

## MINUTES

### ALABAMA STATE BAR BOARD OF BAR COMMISSIONERS MEETING

**State Bar Building  
Montgomery, Alabama**

**Friday, October 26, 2018**

#### 1. CALL TO ORDER

President Sam W. Irby 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. Commissioner LaBella Alvis gave the invocation.

#### 2. ROLL CALL

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

LaBella S. Alvis	Raymond L. Bell, Jr.	Mark S. Boardman
Sally Bowers	Jeffrey L. Bowling	William H. Broome
Bryan E. Comer	Bradley Cornett	Michael D. Ermert
Erskine R. Funderburg, Jr.	Monet M. Gaines	Jana Russell Garner
J. Kirkman Garrett	Anne Malatia Glass	Dana Grimes
H. Thomas Heflin, Jr.	Frederick G. Helmsing, Jr.	Erik Stephen Heninger
Scott B. Holmes	Ralph E. Holt	Carmen Howell
William R. Lancaster	Karen Laneaux	Donald B. Mansell
David Martin	William Randall May	Clint L. Maze
Rebekah K. McKinney	R. Cliff Mendheim	Robert G. Methvin, Jr.
Charles Zackery Moore	Kenneth Moore	J. Flynn Mozingo
George R. Parker	Manish H. Patel	Taylor T. Perry, Jr.
Amanda Porter	Courtney R. Potthoff	Chuck Price, II
Barry A. Ragsdale	Jeanne Dowdle Rasco	Pat Sefton
Tazewell T. Shepard, III	Scott Shipman	John A. Smyth
John T. Stamps	Andrew D. Stanley	James Michael Terrell
Terri O. Tompkins	C. Gibson Vance	Gregory M. Varner
Roy W. Williams, Jr.		

The following commissioners were absent:

Emily L. Baggett	Robert L. Bowers, Jr.	John A. Brinkley, Jr.
Robert H. Brogden	Brannon J. Buck	Latisha R. Davis
Diandra S. Debrosse	Jeffery C. Duffey	Deborah Dunsmore
J. Langford Floyd	Kira Y. Fonteneau	Christy Williams Graham

Clinton H. Hyde	Brett A. King	F. Patrick Loftin
M. Clay Martin	Larry W. Morris	J. Levi Nichols
J. Lynn Perry	James Rebarchak	Allison O. Skinner
Charles C. Tatum, Jr.	Halron W. Turner	

Also in attendance was President-elect Christy Crow. Staff members in attendance were: Roman Shaul, Justin Aday, Margaret Murphy, Alex Edwards, Linda Lund, Laura Calloway, Merinda Hall, and Ed Patterson. Also in attendance was Tracy Daniel, director of the Alabama Law Foundation.

### 3. **INTRODUCTION OF GUESTS**

President Irby recognized special guests Associate Justice Will Sellers, Dorman Walker, Michael Upchurch, Mallory Bullard, Lee Johnsey, Brett Holsombeck, Tim Gallagher, Col. Bryan Morgan and Col. Terry Travis and Legislative Counsel Suzi Huffaker.

### 4. **APPROVAL OF THE MINUTES OF THE SEPTEMBER 14, 2018 BOARD MEETING**

President Irby stated that the minutes of the September 14, 2018 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 GLASS MOVED TO APPROVE THE MINUTES OF THE SEPTEMBER 14, 2018 BOARD MEETING. THE MOTION WAS SECONDED AND APPROVED BY UNANIMOUS VOICE VOTE.

### 5. **REPRIMANDS**

#### 5.a. Tracie Tawana Melvin – ASB 2017-740

Ms. Melvin received a public reprimand with general publication and pay any and all costs taxed pursuant to Rule 33, *Alabama Rules of Disciplinary Procedure*, including but not limited to a \$1,000 administrative fee for violating Rules 1.6; 3.4(c); 4.1(a); 4.4; 8.2(a), 8.4(a), 8.4(c), 8.4(d) of the *Alabama Rules of Professional Conduct*.

#### 5.b. Jon Batton Terry – ASB 2016-1378

Mr. Terry received a public reprimand with general publication and pay any and all costs taxed pursuant to Rule 33, *Alabama Rules of Disciplinary Procedure*, including but not limited to a \$1,000 administrative fee for violating Rules 1.15(a), 1.15(c), 5.3(a), 5.3(b), 5.3(c)(2), 8.4(a) and 8.4(g) of the *Alabama Rules of Professional Conduct*.

5.c. Jerry Dean Roberson – ASB2015-1539

Mr. Roberson received a public reprimand with general publication and pay any and all costs taxed pursuant to Rule 33, *Alabama Rules of Disciplinary Procedure*, including but not limited to a \$1,000 administrative fee for violating Rules 1.15(a), 8.4(a) and 8.4(g) of the *Alabama Rules of Professional Conduct*.

5.d Oliver Frederick Wood – ASB 2017-663

Mr. Wood received a public reprimand with general publication and pay any and all costs taxed pursuant to Rule 33, *Alabama Rules of Disciplinary Procedure*, including but not limited to a \$1,000 administrative fee for violating Rules 1.8(a), 8.4(a) and 8.4(g) of the *Alabama Rules of Professional Conduct*.

**6. PRESIDENT'S REPORT**

President Irby updated the commission on engagements in which he has represented the Alabama State Bar since the last commission meeting, including the Bar Leadership Summit, Red Mass and Opening of Court, the Southern Conference of Bar Presidents' meeting in New Orleans, speaking to local bar associations, the Fall Admission Ceremony, lunch with the Supreme Court of Alabama and a Pro Bono Recognition Ceremony held at the Judicial Building. President Irby also informed the commission of upcoming speaking engagements and encouraged commissioners to contact him so that the state bar can interface with local bar associations and other groups.

President Irby informed the commission that he has appointed R. Brian Smith of Livingston and Commissioner Jeffery C. Duffey of Montgomery to serve on the Indigent Defense Review Panel. He also informed the commission that the Board of Trustees of the Alabama Law Foundation had voted to relocate the Alabama Law Foundation from the Alabama State Bar building and details were being finalized on the departure.

President Irby recognized Commissioners Shepard, Perry and Garner as executive council members of the Solo and Small Firm Section to make a special presentation. Commissioner Shepard informed the commission that the section had been considering the idea of creating an annual service award. He said the section had overwhelmingly selected Laura Calloway, Director of External Relations, to receive the inaugural award. Mrs. Calloway was presented the award and thanked the section officers for the recognition.

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

Secretary/Executive Director McCallum presented the Executive Director's MVP award to Colonel Terry Travis of Montgomery. Colonel Travis was admitted to the Alabama State Bar in 1982. He practiced law in several capacities and served in the

Alabama National Guard. Col. Travis served multiple tours of duty in the Middle East and retired as Staff Judge Advocate for the Alabama National Guard. Mr. McCallum presented Col. Travis with a token of appreciation on behalf of the commission. Col. Travis, joined by his wife, Rosemary, and several family members thanked the commission for the recognition.

Mr. McCallum introduced Joycelyn Hill as the new administrative assistant for the Alabama Lawyers Assistance Program. He also informed the commission that the Examiners of Public Accounts had completed its audit of the Alabama State Bar and that commissioners should have received a copy of the final report. He asked the commission if there were any questions related to the audit report. There were none.

He also informed the commission that the bar building is a drop-off location for supplies needed in the recovery efforts after Hurricane Michael hit portions of Alabama, Georgia and Florida. Mr. McCallum recognized Commissioner Patel for his efforts in collecting and delivering supplies to those affected by the hurricane. Mr. McCallum also requested that the commission consider making a monetary donation to the State of Florida to the recovery efforts as a show of support from the Alabama State Bar.

COMMISSIONER METHVIN MOVED TO APPROVE A MONETARY DONATION FROM THE ALABAMA STATE BAR TO THE RECOVERY EFFORTS FOR THOSE AFFECTED BY HURRICANE MICHAEL. THE MOTION WAS SECONDED AND APPROVED BY UNANIMOUS VOICE VOTE.

## **8. OFFICE OF GENERAL COUNSEL REPORT**

General Counsel Roman Shaul informed the commission that three of four lawsuits in which the Alabama State Bar was a party have been resolved in favor of the bar. He also informed the commission that his office is working to enhance technology in the office and electronically transmit files for hearings. He also informed the commission that video conferencing equipment has been installed in the hearing room so that witnesses may be questioned without being physically present at the hearing.

## **9. FINANCIAL REPORT**

Director of Finance Merinda Hall shared the fiscal year-end financial report and informed the commission that the State Treasury and Alabama State Bar checking accounts ended with a surplus of approximately \$500,000. She reported that those funds had seen a 2.7% annual growth rate and that investment balances had also increased over the prior year.

Lee Johnsey, chair of the Finance & Audit Committee, reminded the commission that the FY2020 budget had been presented at its last meeting and that the commission was informed at that time that there may be changes before the final proposal was made. Mr. Johnsey informed the commission that there were no changes to the proposal that

was previously presented and that the proposal in the meeting materials represented the FY2020 budget as proposed by the Finance & Audit Committee. The proposal is \$6.85 million dollars, a reduction of 1.7% from the FY2019 budget.

COMMISSIONER COMER MOVED TO APPROVE THE FY2020 BUDGET OF THE ALABAMA STATE BAR. THE MOTION WAS SECONDED AND APPROVED BY UNANIMOUS VOICE VOTE.

**10. LAWYER INCUBATOR TASK FORCE REPORT**

Dorman Walker, chair of the Lawyer Incubator Task Force presented the recommendations of the task force. Specifically, Mr. Walker informed the commission that the recommendation of the task force is to create a lawyer incubator task force in Alabama. He said that the next step would be to determine how the incubator would be structured, who would be the stakeholders, and how the program would be funded and staffed. President Irby thanked Mr. Walker for his hard work and the hard work of the task force and said that the Executive Council would continue to evaluate the recommendations of the task force and return to the commission with a recommendation.

**11. LAWYER ADVERTISING / COURT FUNDING REPORT**

Michael Upchurch, chair of the Lawyer Advertising Subcommittee of the Disciplinary Rules & Enforcement Committee, reported to the commission that the subcommittee is still in the process of reviewing lawyer advertising rules. He said that he anticipates this review process to take the remainder of the bar year, as the subcommittee is looking at what other states are doing and trying to figure out the best way to address not only lawyer advertising, but also other issues related to lawyer communication.

Mr. Upchurch also briefed the commission on the issue of court funding, and specifically addressed how members of the bar can assist in addressing the issue. Mr. Upchurch informed the commission that the best approach was probably for the bar to work with the Chief Justice and the Administrative Office of Courts on assembling an accurate set of numbers, educating lawyers on the numbers and rationale for them, and having lawyers talk to their legislators to educate the legislators on the issue and urge them to make adequate court funding a legislative priority.

**12. LEADERSHIP FORUM REPORT**

Commissioner Parker reported to the commission that the decision was made that there would not be a Leadership Forum class this year. Instead, the bar will take a year to review the program with a focus on the future of the program and how to keep alumni engaged. Mr. Parker informed the commission that over the next several months, the bar will hold several social events to connect classes of the Leadership Forum and solicit input from alumni as to how to keep the program current and vibrant.

**13. PRO BONO MONTH CELEBRATION UPDATE**

Tim Gallagher, chair of the Pro Bono Celebration Task Force, 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: Jeremy “JR” Thomas, Cumberland School of Law; Chandler Duncan, Cumberland School of Law; Lauren James, Faulkner University Jones School of Law and QuiAndria James, Faulkner University Jones School of Law.

Mr. Gallagher and Linda Lund, director of the Alabama State Bar Volunteer Lawyers Program, presented a token of appreciation to the past chairs of the Pro Bono Celebration Task Force. Those in attendance to receive the recognition were Commissioner Jimbo Terrell, Commissioner Jeanne Rasco, Cassandra Adams, Commissioner Flynn Mazingo, President-elect Christy Crow, Commissioner Jana Garner, and Tim Gallagher. Past president Alyce Spruell and Phil Mitchell were not in attendance, but were recognized for their service as past chair of the Pro Bono Celebration Task Force.

**14. GOVERNMENT RELATIONS LIAISON COMMITTEE REPORT**

Vice President Taze Shepard and Commissioner Mike Ermert, co-chairs of the Government Relations Liaison Committee, reported to the commission that the committee has developed a set of recommendations for the commission to consider. Mr. Shepard said that the committee believes implementation of these recommendations will strengthen the bar’s role in government relations. The recommendations are as follows: (1) the Alabama State Bar, in conjunction with the Circuit and District Judges Association, should hold an annual dinner for members of the Judiciary Committees of the Alabama House of Representatives and Alabama State Senate; (2) the Alabama State Bar should request that sections and committees who deal with substantive areas of law provide at least two subject matter experts during the legislative session to review legislative germane to the area(s) of law of the section or committee; (3) any appointment to the Government Relations Liaison Committee should be made with consideration given for individuals with actual experience with state government and those who are readily available to work with the bar’s legislative counsel; and (4) the Alabama State Bar should hold an annual training session on government relations so that members may more effectively engage with the legislature.

Mr. Ermert informed the commission that all seats in the state legislature are up for election in November. He also informed the commission that there will be many first-time legislators. Mr. Ermert urged the commissioners to make a call to the legislators in their area immediately after the election to congratulate them and to offer assistance as subject matter experts on issues that may come before them as legislators.

**15. LOCAL BAR REPORTS**

President Irby recognized Commissioner Erskine Funderburg (30th Judicial Circuit), Commissioner Cliff Mendheim (20th Judicial Circuit) and Commissioner Fred Helmsing (13th Judicial Circuit) to give local bar reports.

First, Commissioner Funderburg reported there are approximately 35 active practicing attorneys in his circuit and that there is great comradery among the attorneys. He also recognized a program called Lighten the Load, which was started by Jennifer Sellers and Laurie Henderson. The program collects luggage and provides it to foster children so they can carry their belongings from one foster placement to the next. Commissioner Funderburg reported so far 300 pieces of luggage have been donated to the program in St. Clair County.

Next, Commissioner Cliff Mendheim reported that, for the most part, Hurricane Michael spared the area in his circuit, but that there was some substantial damage in the eastern portion of Houston County. He thanked those who have participated in the recovery efforts and encouraged commissioners to continue to support those efforts.

Finally, Commissioner Fred Helmsing reported to the commission that in 2019, the Mobile Bar Association will celebrate the 150th anniversary of its founding. He informed the commission that the Mobile Bar Association is the eleventh oldest bar association in the country. A special celebration is being planned for March 19, 2019, and Commissioner Helmsing said that he would provide additional details as the date approaches and he encouraged all commissioners to participate in the festivities.

**16. CONSIDERATION OF REVISED TRAVEL POLICY**

President Irby informed the commission that the revised Alabama State Bar Travel Policy was included in the meeting materials. The revised policy was a discussion item in a previous meeting. President Irby asked if there was any further discussion on the revised travel policy. There was none.

COMMISSIONER PARKER MOVED TO APPROVE THE REVISED ALABAMA STATE BAR TRAVEL POLICY. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

**17. CONSIDERATION OF AMENDMENTS TO BYLAWS OF THE NON-RESIDENT MEMBERS SECTION**

President Irby informed the commission that the proposed amendments to the bylaws of the Non-Resident Members Section are included in the meeting materials. The proposed amendments to the bylaws were a discussion item in a previous meeting. President Irby asked if there was any further discussion on the proposed amendments to the bylaws. There was none.

COMMISSIONER GLASS MOVED TO APPROVE THE AMENDMENTS TO THE BYLAWS OF THE NON-RESIDENT MEMBERS SECTION. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

**18. ADJOURNMENT**

President Irby 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 11:25 a.m.

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Sam W. Irby, President  
Alabama State Bar

ATTEST:

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Phillip W. McCallum, Secretary  
Alabama State Bar