

MINUTES

ALABAMA STATE BAR BOARD OF BAR COMMISSIONERS MEETING

Alabama State Bar
Montgomery, Alabama

Friday, April 14, 2006

1. CALL TO ORDER

President Bobby Segall 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 in Montgomery. Commissioner Bedsole gave the invocation.

2. ROLL CALL

The Secretary called the roll of the Commission and the following Commissioners were present:

Randall K. Bozeman	Louis C. Rutland	Cooper Shattuck
William H. Broome	Robert K. Jordan	Phillip McCallum
Maibeth Porter	Joseph A. Fawal	Robert E. Moorer
Carol H. Stewart	William A. (Pete) Short	Albert J. Trousdale, II
Billy C. Bedsole	Celia J. Collins	Mary Margaret Bailey
Les Hayes, III	James H. Anderson	Donald R. Jones, Jr.
James E. Williams	F. Michael Haney	K. Scott Stapp
Robert L. Bowers, Jr.	Everette A. Price, Jr.	Thomas B. Albritton
L. Thomas Ryan, Jr.	John E. Paluzzi	Kenneth E. White, III
Samuel N. Crosby	Tut Wynne	R. Blake Lazenby
Elizabeth Parsons	John M. Kennemer	Roger Bedford, Jr.
Timothy D. Littrell	Robert T. Meadows, III	Gerald R. Paulk
Jere C. Trent	Wayman Sherrer	Walter E. McGowan
Claude E. Hundley, III	Deborah Byrd Walker	Alicia F. Bennett
Pamela H. Bucy	Kelly T. Lee	

The following Commissioners were absent:

Ronnie E. Keahey	Phillip Henry Pitts	Oliver Kitchens
Alyce M. Spruell	Nicholas B. Roth	S. Greg Burge
Jack Neal	Edward P. Meyerson	Terry L. Butts
Michael D. Knight	William M. Cunningham	Charles R. Stephens, Sr.
Sim Penton	John E. Medaris	Joseph A. Morris
Harold Stephens	Richard J.R. Raleigh, Jr.	William H. Atkinson
Dan Warnes	Roy W. Williams, Jr.	David T. Hyde, Jr.
David F. Law	Merceria Ludgood	Kyra Sparks
Dawn Wiggins Hare		

Also in attendance was Immediate Past President Douglas McElvy and Young Lawyers Section President Christie Crow. Staff members present included Tony McLain, Ed Patterson, Robby Lusk, Sam Partridge, Jeremy McIntire, Laura Calloway, Linda Lund, Susan Andres and Jeanne Marie Leslie. Judy Keegan, Director of the Alabama Center for Dispute Resolution, also attended.

3. APPROVAL OF THE MINUTES OF THE BOARD OF COMMISSIONERS MEETING FOR FEBRUARY 3, 2006

President Segall stated that the minutes of the Board of Commissioners meeting on February 3, 2006 had been disseminated to the Board. He asked if there were any corrections, additions or deletions.

COMMISSIONER BEDSOLE MOVED TO APPROVE THE MINUTES OF THE BOARD OF COMMISSIONERS MEETING FOR FEBRUARY 3, 2006. THE MOTION WAS SECONDED AND THE MINUTES WERE APPROVED BY UNANIMOUS VOICE VOTE.

4. PRESIDENT'S REPORT

President Segall stated that each member of the Commission had been provided a compact disk from the Alabama Law Foundation concerning the Kids' Chance program. He encouraged the Commissioners to review the CD to learn more about the Kids' Chance Scholarship Fund.

The President next highlighted the Alabama State Bar's Law Day program celebrating the 50th Anniversary of the *Browder v. Gayle* decision. He encouraged all Commission members to attend the program. He noted that this was an opportunity to demonstrate that the bar is inclusive and asked members of the Commission to contact lawyers in their circuits and encourage them to attend the program.

President Segall congratulated Commissioner Anthony Joseph on his recent election as president-elect of the Birmingham Bar Association. He concluded his remarks by stating that a nomination for the Scruggs Award has been received and that Commissioners Porter and Lazenby were serving with the President-elect, the Executive Director and the General Counsel to consider the nomination and report back to the Commission with a recommendation.

5. LEGAL SERVICES ALABAMA – RE-ELECTION OF BOARD MEMBERS

President Segall stated that three current members of the Legal Services Alabama (LSA) Board were being recommended for re-appointment. They were Frances Heidt, Buck Watson and Linda Henderson.

COMMISSIONER BROOME MOVED THE RE-ELECTION OF FRANCES HEIDT, BUCK WATSON AND LINDA HENDERSON TO THE LEGAL SERVICES ALABAMA BOARD. THE MOTION WAS SECONDED. THE MOTION WAS APPROVED BY VOICE VOTE.

President Segall stated that there were four other vacancies on the board that the Board of Bar Commissioners would be required to fill. He informed the Commission that Dale Marsh (Dale County) and Commissioner Billy Cunningham (Mobile County) would be recommended to fill two of the vacancies. He stated that the Florence and Tuscaloosa areas were parts of the state where nominations were needed. President Segall encouraged the Commissioners to submit the names of individuals for these spots to the Executive Director by May 5th. He remarked that they were especially seeking nominations of individuals with experience in fundraising, and legislative/government affairs.

6. CAMPAIGN OVERSIGHT COMMITTEE

President Segall reminded the Commission a bar task force has recommended that the bar facilitate the formation of the Judicial Campaign Oversight Committee and that the Honorable Bill Gordon of Montgomery and Judy Belk of Mobile had agreed to co-chair it. He stated that there had been criticism of the role of the Oversight Committee from some quarters and that it would be helpful for the Commission to reaffirm its support for the concept of the Judicial Campaign Oversight Committee and its mission.

BY A SHOW OF HANDS, THE SENSE OF THE COMMISSION WAS OVERWHELMINGLY IN FAVOR OF THE MISSION OF THE CAMPAIGN OVERSIGHT COMMITTEE.

7. MEMORIAL RESOLUTION OF THE TALLADEGA COUNTY BAR ASSOCIATION

The Secretary stated that a memorial resolution of the Talladega County Bar Association had been received honoring Mr. George F. Wooten for inclusion in the Alabama State Bar Book of Memorial Resolutions.

COMMISSIONER LAZENBY MOVED TO ACCEPT AND PLACE THE MEMORIAL RESOLUTION OF THE TALLADEGA COUNTY BAR ASSOCIATION HONORING GEORGE F. WOOTEN IN THE ALABAMA STATE BAR BOOK OF MEMORIAL RESOLUTIONS. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

The Secretary informed the Commission that the terms of two of the bar's ABA House of Delegates positions would end at the ABA's Annual Meeting in August. He stated that those spots were currently held by Wes Pipes of Mobile and Billy Coplin of Demopolis. He noted that Mr. Pipes will conclude his second consecutive term and could not be re-elected because the Commission's policy limits delegates to two consecutive terms. Mr. Coplin will conclude one two-year term but can be re-elected to a second term. The Secretary said that it would be necessary for the Commission to elect two delegates at its next meeting so that information could be transmitted to the ABA. He asked the Commissioners to submit the names of potential nominees prior to the next meeting. He informed the Commission that Mr. Coplin had indicated his willingness to serve a second term if the Commission reappointed him and that Mr. Wade Baxley, former president of the Alabama State Bar, had indicated his willingness to fill the position now held by Mr. Pipes at the conclusion of his term in August.

8. ELECTION OF BAR EXAMINERS

The Secretary stated that Karen Mastin Laneaux of Montgomery had been recommended for a four year term as bar examiner commencing with the February 2006 examination. He explained that due to an oversight, her nomination was not made prior to the February exam so that it was necessary for the Commission to approve her retroactively for a four year term commencing with the February 2006 examination. The Secretary further noted that current examiner David Hymer had served a four year term as examiner that concluded with the February 2005 examination. He stated that Mr. Hymer's name had not been submitted to the Commission for reappointment for a new four year term that commenced with the July 2005 examination. The Secretary said that Mr. Hymer had indicated his desire to continue and had in fact served as examiner for the July 2005 examination and the February 2006 examination and therefore his reappointment would need to be retroactive to July 2005. The Secretary concluded by noting that examiner Jack Sharman of Birmingham had agreed to serve another four year term commencing with the July 2006 bar examination.

COMMISSIONER LAZENBY MOVED THE APPOINTMENT OF KAREN MASTIN LANEUX OF MONTGOMERY AS BAR EXAMINER FOR A FOUR YEAR TERM RETROACTIVE TO THE FEBRUARY 2006 EXAMINATION AND RATIFYING HER ACTIONS AND ACTIVITIES SINCE THAT TIME AS EXAMINER. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

COMMISSIONER FAWAL MOVED THE REAPPOINTMENT OF DAVID HYMER OF BIRMINGHAM TO A FOUR YEAR TERM AS EXAMINER RETROACTIVE TO THE FEBRUARY 2005 EXAMINATION AND RATIFYING HIS ACTIONS AND ACTIVITIES AS A BAR EXAMINER SINCE THAT TIME. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

COMMISSIONER FAWAL MOVED THE REAPPOINTMENT OF JACK SHARMAN OF BIRMINGHAM AS EXAMINER FOR A FOUR YEAR TERM COMMENCING WITH THE JULY 2006 BAR EXAMINATION. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

9. MAUD MCLURE KELLY AWARD

President Segall stated that the Women's Law Section had recommended Mahala Ashley Dickerson as the recipient of the 2006 Maud McLure Kelly Award. President Segall stated that Ms. Dickerson had attended several bar meetings in the last ten years and currently practiced in Alaska and was first admitted to the Alabama State Bar in 1948 and later admitted to the Indiana Bar. He noted that she was the first African American female to be admitted to the Alabama State Bar, the second African American female admitted in Indiana and the first African American admitted in Alaska.

COMMISSIONER COLLINS MOVED THE ACCEPTANCE AND RATIFICATION OF THE SELECTION BY THE WOMEN'S LAW SECTION OF MAHALA ASHLEY DICKERSON AS THE RECIPIENT OF THE 2006 MAUD MCLURE KELLY AWARD. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

10. JANIE SHORES SCHOLARSHIP FUND

President Segall said that the Women's Law Section was proposing the creation of the Janie Shores Scholarship Fund. He stated that the fund would be administered by the Alabama Law Foundation and would provide scholarships to be awarded to female students who reside in Alabama and who attend or have been accepted for entrance by law schools in Alabama. The President noted that the authorization of the section to establish the scholarship would be an action item at the next meeting.

11. JUDICIAL LIAISON COMMITTEE REPORT

President Segall welcomed Sam Franklin and Jere Beasley, co-chairs of the Judicial Liaison Committee. Mr. Franklin discussed the committee's recommendation to create a judicial scholarship program so that Alabama judges can attend the National Judicial College in Reno, Nevada. He acknowledged that there had been no public funding to send judges to the judicial college since 1998. He stated that the committee had met with Chief Justice Nabers and that the Chief Justice would be working to secure funds for future judges to attend. Mr. Franklin highlighted the fact that the Birmingham Bar Association had raised \$50,000 several years ago to provide scholarships for judges in the 10th Judicial Circuit to attend the judicial college. He stated that the committee's recommendation was to implement the same concept on a statewide basis. He informed the Commission that the 10th Judicial Circuit would participate in the statewide program and that he and Mr. Beasley would write law firms to raise the funds. The goal is \$150,000. Mr. Franklin stated that the Alabama Judicial College would administer the program and judges would apply for scholarships of up to \$2,000. Under the terms of the program, donors would remain anonymous. Mr. Franklin explained that the scholarship program would be an interim solution until the Chief Justice can secure additional funds for future judges to attend. He stated that since 2001, 65 judges have been unable to attend the judicial college because of the lack of funding. Following several questions, President Segall summarized that the committee would essentially be using the bar's name to raise the funds for the program. Mr. Franklin thanked committee member Teresa Minor of Birmingham, in particular, who was very instrumental in gathering the data for the committee.

President Segall next recognized Mr. Jere Beasley. Mr. Beasley outlined a proposed protocol to respond to judicial criticism. He noted that judges are often unfairly criticized and the bar needs to make sure that they are protected when this happens. Mr. Beasley stated that the current protocol adopted in 1986 was revised and updated by the committee. Mr. Beasley explained the committee's proposal and acknowledged that the committee's plan was two-fold: judges need to be trained to do good jobs and to make sure judges are not unfairly criticized for doing their job. Mr. Beasley stated that his subcommittee did an outstanding job and worked very hard to come up with the protocol.

President Segall thanked Mr. Franklin and Mr. Beasley and stated that both proposals would be action items at the next meeting.

[A copy of the task force report is attached to these minutes as Appendix A.]

12. REPORT OF THE RECIPROCITY ISSUES TASK FORCE

President Segall recognized Robert Huffaker, chair of the task force to outline its work. Mr. Huffaker stated that the task force had a good cross section representing different types of practices from around the state. He informed the Commission that the task force unanimously recommended their report to the Commission. He stated that most states have an admission without examination rule and he acknowledged that for Alabama not to have a similar rule, Alabama lawyers who desire to go to another state to practice are at a disadvantage. Mr. Huffaker stated that the rule as proposed would put Alabama in the mainstream. He outlined how the rule would work by amending current Rule III of the Rules Governing Admission. He pointed out that the proposed rule would require that a lawyer be a permanent resident of Alabama or have at least 75 percent of their practice in Alabama. He acknowledged that the residency requirement as proposed in this rule is probably more restrictive than many other states.

Following Mr. Huffaker's remarks there were several questions by Commissioners. Mr. Huffaker was asked who would monitor the 75 percent practice requirement. Mr. Huffaker noted that each year a lawyer would certify under oath that he or she has met the 75 percent requirement. Another Commissioner inquired about the 75 percent requirement and whether other states would recognize Alabama Bar members with this requirement in place. Mr. Huffaker responded affirmatively. Mr. Huffaker also stated that in his opinion Alabama would not see a high influx of out of state lawyers seeking admission under this rule citing as an example Arkansas' recent experience after adopting a similar rule e.

Mr. Huffaker next discussed the second proposal of the task force which would amend the *Pro Hac Vice* rules as they relate to *pro bono* legal services in criminal cases. He stated that the task force is recommending several changes to allow out of state lawyers to be admitted *pro hac vice* to handle the trial of capital cases or any criminal cases in the post conviction remedy phase. He stated that the task force attempted to streamline the process by eliminating any filing fee and the requirement of local counsel. He further stated that such PHV applications would still be filed with the bar and that the attorneys seeking admission under this rule would be subject to Alabama disciplinary rules. Mr. Huffaker was asked whether or not the trial court could still deny the petition for admission PHV under these changes. He responded affirmatively. President Segall thanked Mr. Huffaker and the task force for their work. He stated that this would be an action item at the May meeting.

13. COMMISSIONERS AWARD

Following the departure of Mr. Franklin, President Segall stated that he wanted to nominate Mr. Franklin for the Commissioners Award in recognition his many years of involvement with improving the administration of justice. President Segall gave numerous examples of Mr. Franklin's service over the years that have been dedicated to improving the administration of justice in Alabama including serving as president of the Alabama Law Foundation, raising funds for Legal Services Alabama in Birmingham, chairing the Judicial Liaison Committee, vice president of the Alabama State Bar, a member of the Board of Bar Commissioners, member of the Disciplinary Commission, president of the Alabama Defense Lawyers and other examples of activities where Mr. Franklin had served in roles to improve the administration of justice.

COMMISSIONER PRICE MADE A MOTION TO HONOR SAM FRANKLIN FOR HIS LONG AND CONTINUOUS SERVICE TO IMPROVE THE ADMINISTRATION OF JUSTICE IN ALABAMA BY RECOGNIZING HIM AS THE 2006 RECIPIENT OF THE COMMISSIONERS AWARD. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

14. MENTORING

President Segall recognized Commissioner Bucy for a report by the Mentoring Committee. Commissioner Bucy explained the proposal that had been previously provided to the Commission. She explained that the concept of the proposal was to put mentor and mentee together in groups based on similar interests. Commissioner Bucy acknowledged that because there would be new lawyers who would not need this program (e.g. young lawyers in firms), it would instead target solo practitioners and young lawyers in rural areas.

There were several questions to which Commissioner Bucy responded. Commissioner Bucy was asked how this program would work in the circuits. She explained that a small pilot group would first be assembled and that mentors and mentees would be asked to commit to a year long structured program. She stated that every effort would be made to align the groups geographically and that new lawyers, those admitted to practice five years or less, would be eligible for the program.

15. LOCAL LAWYER RECOGNITION

Commissioner Porter nominated Lee Huffaker and Jim Goyer for the Local Lawyer Recognition Award. The resolution for the award reads as follows:

WHEREAS, James L. Goyer, III and M. Lee Huffaker of Birmingham are well known and highly respected lawyers who are members of the firm of Maynard, Cooper & Gale; and

WHEREAS, both lawyers have been active participants in the Volunteer Lawyers Program, giving their time *pro bono* to assist clients without the means or the ability to retain the services of a lawyer; and

WHEREAS, Jim and Lee, by skillfully utilizing a change in the law for non-violent criminals, were successful in their post-conviction representation of a client who was previously sentenced to life without parole, by convincing the court to grant their client a new sentence, life with the possibility of parole, which allowed their client to receive drug treatment for the first time in the 12 years he has been incarcerated.

NOW, THEREFORE, BE IT RESOLVED that Jim Goyer and Lee Huffaker have distinguished themselves through their spirit of public service and brought great credit to themselves, their law firm and the legal profession.

BE IT FURTHER RESOLVED that their actions embody the noble ideals of the Alabama State Bar's motto "Lawyers Render Service" and that the Board of Bar Commissioners acknowledges their selfless actions on behalf of their client and expresses its profound gratitude and sincerest appreciation on behalf of a grateful profession.

DONE this the 14th day of April 2006.

COMMISSIONER PORTER MOVED THE ADOPTION OF THE RESOLUTION.
THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

President Segall next nominated Judge Tracy McCooey, Circuit Judge for the 15th Judicial Circuit to receive the Local Lawyer Recognition Award. The resolution honoring Judge McCooey read as follows:

WHEREAS, Judge Tracy S. McCooey serves the citizens of the 15th Judicial Circuit as circuit judge; and

WHEREAS, during her tenure as circuit judge she has established programs that are innovative and noteworthy for their ability to help both the victim and the offender who come before the court.

THEREFORE, BE IT KNOWN that Judge Tracy S. McCooey, in addition to her significant responsibilities as a circuit judge and maintaining a current docket, initiated and supervises four novel programs: Drug Court, Mental Health Court, Victim Offender Conferencing and Circle Sentencing. **Drug Court** is a rigorous program that gives individuals charged with drug possession, or a property crime related to drug problems, a second chance. Participants must pay fines, complete drug treatment, and submit to random drug screens, and fulfill educational, employment and community service requirements in order to have their cases *nolle prossed*. **Mental Health Court** helps non-violent, mentally ill defendants satisfy their terms of probation with intensive supervision

of a mental health court case manager. **Victim Offender Conferencing** allows victims to engage in a facilitated face-to-face meeting with the offender. The program is voluntary and is designed to provide understanding and solace to the victim and to reduce recidivism among offenders. **Circle Sentencing** allows the community, the victim and even the defendant to help select a suitable sentence. The “Circle” usually includes the judge, victim, prosecutor, defendant, defense attorney and support personnel as well as facilitators. If the Circle reaches a consensus, the judge sentences the defendant according to the Circle’s recommendation. Otherwise, traditional sentences are imposed.

WHEREAS, these innovative programs have had a very positive result for defendants, victims and the families who have participated in them.

NOW, THEREFORE, BE IT RESOLVED that Circuit Judge Tracy S. McCooey is a devoted and concerned jurist who has shown that justice can be accomplished in innovative ways with the participation of the victim, the community and other elements of the judicial system.

BE IT FURTHER RESOLVED that the Board of Bar Commissioners recognizes Judge McCooey for her outstanding leadership and dedication to the system of justice and expresses its profound gratitude and sincerest appreciation on behalf of a grateful profession.

DONE this the 14th day of April 2006.

COMMISSIONER METHVIN MOVED THE ADOPTION OF THE RESOLUTION.
THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

16. ADJOURNMENT

President Segall 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 seconded to adjourn. The motion was approved.

Bobby Segall, President
Alabama State Bar

ATTEST:

Keith B. Norman, Secretary
Alabama State Bar

Editor's Note: Written updates for the Office of General Counsel and Communications Department were provided to the Commission at the meeting.