

# MINUTES

## ALABAMA STATE BAR BOARD OF BAR COMMISSIONERS MEETING

State Bar Building  
Montgomery, Alabama

Friday, September 16, 2011

### 1. CALL TO ORDER

President Pratt 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 Raleigh gave the invocation.

### 2. ROLL CALL

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

Ronnie E. Keahey	Cleve Poole	Robert Simms Thompson
Terri O. Tompkins	Hays Webb	William H. Broome
Phil D. Mitchell	Rocky Watson	Leslie R. Barineau
S. Greg Burge	Robert G. Methvin, Jr.	Augusta Dowd
Teresa G. Minor	Joseph A. Fawal	Robert E. Moorer
Derrick A. Mills	Albert J. Trousdale II	Richard W. Whittaker
Henry A. Callaway III	Walter H. Honeycutt	Harry V. Satterwhite
James R. Beard	J. Flynn Mazingo	Jeffery C. Duffey
F. Michael Haney	K. Scott Stapp	Julia C. Kimbrough
David A. McDowell	Hamp Baxley	John L. Jernigan, III
John M. Peek	Harold Stephens	L. Thomas Ryan, Jr.
Richard J.R. Raleigh, Jr.	J. Dale Lawrence, Jr.	Jerry Wayne Baker, Jr.
Sam W. Irby	Elizabeth Parsons	Braxton W. Ashe
Jason P. Knight	Rebecca Green Thomason	Don Word
John M. Plunk	Gregory M. Varner	Alexander M. Smith
Walter E. McGowan	Meredith S. Peters	David K. Howard
Monet M. Gaines	Ashley E. Swink	Christy Crow

The following commissioners were absent:

J. Garrison Thompson	William A. (Pete) Short, Jr.	Billy C. Bedsole
Juan Ortega	Frank M. Wilson	Les Pittman
Cole Portis	Lee H. Copeland	William Randall May
R. Wyatt Howell	Kenneth E. White, III	Allan Chason
Robert L. Rumsey	Robert H. Brogden	J. Milton Coxwell, Jr.
H. Jerome Thompson	Robert W. Pierce	Claude E. Hundley, III
Merceria Ludgood	Alicia F. Bennett	LaBarron Boone

President-elect Phillip McCallum and Immediate Past President Alyce Spruell were present. Staff members present included Tony McLain, Ed Patterson, Laura Calloway, Brad Carr, Linda Lund, Jeremy McIntire and Robby Lusk. Also in attendance was Tracy Daniel, Director of the Alabama Law Foundation and Judy Keegan, Director of the Alabama Center for Dispute Resolution.

### **3. RECOGNITION OF GUESTS**

The following guests were recognized: Mr. Jimmy Fry, Executive Director of Legal Services Alabama; Ms. Amy Naylor, President, Chilton County Bar Association; and Mr. Charles Blakeney, President, Geneva County Bar Association.

### **4. MINUTES**

President Pratt stated that the minutes of the July 13 and July 16, 2011 board meetings and the minutes of the 2011 Grande Convocation and Annual Business Meeting had been transcribed and circulated prior to the meeting. He asked if there were any corrections, additions or deletions. There were none.

COMMISSIONER POOLE MOVED TO APPROVE THE MINUTES OF THE JULY 13 AND JULY 16, 2011 BOARD MEETINGS AND THE MINUTES OF THE 2011 GRANDE CONVOCATION AND ANNUAL BUSINESS MEETING. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

### **5. REPRIMANDS**

5.a. Larry Joel Collins – Russell County, ASB 2010-798

Mr. Collins received a public reprimand with general publication for the violation of Rules 1.3, 1.4(a), 8.4(a) and 8.4(g) of the *Alabama Rules of Professional Conduct [ARPC]*.

In ASB 2010-1693, Mr. Collins received a public reprimand with general publication for the violation of Rules 1.3, 1.4(a), 8.4(a) and 8.4(g) of *ARPC*.

5.b. Johnny Mack Lane – Mobile County, ASB 10-1172

Mr. Lane received a public reprimand with general publication for the violation of Rules 1.15(a), 1.15(b), 5.3, 8.4(a) and 8.4(g) of *ARPC*.

5.c. Henry Lee Penick – Birmingham, ASB 06-107(a)

Mr. Penick entered a guilty plea of violating Rules 1.3 and 1.4(a) of *ARPC* and received a public reprimand without general publication.

5.d. Donnis Cowart – Tuscaloosa County, ASB 09-1313(A)

Mr. Cowart received a public reprimand with general publication for the violation of Rules 1.3, 1.4 and 3.2 of *ARPC*.

## **6. PRESIDENT'S REPORT**

After brief introductory remarks, President Pratt reported that the upcoming bar year will present huge challenges as well as opportunities. He reminded the commission of its obligation to the public and members and highlighted his three priority areas including (1) bar operations; (2) upholding the judiciary and supporting the legislature; and (3) members, sections and local bars. Under bar operations, President Pratt informed the commission that a top to bottom review was being conducted by Immediate Past President Alyce Spruell and a task force that he had appointed. He stated that the task force members would meet with staff members and examine all aspects of bar operations and then report back to the commission. He noted that two interim committees, personnel and finance, had been established as oversight committees to give better support to the staff. President Pratt stated that Diane Locke had been named Director of Personnel and Operations and that he had tasked the executive director with finding out possible future career plans of senior staff for planning purposes.

Under the second priority, President Pratt stated that he had met with Chief Justice Malone and expressed to the new chief justice, the bar's willingness to assist him in every way possible. Likewise, President Pratt stated that the bar would continue to assist the legislative branch as needed. He then highlighted several matters that the bar had either been involved with or would take up in the months ahead including his service on the Constitutional Commission as president of the Alabama State Bar and attendance at a recent Summit on Merit Selection hosted by the Missouri Bar. He detailed for the commission his and the executive director's meeting at the Summit with Justice O'Connor about the success of the Alabama State Bar's third party neutrals program. He then discussed several items that would likely be addressed at the next legislative session including the issue of courts costs. President Pratt informed the commission that he planned to host a summit with the Chief Justice, legislative leaders and members of the Governor's staff to examine court costs and adequate funding for the courts. This would be held prior to the legislative session.

Finally, under the third priority, President Pratt stated that Vice President Watson had been appointed to head the task force dealing with this issue and that he would have a report at the next meeting.

President Pratt concluded his report by discussing the possible opportunity that the bar might have to send a delegation of lawyers to Cuba. He explained that this potential opportunity occurred through overtures from the University of Alabama. President Pratt said that he would keep the commission apprised of any developments.

## **7. SECRETARY'S REPORT**

The Secretary shared with the commission a letter from Tuscaloosa attorney Brett Hammock thanking the staff for its help after the tornados struck Tuscaloosa and damaged his law firm. He next informed the commission that staff member Ann Rittenour's husband had been hospitalized and provided the commission with an update on his progress.

8. **PROGRAMS UPDATE**

Ed Patterson introduced Christina Butler, the new administrative assistant for programs. He also expressed his appreciation for the many expressions of sympathy from commission members following his mother's death. Mr. Patterson then reported on the 2012 Leadership Forum. He stated that the deadline was October 4 and he encouraged commissioners to help sign up applicants for the program. Mr. Patterson concluded by discussing the Leadership Forum program report that was included in the materials. He encouraged them to review these materials and the Class VII recommendations.

9. **REPORT OF THE OFFICE OF GENERAL COUNSEL**

General Counsel Tony McLain did not have an oral report for the commission.

10. **MEDIATION WEEK**

President Pratt recognized Ms. Judy Keegan, Director of the Center for Dispute Resolution who briefed the commission on National Mediation Week, October 16-22. She informed the commission that Governor Bentley had signed a proclamation declaring October 21 as Mediation Day in Alabama. Ms. Keegan provided a brief overview of the center's operation and the work of the ADR Commission. She then provided suggestions about how commissioners could help support the recognition of mediation during Mediation Week. Ms. Keegan concluded by thanking the commission and letting them know to contact her if they had any questions about mediation programs.

11. **LIMITED SCOPE REPRESENTATION**

President Pratt called on Commissioner Henry Callaway for a report. Commissioner Callaway stated that the Pro Bono and Public Service Committee had worked diligently to formulate proposed changes to the *Rules of Professional Conduct* and the *Rules of Civil Procedure* to better facilitate limited scope representation. He reported that the rules already provide for limited scope representation but that few lawyers were taking advantage of this opportunity. He explained why limited scope representation was needed. He noted that the middle class was getting squeezed with court costs and for the most part could not afford the cost of hiring attorneys to handle their legal problems.

Commissioner Callaway explained that limited scope representation would allow clients and lawyers to agree on the level of service that is provided by the attorney. This would include both out of court work as well as in court representation. He noted that statistics indicate that 80 percent of limited scope representation in other states is out of court representation. Commissioner Callaway informed the commission that the rule changes that are being suggested would set up very clear procedures for limited scope representation in order to benefit the lawyer and the client. He said that limited scope representation would benefit lawyers because they would get fees that they would not otherwise get. He noted that it was a win-win situation for the lawyer, the client and the court.

Commissioner Callaway acknowledged that 40 states already have these rules and procedures in place and that the committee believes that by adopting these modifications to the *Rules of Professional Conduct* and the *Rules of Civil Procedure*, a major impediment to access to justice would be removed. He stated that the committee took the best rules of other states and adapted them for Alabama. He also noted that the Office of General Counsel and Assistant General Counsel Sam Partridge in particular, had provided intensive help to the committee in drafting the proposed rule changes. Commissioner Callaway concluded his remarks by discussing the individual rules that were included in the written materials and stating that he was of the opinion these changes would improve the system of justice.

## **12. REPORT FROM BAR OPERATIONS TASK FORCE**

Immediate Past President Alyce Spruell reported that she had been assisted on the Bar Operations Task Force by Commissioners Bedsole, Copeland and Minor as well as former president Sam Crosby. She explained the work of the task force and the intent to help improve state bar operations. She stated that a complete report would be issued in November. Past President Spruell then noted that in the initial report the task force recommended that the interim task forces on personnel and finance be made permanent committees.

(A copy of the initial report and recommendation of the Bar Operations Task Force appears as Appendix A to these minutes.)

COMMISSIONER POOLE MOVED TO SUSPEND THE RULES IN ORDER TO ADOPT THE INITIAL REPORT AND RECOMMENDATIONS OF THE BAR OPERATIONS TASK FORCE. THE MOTION WAS SECONDED.

PRESIDENT PRATT ASKED FOR A VOTE ON THE MOTION. THE MOTION CARRIED BY THE NECESSARY TWO-THIRD VOTES.

COMMISSIONER POOLE THEN MOVED TO ADOPT THE INITIAL REPORT AND RECOMMENDATIONS OF THE BAR OPERATIONS TASK FORCE. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

## **13. MEMBERSHIP BENEFIT PROPOSALS**

Laura Calloway, Director of the Professional Management Assistance Program, explained the three benefit proposals and noted that they would be considered as an action item at the next meeting. They were Cloud-Based Practice Management Products including a discount proposal from both Rocket Matter and Clio; Virtual Receptionist Services with a discount proposal from Ruby Receptionist and National Purchasing Partners offering discounts on Verizon Wireless, Staples and Global Crossing Conference Calling Services.

## **14. PROPOSED MCLE RULE CHANGES**

Commissioner Harold Stephens stated the MCLE Commission had worked on the proposed rule changes for approximately two years. He explained that the changes were designed to streamline the current rules. He concluded by stating that the recommended

changes were included in the written materials and that it would be action item at the next meeting.

**15. RULE III APPLICATIONS**

President Pratt stated that the following individuals were seeking admission by motion pursuant to Rule III of the *Rules Governing Admission to the Alabama State Bar*. They were as follows: Philip David Deusner (IL), Leon Carl Hagwood (MS), Shawnassey Belin Howell (MS), Elizabeth Johnson Kohn (TX), Gina Stivahtis Lowe (OH), Timothy Lee Mason (GA), Ronald William McBay (GA), Sandra Kay Patterson-Jackson (DC), and Carolyn Ann Wilson (NE). He stated the applicants had met all of the requirements for character and fitness in order to be considered for admission under Rule III.

COMMISSIONER RALEIGH MOVED THE ADMISSION OF PHILIP DAVID DEUSNER, LEON CARL HAGWOOD, SHAWNASSEY BELIN HOWELL, ELIZABETH JOHNSON KOHN, GINA STIVAHTIS LOWE, TIMOTHY LEE MASON, RONALD WILLIAM MCBAY, SANDRA KAY PATTERSON-JACKSON, AND CAROLYN ANN WILSON. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

**16. RECOMMENDED NOMINEES FOR OIDS DIRECTOR**

President Pratt recognized Commissioner Hays Webb and President-elect Phillip McCallum to give a report on the process of reviewing applications in order to develop a list of six candidates to be interviewed for the position of OIDS director. They explained that once the six candidates had been interviewed, the list was then reduced to three nominees as required under the OIDS act. The three nominees recommended were Ricky McKinney, Martha Jane Patton and Nettie Blume.

COMMISSIONER RALEIGH MOVED TO CLOSE NOMINATIONS AND TO SEND THE NAMES OF THE NAMES OF RICKY MCKINNEY, MARTHA JANE PATTON AND NETTIE BLUME TO THE FINANCE DIRECTOR. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

**17. STAFF COMPENSATION FOR FY2011-2012**

The commission discussed the recommendation for staff compensation for FY2011-2012.

FOLLOWING DISCUSSION, COMMISSIONER FAWAL MOVED TO APPROVE THE AMOUNT OF \$2,693,821 AS STAFF COMPENSATION FOR FY2011-2012. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

**18. ADJOURNMENT**

President Pratt 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.

---

James R. Pratt, III, President  
Alabama State Bar

ATTEST:

---

Keith B. Norman, Secretary  
Alabama State Bar