents' Advisory Council has been a great resource for the bar and that he is hopeful that future presidents will consider appointing one as well. The Leadership Symposium will be conducted in the very near future following some unavoidable delays. There will be a session for Sections, Committees, Task Forces and Local Bar Leadership. President Shepard recognized Dawn Hathcock, Executive Director of the Alabama Law Foundation and she thanked President Shepard and the ASB staff for their support and informed the commission that she looks forward to working together to provide access to justice.

### **PRO BONO UPDATE**

Commissioner John Stamps and Director Linda Lund provided an update on the Celebrate Pro Bono Task Force and events concluding for Pro Bono Month. They informed the board that Governor Ivey and the Alabama Supreme Court signed proclamations to recognize October 2021 as Pro Bono Month in Alabama. They thanked the commissioners and lawyers for participating in Pro Bono Month events that are going on around the state, including will clinics for seniors, health care and first responders, CLE events, and volunteering at clinics and help desks.

John Stamps recognized volunteer students Jayme Leadmon and Antionette Pruitt from Cumberland School of Law and Shelby Andrews and Danyel Peters from Jones School of Law. He also recognized student video contest award winner, Samantha Renshaw of the University of Alabama and shared her informative video with the commissioners. Linda Lund shared that Chief Justice Tom Parker would be hosting a luncheon in November to celebrate new lawyer volunteers. The book club featuring *A Knock at Midnight* was a big success and likely to continue for years to come. Jones School of Law won the Law School Pledge having the largest number of students sign the VLP pledge.

### **GENERAL COUNSEL'S REPORT**

The General Counsel reminded BBC members that any organization hosting a CLE Presentation, who wanted a member of the OGC to speak, should contact him immediately to get on the schedule since dates are filling up. There is a meeting of the Rule 7 Series Committee on November 10<sup>th</sup> at 10AM to consider the public comments to the proposed advertising rule changes. The OGC is working on updating formal opinion 1998-02 concerning ethical issues in third party billing audits, to also include current practices involving client mandated use of certain discovery managers and overbearing litigation guidelines.

### **EXECUTIVE DIRECTOR'S REPORT**

The Executive Director highlighted bar activities to include conclusion of Leadership Forum Class 15, bar exam results, Opening of Court & Red Mass, Pro Bono month activities, licensing payments exceeding last years' payments to date, 450 applications for February 2022 bar exam, and the largest admission ceremony in ASB history with over 1000 new admittees for 2020 and 2021. Bar activities include the database conversion, application deadline for Admissions Director and Law Practice Management position of October 31, and nomination deadline of November 15 for Leadership Forum 16. Critical activities before the end of the year are filling staff positions, conducting the Leadership Symposiums for Sections, Committees, Task Forces and Local Bar Leadership, and finalizing revisions and recommendations to the Presidents and Leaders Manual, and the continuing work of the Governance and Internal Operations Task Force. The executive director also announced that a survey would be sent to all commissioners in the next month seeking information to help the bar serve the governing body better.

### **FINANCE DIRECTOR'S REPORT**

The FY2023 State Budget Request at \$6.73 million, a less than 1% increase from the FY2022 was adopted by the BBC. Some of the highlights of the budget include 3% increases in personnel costs; the normal adjustments to the travel budget lines to account for anticipated cost increases, and the alternation of the annual meeting from in-state to out-of-state each year; and a decrease in the grants budget line with discontinuing the Bar Outreach Grant.

## **EXECUTIVE SESSION**

Parliamentarian Mark Boardman cited the need for an 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 Bar Commission pursues a proposed course of action. A motion was made by Barry Ragsdale and seconded by Clay Martin to enter into executive session at 11:35 a.m. The vote was unanimous.

On a motion of Tom Perry and seconded by Fred Helmsing, and unanimously approved, the executive session concluded and the Board of Bar Commission resumed.

## **ACTION ITEMS**

The following action items were taken:

On a motion of Edwin Lamberth and seconded by Joel Connally, the recommendation of the Executive Committee to approve EC Recommendations 1-4 were moved from a discussion item to an action item. The vote passed unanimously. On a motion of Clay Martin and seconded by David Martin, the recommendation to approved Executive Committee Recommendation 1-4 as follows was unanimously approved:

1.

Given that instructional materials, consulting opportunities and live events on law practice management comprise one of the most important member benefits that the Alabama State Bar can offer to many of its members across the State, the Board of Bar Commissioners resolves that the State Bar shall have a distinct department of law practice management with appropriate staffing and financial support as determined by the executive director, as a matter of official State Bar policy.

2.

Given that it is highly desirable to promote accountability for all financial transactions of the Alabama State Bar, the Board of Bar Commissioners resolves that all subdivisions of the Bar, including sections, committees and task forces, shall maintain all of their funds, whether obtained by dues, gifts or fundraising, with the State Bar at all times as a matter of official State Bar policy.

3.

Given that it is highly desirable to promote transparency for the public concerning the activities and the operations of the Alabama State Bar, the Board of Bar Commissioners resolves that the executive director shall develop a plan, including publications, live events and live-streaming meetings, to promote such transparency as a matter of official

State Bar policy. The executive director shall submit such plan to the Executive Council for its consideration and approval no later than December 31, 2021.

4.

Given that it is highly desirable to have maximum attendance and participation by commissioners at meetings of the Board of Bar Commissioners, the Commission hereby resolves that the executive director shall develop a plan for:

- 1) the best use of Internet technology in connection with attendance with Commission meetings, and
- 2) a process to deal with chronic poor attendance by any commissioner at such meetings.

The executive director shall submit such plan to the Executive Council for its consideration and approval no later than December 31, 2021.

On a motion of Barry Ragsdale and seconded by Fred Helmsing, to adopt Resolution #2. The motion was unanimously approved to include the following:

1. Although the Bar Officers and Bar Commissioners are not covered by the Ethics Act, the Alabama State Bar and its employees recognize that they are subject to the Alabama Ethics Act because they are public employees as defined by Ala. Code § 36-25-1(26).

2. The Bar's appointed Executive Director is its "agency head" for purposes of Ala. Code § 36-25-17. If for some reason the Executive Director were unable to fulfill these responsibilities – or if circumstances arose that made it inappropriate for the Executive Director to do so – those responsibilities would fall to a person designated by the Bar and the Bar would advise the Ethics Commission in writing of such designation. On a related point, from time to time, the Bar's General Counsel may become involved in certain matters, but it is understood that the statutory responsibilities of the Bar's agency head are not diminished by an involvement of the General Counsel's office.

3. The Bar acknowledges that the Bar, as an entity, and its employees are governed by certain fiscal policies. The Bar has engaged with the Department of Examiners of Public Accounts to be sure that its fiscal policies and procedures are viewed by the Examiners as compliant with applicable law.

4. Public fund accounts of the Alabama State Bar and the Alabama State Bar Building Foundation account are subject to audit by the Department of Examiners of Public Accounts as provided in Alabama law.

5. Property owned and issued by the Alabama State Bar or the Alabama State Bar Building Foundation to Alabama State Bar employees is subject to all applicable Alabama law, including but not limited to Ala. Code § 36-25-17(b). Any personal use of such property by any employee must be by lawful employment agreement and regulated by agency policy.

6. The employees of the Alabama State Bar will be reimbursed for actual and necessary transportation, lodging, and meal expenses as required and permitted by Alabama law.

On motion of the Finance Committee, and seconded by Barry Ragsdale, the commission unanimously approved the FY2023 State Budget request at \$6.73 million, a less than 1% increase from the FY2022 adopted budget.

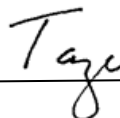
On a motion of Tom Perry and seconded by Joel Connally, the Susan Bevill Livingston award of the Women's Section was approved unanimously to be awarded posthumously to Lenora Pate.

The Board of Bar Commissioners took a public vote of the nominees for two alternate appointments to the Alabama Court of the Judiciary, and Edwin Lamberth and Halron Turner were elected.

The Board of Bar Commissioner took a public vote of the nominees for the appointment to the Pre-Trial Services and Alternative Courts Study Commission, and Circuit Judge Brandy Hambright was elected.

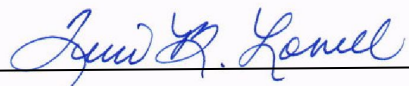
### **ADJOURNMENT**

President Shepard asked if there was any further business to come before the Commission. There being no further business to come before the Board, COMMISSIONER RAGSDALE MOVED THAT THE MEETING BE ADJOURNED. IT WAS SECONDED AND APPROVED UNANIMOUSLY. The meeting was adjourned at 12:30 p.m.



Tazewell T. Shepard, III  
President, 2021-2022

ATTEST:



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Terri B. Lovell, Secretary  
Alabama State Bar