

MINUTES**ALABAMA STATE BAR
BOARD OF BAR COMMISSIONERS MEETING****State Bar Building
Montgomery, Alabama****Friday, November 4, 2022****1. CALL TO ORDER**

President Gibson Vance 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. Bar Commissioner Josh Hayes led the pledge of allegiance.

2. ROLL CALL

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

Raymond Bell, Jr.	Edgar Black
Mark Boardman	Sally Bowers
Robert Brogden	William Broome, Jr.
Brannon Buck	Matthew Carter
Bradley Cornett	Mark Debro
Richard Fikes	Lang Floyd
Kira Fonteneau	Jana Garner
Kirk Garrett	Josh Hayes
Fred Helmsing	Scott Holmes
Carmen Howell	Mitch Kemmer
Angela Kennedy	William Lancaster
David Langston	Jorja Loftin
Felicia Long	Don Mansell
David Martin	Clay Martin
Doug Martinson	Bob McMillan
Steve Nicholas	Bobby Poundstone
Chuck Price, II	John Rea
James Rebarchak	Ryan Robichaux
Freddy Rubio	Steven Savarese
Holly Sawyer	Pat Sefton
Allison Skinner	Elizabeth Smithart
Kyra Sparks	Brian Strength
Jimbo Terrell	Jeff Utsey
Leila Watson	Robin Wolfe

The following commissioners were absent:

Conrad Anderson	Jeff Bowling
Clay Carr	Joel Connally
Deborah Dunsmore	Scott Foster
Anne Glass	Christy Graham
Dana Grimes	Leon Hampton
Erik Heninger	Brett Holsombeck
Brett King	Edward Lamberth
Leigh Anne Landis	Clint Maze
LaBella McCallum	Cliff Mendheim
Tina Moon	Kenneth Moore
Andrew Nix	Manish Patel
Tom Perry	Chrissy Riddle
Jason Simmons	John Smyth
John Stamps	Andrew Stanley
Mallory Whitley	

QUORUM PRESENT

Also in attendance was President-elect Brannon Buck. Staff members in attendance were: Roman Shaul, Jeremy Rakes, Autumn Caudell, Merinda Hall, Michelle Shaw, Melissa Warnke, Olivia Walker, Linda Lund, Hilaire Armstrong, and Katarina Essenmacher.

3. APPROVAL OF AGENDA

President Vance stated that the agenda had been circulated prior to the meeting. He asked if there were any corrections, additions, or deletions. There were none.

COMMISSIONER LONG MOVED TO APPROVE THE AGENDA. THE MOTION WAS SECONDED BY COMMISSIONER KENNEDY AND APPROVED BY UNANIMOUS VOICE VOTE.

4. SPECIAL GUESTS, PRO BONO LAW STUDENTS, AND PRO BONO CELEBRATION TASK FORCE CHAIR JON TOWNSEND

President Vance recognized Pro Bono Task Force Chair, Jon Townsend, and Mr. Townsend informed the board that Pro Bono Month in Alabama was a huge success again this year. He thanked commissioners for participating in events across the state and he thanked bar staff for assistance in coordinating, executing, and promoting the events.

Mr. Townsend introduced the law students who had participated in pro bono service and pro bono celebration activities this year. The following students were introduced and asked to stand and be recognized by the commission: Jones School of Law: Joanna

White and Janey Whitney; Cumberland School of Law: Andy Blackmon and Abbi Hallman; and the University of Alabama School of Law: Hope Hudgins. Jones School of Law was announced as the winner of the Law School Pro Bono Pledge. They had the most law students sign up and commit to include time each year to render service to their communities through activities such as volunteering, mentoring, participating in legal clinics, working in public interest or public service, and providing legal services to those in need.

President Vance thanked the law students for their commitment to pro bono efforts and encouraged commissioners to keep supporting the efforts through the various opportunities for service.

President Vance recognized other special guests including Past President Christy Crow, Associate Justice Will Sellers, Associate Justice Sarah Stewart, and Supreme Court Clerk Megan Rhodebeck.

5. **APPROVAL OF THE MINUTES OF THE SEPTEMBER 16, 2022, BOARD MEETING**

President Vance stated that the minutes of the September 16, 2022, 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 LONG MOVED TO APPROVE THE MINUTES OF THE SEPTEMBER 16, 2022, BOARD MEETING. THE MOTION WAS SECONDED AND APPROVED BY UNANIMOUS VOICE VOTE.

6. **REPRIMANDS**

Cullman attorney, **Burton Wheeler Newsome** was issued a public reprimand without general publication on November 4, 2022, as ordered by the Disciplinary Commission of the Alabama State Bar, for violating Rules 8.4 (a), (d) and (g) [Misconduct], *Alabama Rules of Professional Conduct*. In January 2015, Newsome sued attorney Clark A. Cooper, John W. Bullock, attorney Claiborne Seier, and Don Gottier alleging that the defendants combined to have him arrested on a false charge with the intent of damaging his reputation and law practice. The court ultimately entered judgments in favor of the defendants and awarded the defendants attorney fees and costs under the [Alabama Litigation Accountability Act](#). The Supreme Court upheld the award against Newsome finding that he subjected the defendants to protracted litigation even though his claims were without “substantial justification”.

On May 11, 2022, the Disciplinary Commission of the Alabama State Bar issued a public reprimand without general publication to **Monica Gay Mann**, for violating Rules 1.3 [Diligence], 1.4 [Communication], 8.1(b) [Bar Admission and Disciplinary Matter], and 8.4(g) [Misconduct], *Alabama Rules of Professional Conduct*. In March 2020,

Mann was retained to represent a client in a quiet title action for \$503. After executing an “Affidavit of Quiet Title” the client sent it to Mann on March 20, 2020. The client heard nothing further from Mann. On August 7, 2020, the client telephoned Mann and was informed that the necessary paperwork was on file and the next step would require a judge to approve or deny the advertisement to be placed in the paper. The client heard nothing further from Mann until October 12, 2020, when she asked the client to have a third party sign an “heirship affidavit”. The client had the affidavit signed, notarized, and returned. The client later contacted Mann’s office on November 6, 2020 and learned that no action had been taken. In April 2021, the client requested Mann return her original deed. Mann failed to respond and the client filed a bar complaint. The client subsequently filed a bar complaint. In Mann’s response, she stated she never deposited the client’s cashier’s check and returned the check to the client. During the investigation, Mann was asked to provide the Office of General Counsel with a timeline of her handling of the matter and the conduct of a former employee. Mann did not provide a timeline. Mann was ordered to make a full refund to the client.

Montgomery attorney, **Kynesha L. Adams-Jones** was issued a public reprimand with general publication on November 4, 2022, as ordered by the Disciplinary Commission of the Alabama State Bar, for violating Rules 1.15 [Safekeeping] and 8.4(g) [Misconduct], *Alabama Rules of Professional Conduct*. On or about May 25, 2021, the Office of General Counsel received an insufficient funds notice from Wells Fargo Bank regarding Adam-Jones’ trust account. The notice indicated the trust account was overdrawn as a result of a \$300 online transfer of funds. This was the third overdraft notification received in the Office of General Counsel concerning Adam-Jones’ trust account since 2018. Upon submission of the unredacted trust account statements, Adam-Jones admitted that she had been improperly depositing earned fees and personal funds into her trust account. Adams-Jones admitted to making numerous personal payments directly from her trust account. Adam-Jones also admitted to failing to maintain a general ledger as required by Rule 1.15(e) [Safekeeping], *Alabama Rules of Professional Conduct*. A review of Adam-Jones trust account did not reveal any indication of misappropriation of client funds.

On July 13, 2022, the Disciplinary Commission of the Alabama State Bar issued a public reprimand without general publication to **John Michael Aaron** for violating *Alabama Rules of Professional Conduct*, Rules 1.3 [Diligence]; 1.4 [Communication]; 3.2 [Expediting Litigation]; 8.1 [Bar Admission and Disciplinary Matters]; and, 8.4 [Misconduct]. On December 2, 2021, the Office of General Counsel (“OGC”) received from Kelly Fitzgerald Pate, United States Magistrate Judge, United States District Court for the Middle District of Alabama, motions and orders in *Carla Capps v. InMed Group, Inc.*, case number 2:19-CV-1058-KFP. The motions and orders detailed that the *Capps* matter was dismissed with prejudice due to Aaron’s failure to submit documents to the

Court as ordered, Aaron's failure to respond to opposing counsel and Aaron's failure to respond to the Defendant's motion to dismiss. On December 9, 2021, and March 3, 2022, the Alabama State Bar Office of General Counsel ("OGC") corresponded to Aaron requesting he submit a response in the matter. Aaron failed or refused to respond to OGC. On March 24, 2022, Aaron was directed by OGC to file a response in the matter within seven (7) days. Aaron failed or refused to respond to the directive. On March 29, 2022, Aaron confirmed with OGC of his receipt of an email memorializing the phone conversation of March 24, 2022, yet still failed or refused to submit a response in the matter. On April 8, 2022, Aaron's response in the matter was finally received by the OGC. Aaron admitted that he misunderstood the status of the *Capps* matter when he received the electronic notices but failed to read them, ultimately resulting in the matter being dismissed with prejudice.

7. **PRESIDENT'S REPORT**

President Vance informed the board of the recent Drive for Five visits across the 41 Judicial Circuits in our efforts to stay actively engaged in outreach on behalf of the Bar. Taking the message of the Bar to the members. He reported that since the last board meeting, Drive for Five visits have taken him to Walker, Fayette, Demopolis, Butler, Chambers, and Tuscaloosa counties, along with a presentation for the Municipal Conference for Attorneys and Judges and the Women's Section Wellness CLE. He thanked the commissioners for their support and encouraged them to let us know if there are opportunities for more visits in our efforts to go to every circuit. President Vance highlighted the numerous events that have taken place since the last board meeting to include Red Mass, Opening of Court, the Investiture of Clerk Megan Rhodebeck, the Admissions Ceremony, and Lunch with the Supreme Court.

8. **SECRETARY / EXECUTIVE DIRECTOR'S REPORT**

Secretary/Executive Director Terri Lovell informed the commissioners that the reason all the staff were wearing "I Love Lawyer" pins was in honor of "Love Your Lawyer Day" as recognized by the American Bar Association on the first Friday of each November. Lovell informed the board that along with the visits to local bars and the many ASB events, she was focusing her time on compliance, communication, and collaboration. Some of those efforts involve the visits to the local bars, policy revisions, bylaws, strategic planning, and ensuring that the work of the bar, the mission of the bar, and the communication of the bar, will continue to be focused on the core values as set forth in the ASB strategic plan: TRUST, INTEGRITY, and SERVICE.

Lovell also informed the board that former ASB consultant, John Phelps, would be speaking and leading a few workshops at the Midyear Meeting. She praised his work with the ASB Governance and Internal Operations Task Force and recognized that he is highly sought after as a speaker and consultant in the national bar circles. She also reminded the board that the next board meeting would be held in Mobile on January 20th following the Midyear Meeting on January 18th and 19th. She encouraged the board

to attend and invite members to join us. She thanked Lang Floyd, Steven Savarese, and Elizabeth Smithart for their planning efforts along with the Mobile and Baldwin County bar associations.

Lovell recognized Supreme Court liaison, Associate Justice Mike Bolin, for his many years of dedicated service to the Alabama State Bar. She announced that in his retirement, that Associate Justice Jay Mitchell has been selected by the Court as the next liaison. She also recognized Finance Director, Merinda Hall, for taking on extra responsibilities while long-time Finance Staff Assistant, Kristi Neal, has been on medical leave.

OFFICE OF GENERAL COUNSEL REPORT

General Counsel Roman Shaul deferred his remarks to address the proposed Disciplinary Commission and Disciplinary Panel rule changes.

9. FINANCE REPORT

Director of Finance Merinda Hall informed the board that fiscal year 2022 ended with a surplus of nearly \$800,000 in the ASB Checking and State Treasury fund budget, a slight downtick from the surplus reported in the previous year. Revenues declined by 4% over the year, mainly with the dues decrease in effect; however, there were notable upticks in totals for other revenue categories. A decrease in legal fee expenditures contributed to the 1.5% decline in total expenditures over the past year. Investment balances declined overall by 3.8% during the fiscal year; although the market losses were substantial, the investments made from ASB operating reserves reduced the effects of the market losses.

10. EXECUTIVE COUNCIL REPORTS

President Vance recognized Executive Council members Angela Kennedy and Carmen Howell to share updates on various programs at the Bar. Angela Kennedy updated the board on the Alabama Lawyers Assistance Program and highlighted the work of the three-staff program. She indicated that mental health awareness partnered with other factors facing our membership has resulted in an higher volume of cases and calls to the ALAP program. She stated that planning is underway for the annual ALAP conference at Ross Bridge in the Spring of 2023. Jeremy Rakes and Joycelyn Hill are visiting law schools on a weekly basis. Work continues on a webpage redesign and update for ALAP.

Carmen Howell informed the board that meetings had taken place with both the Member Benefit Committee and the Insurance Benefits Committees. Both committees are evaluating existing benefits and looking at ways to provide more valuable and excellent benefits to our membership. She recognized Practice Management Advisor, Chris

Colee, for his work to coordinate the meetings and provide valuable information regarding policies, contracts, and resources.

11. LEGAL SERVICES BOARD APPOINTMENTS

President Vance reported that there are two appointments to the Legal Services of Alabama Board. The LSA Board has recommended the appointment of Commissioner Josh Hayes and Tiffani Agee to fill the terms of previous ASB appointees Tom Heflin and Jacqueline Osorno. Nominations will be open until December 31, 2022, and the appointments will be an action item on the January 20, 2023, board meeting.

12. ANNUAL PERFORMANCE EVALUATION POLICY FOR THE EXECUTIVE DIRECTOR AND GENERAL COUNSEL

President-Elect Brannon Buck updated the board on the work of the Executive Council to propose an Annual Performance Evaluation Policy for the Executive Director and the General Counsel. Buck informed the board that the policy and forms had been circulated with the materials for the meeting. In explaining the process, President-elect Buck emphasized the importance of the Executive Director and General Counsel's own self-evaluation process, review from stakeholders to include the President, President-Elect, Chair of the Personnel Committee, Disciplinary Commission Chair, and liaison to the Alabama Supreme Court. He also stated that although a policy had not been approved for this year, that the full Executive Council had conducted a performance evaluation of both Executive Director Terri Lovell and General Counsel Roman Shaul for 2022. A vote on the Annual Performance Evaluation Policy will be an action item on the January 20, 2023, board meeting.

13. POLICY REVISIONS AND UPDATES

Executive Director/Secretary Terri Lovell reported that revisions to the Alabama State Bar Employee Handbook had been approved by the Personnel Committee and were circulated to the board prior to the meeting. The approval of the revised handbook will be an action item on the January 20, 2023, board agenda. Director Lovell also informed the board that there have been revisions and updates to many of the internal policies and procedures and that policies related to compliance and finance will all be brought to the board for their approval.

14. APPOINTMENTS OF THE DISCIPLINARY BOARD AND DISCIPLINARY COMMISSION

General Counsel Roman Shaul informed the board that pending the Alabama Supreme Court approval of proposed rule changes to the Alabama Rules of Professional Conduct, appointments will be made a discussion item so that nominations can be received if, and or when, the Court approves the recommended change ratified by the Board of Bar Commissioners on September 16, 2022. Notice of nominations will only be announced and filled if a rule change is approved by the Alabama Supreme Court.

15. **MEMORIAL RESOLUTION HONORING PAST PRESIDENT TAZEWELL T. SHEPARD, III**

President Vance called on President of the Birmingham Bar and Commissioner Allison Skinner to read a resolution honoring Past President Tazewell T. Shepard.

*In Memory of
Tazewell T. Shepard III*

WHEREAS, Tazewell Taylor Shepard III a distinguished and respected member of the Alabama State Bar for more than 43 years, passed away following a courageous years-long battle with cancer on the 10th day of October 2022, in Huntsville, Alabama, at the age of 68 years; and

WHEREAS, the Alabama State Bar honors his memory and recognizes his numerous contributions to this organization and the legal profession;

NOW, THEREFORE, BE IT REMEMBERED that this resolution was presented to the Board of Bar Commissioners of the Alabama State Bar on November 4, 2022.

AND WHEREAS, Tazewell T. Shepard III was born January 8, 1954, in Washington, D.C., to Admiral Tazewell T. Shepard, Jr., and Julianne Sparkman Shepard. Born into a family with deep political roots, he spent much of his youth with his maternal grandparents, Senator John J. Sparkman and Ivo Sparkman, close by.

AND WHEREAS, Tazewell T. Shepard III was awarded the degree of Bachelor of Arts in History from Dartmouth College and was awarded his law degree from the University of Alabama;

AND WHEREAS, Tazewell T. Shepard III was admitted to the Alabama State Bar in September 1979, and he engaged in the private practice of law in Huntsville, in Madison County, Alabama, for more than 40 years. In addition, he'd recently retired after also serving as a Chapter 7 Bankruptcy Trustee for the Northern District of Alabama for more than four decades;

AND WHEREAS, in practice, Tazewell T. Shepard III displayed the highest degree of competence and professionalism possible at all times, which competence and professionalism led to his successful career as a bankruptcy attorney and civil legal aid advocate;

AND WHEREAS, Tazewell T. Shepard III served the Alabama State Bar as its President, President-Elect, Vice President, a two-term Bar Commissioner, and Chair of the Solo and Small Firm Section. He is also the former President of the Huntsville Bar Association and Madison County Volunteer Lawyer Program;

AND WHEREAS, Tazewell T. Shepard III also impacted his community through his roles in the Huntsville Committee of 100, Huntsville Leadership Class 25, and Huntsville Rotary International. His dedication to education was apparent through his appointment to the Athens State University Board of Trustees, the Alabama Space Science Commission, as well as the Alabama Supercomputer Authority;

his election to the Alabama State Board of Education representing District Eight; and his service as President of the Board of Directors for The Schools Foundation for Huntsville and Madison County;

AND WHEREAS, Tazewell T. Shepard III was held in the highest regard by his fellow lawyers, his clients, his church and the community;

AND WHEREAS, Tazewell T. Shepard III is survived by his loving wife Pam, sons Tazewell T. Shepard IV (Sarah), John Sparkman Shepard, Hunt Chastain Shepard, and Riley Douglas Jacobs (Sarah), and daughter Jana Jacobs Broughton (Thomas), as well as six grandchildren.

NOW, THEREFORE, BE IT RESOLVED by the Alabama State Bar Board of Bar Commissioners this day assembled that the lawyers of Alabama express their deep sorrow for and mourn the death of Tazewell T. Shepard III, a dedicated lawyer, an admirable professional worthy of emulation, a leader of the legal profession, a dedicated husband and father and the finest example of the gentleman lawyer.

BE IT FURTHER RESOLVED, that a copy of this resolution be spread upon the minutes of this meeting.

COMMISSIONER SKINNER MOVED TO APPROVE THE MEMORIAL RESOLUTION HONORING PAST PRESIDENT TAZEWEILL T. SHEPARD, III, THE MOTION WAS SECONDED AND UNANIMOUSLY APPROVED.

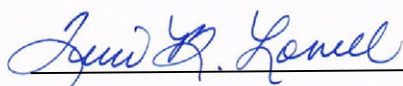
ADJOURNMENT

President Vance 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 11:37 a.m.



Gibson Vance
Alabama State Bar
President, 2022-2023

ATTEST:



Terri B. Lovell, Secretary
Alabama State Bar