

MINUTES

ALABAMA STATE BAR BOARD OF BAR COMMISSIONERS MEETING

State Bar Building
Montgomery, Alabama

Friday, March 29, 2013

1. CALL TO ORDER

President McCallum 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 Gaines gave the invocation.

2. ROLL CALL

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

Ronnie E. Keahey	Jerry L. Thornton	Christy Crow
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 S. Dowd	Joseph A. Fawal	Brannon J. Buck
Derrick A. Mills	William A. (Pete) Short	Billy C. Bedsole
Thad Yancey, Jr.	Henry A. Callaway, III	Cole Portis
Juan Ortega	J. Flynn Mozingo	Donald Rhea
Jeffery C. Duffey	Lee H. Copeland	David A. McDowell
K. Scott Stapp	William Randall May	John M. Peek
Hamp Baxley	John L. Jernigan, III	Kenneth E. White, III
John A. Brinkley, Jr.	John Earl Paluzzi	Robert L. Rumsey
Allan Chason	Sam W. Irby	Jason P. Knight
Elizabeth Parsons	Braxton W. Ashe	Roger W. Pierce
Rebecca Green Thomason	J. Milton Coxwell	Gregory M. Varner
Stephen M. Kennamer	John M. Plunk	Alicia F. Bennett
Alexander M. Smith	Rebecca G. DePalma	Ashley Swink Fincher
Jeanne Dowdle Rasco	Monet M. Gaines	

The following commissioners were absent:

Jana Russell Garner	Jack Neal	Teresa G. Minor
Albert J. Trousdale, II	Walter H. Honeycutt	Harry V. Satterwhite
James R. Beard	Frank M. Wilson	Les Pittman
Julia C. Kimbrough	Harold Stephens	Richard J.R. Raleigh, Jr.
R. Wyatt Howell	Jerry Wayne Baker, Jr.	Robert H. Brogden
H. Jerome Thompson	Diandra S. Debrosse	Claude E. Hundley, III
Meredith S. Peters	LaBarron N. Boone	

In addition, President-elect Anthony Joseph was in attendance as was Immediate Past President James R. Pratt, III. Staff members present included Tony McLain, Laura Calloway, Linda Lund, Diane Locke, Angela Parks, Jeremy McIntire, Mark Moody, Robert Thornhill, Ed Patterson, Brad Carr and Tripp Vickers. Judy Keegan, Director of the Alabama Center for Dispute Resolution, Tracy Daniel, Director of the Alabama Law Foundation and Suzi Edwards, legislative counsel were also in attendance.

3. INTRODUCTION OF GUESTS

President McCallum introduced former commissioner and current member of the Alabama Court of Civil Appeals, Judge Scott Donaldson. He also recognized Tracie Melvin, president of the Houston County Bar Association as well as Chris Richardson, local bar outreach chairman for Houston County. Tony Hamlin, president of the St. Clair County Bar Association was also introduced. Special guests were Francie and Ann Louise Ortega, the daughters of Commissioner Juan Ortega. President McCallum welcomed all the guests.

4. APPROVAL OF THE MINUTES OF JANUARY 11, 2013 ALABAMA STATE BAR BOARD OF COMMISSIONERS MEETING

President McCallum stated that the minutes of the January 11, 2013 Alabama State Bar Board of Commissioners meeting had been transcribed and circulated prior to the meeting. He asked if there were any corrections, additions or deletions. There were none.

COMMISSIONER BEDSOLE MOVED TO APPROVE THE MINUTES OF THE JANUARY 11, 2013 ALABAMA STATE BAR BOARD OF COMMISSIONERS MEETING. THE MOTION WAS SECONDED AND APPROVED UNANIMOUSLY BY VOICE VOTE.

5. REPRIMANDS

5.a. Mark David Pratt – Birmingham, ASB 2011-925

Mr. Pratt received a public reprimand without general publication and was ordered to provide a total refund to the client for violating Rules 1.3 and 1.4(a) of the *Alabama Rules of Professional Conduct*.

6. PRESIDENT'S REPORT

President McCallum informed the commission that Commissioner Raleigh was the only person to qualify as president-elect and would become president-elect at the conclusion of this year's annual meeting. He reported that Class IX of the Leadership Forum had concluded a successful session earlier in the week. He also explained that the second Leadership Forum Alumni Retreat had been held in February at Willow Point County Club and was very successful.

President McCallum then gave an overview of this year's annual meeting to be held at the Grand Hotel. He informed the commission that the judges' conference would conclude on Wednesday just as the state bar meeting begins. He expressed his hope that many of the judges would stay over for the state bar meeting. Because of the possible hold over of a number of judges, President McCallum encouraged commissioners to complete their reservation form for the Grand Hotel early in order to make sure they received a room. President McCallum then highlighted several of the legislative areas that the state bar was monitoring or involved with including: increasing funding for the judiciary; gun legislation; workers' comp; judicial reallocation; Airbus immunity; a barratry bill and discussions about the possibility of increasing the jurisdictional amount for small claims court. Following his remarks, Suzi Edwards provided the commission with an overview of legislative issues particularly local court costs bills that had been introduced and the concerns they presented.

7. PRESIDENT-ELECT'S REPORT

President-elect Anthony Joseph discussed indigent defense and the Office of Indigent Defense Services. He explained that the uniform guidelines adopted by the commission had been a big help in curbing costs. He stated that the next thing to be accomplished was to develop training for those involved in representing indigent clients. President-elect Joseph remarked that to help facilitate this project an effort was underway to revitalize the Criminal Justice Section so that it could work with the Office of Indigent Services in developing a training module for lawyers representing indigent clients.

8. SECRETARY'S REPORT

The secretary reported on several items including the recent death of Commissioner White's father and father-in-law. He also apprised the commission of the recent death of former assistant general counsel Sam Partridge. The secretary then reviewed the financial report for the first quarter of the new fiscal year. He next reminded the commissioners that they had received in their board materials *Department Measurements for 2012*. He encouraged commissioners to review the report.

The secretary informed the commission that the bar's wireless network had been made more secure by requiring a password in order to access the network. Finally, the secretary reported that he had received a resolution from the Mobile Bar Association in memory of Edward J. Vulevich, Jr. with the request that it be included in the Alabama State Bar Book of Memorial Resolutions.

COMMISSIONER BEDSOLE MOVED THAT THE RESOLUTION IN MEMORY OF EDWARD J. VULEVICH, JR. BY THE MOBILE BAR ASSOCIATION BE INCLUDED IN THE ALABAMA STATE BAR BOOK OF MEMORIAL RESOLUTIONS. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

9. OFFICE OF GENERAL COUNSEL REPORT

Mr. Tony McLain gave a report on the UBE (Uniform Bar Exam) rule that is currently pending before the Alabama Supreme Court. He informed the commission that Robby Lusk had recently retired as assistant general counsel and introduced Tripp Vickers as the new assistant general counsel. Following Mr. McLain's report, Commissioner Plunk noted how helpful the ethics hotline had been to him from the very start of his practice more than 30 years ago and that all young lawyers should be reminded of this extremely helpful professional benefit.

10. PROGRAMS REPORT

Prior to Mr. Patterson's report, Immediate Past President Jim Pratt offered his remarks concerning the Leadership Forum and its recent program held at the state house the previous day. He discussed the mock legislative program and stated that it had been very successful for all involved.

Mr. Patterson then informed the commission that the Alabama State Bar had been encouraged to propose the Leadership Forum as a candidate for the Smith Gambrell Professionalism Award given by the American Bar Association. Commissioner Peek pointed out that the Florida Bar had just started its leadership academy which he read about in his Florida Bar member newsletter. Mr. Patterson stated the bar's program had served as a model for the Florida program and for several others across the country.

11. COMMUNICATIONS REPORT

Mr. Brad Carr played all the public service announcements (PSAs) currently running on television and radios across the state by the Alabama State Bar as a part of its partnership with the Alabama Broadcasters Association.

12. AWARD OF MERIT AND COMMISSIONERS' AWARD

President McCallum reminded commissioners that these were two of the awards given by the bar and that if there were suggested nominees to please provide this information to the secretary. The secretary took a moment to explain the nature of the awards and that the awards are not required to be given every year.

13. LAW DAY UPDATE

President McCallum recognized David Rains of Tuscaloosa for an overview and update on Law Day preparations. Mr. Rains reported that 500 entries in the student contests (essay, poster and social media) had been received from 60 schools all across the state. He noted that this was the largest number of participants that the program had ever experienced. He then asked the commission to help ensure that local bar associations have a program for Law Day. Mr. Rains discussed some of the program options and the resources available on the website which make having a local program very easy to accomplish. President McCallum thanked Mr. Rains for his report.

14. VOLUNTARY CONTRIBUTION PLAN FOR ALABAMA LAW FOUNDATION

Appearing on behalf of the foundation were Commissioner Watson (foundation president), foundation president-elect Tom Oliver and Tracy Daniel, foundation executive director. Commissioner Watson reminded the commission of the critical problem the foundation has in maintaining its funding level due to decreased interest rates and the corresponding decrease in funds from interest on lawyers' trust accounts. He stated that other states had successfully implemented voluntary contribution programs and the foundation board was asking the commission to approve an opt out contribution program that would include a voluntary minimum contribution of \$50. Commissioner Watson then responded to several questions including a question about the percentage of participation in other states. He stated that based on results from other states, it was anticipated that anywhere from 25 to 40 percent of bar members would participate in an opt out program.

AFTER SEVERAL MORE QUESTIONS, COMMISSIONER FAWAL MOVED TO SUSPEND THE RULES TO APPROVE AN OPT OUT CONTRIBUTION PROGRAM FOR THE ALABAMA LAW FOUNDATION. THE MOTION WAS SECONDED AND WAS APPROVED BY A SHOW OF HANDS OF TWO-THIRDS OF THE COMMISSION MEMBERS PRESENT.

COMMISSIONER FAWAL THEN MOVED TO APPROVE AN OPT OUT CONTRIBUTION PROGRAM ON BEHALF OF THE ALABAMA LAW FOUNDATION THAT WOULD INCLUDE ON THE ANNUAL CLIENT SECURITY FUND INVOICE MAILED TO BAR MEMBERS A SUGGESTED VOLUNTARY CONTRIBUTION IN THE AMOUNT OF \$50. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

15. RULE III APPLICATIONS

President McCallum noted that seven individuals had applied for admission pursuant to Rule III of the *Rules Governing Admission to the Alabama State Bar*. They were: John David Blair (GA), Sarah Cansoniero Blutter (DC), Kellie Lynn Carden (MA), John Alvin Kimbell (GA), William Curtis Love (TX), Ralph Harrison Smith, III (MD) and Andrew Jay Spry (TN). President McCallum stated that each of the candidates complied with the requirements for Rule III including character and fitness.

COMMISSIONER CROW MOVED TO ADMIT THE RULE III APPLICANTS: JOHN DAVID BLAIR (GA), SARAH CANSONIERO BLUTTER (DC), KELLIE LYNN CARDEN (MA), JOHN ALVIN KIMBELL (GA), WILLIAM CURTIS LOVE (TX), RALPH HARRISON SMITH, III (MD) AND ANDREW JAY SPRY (TN). THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

16. MAUD MCLURE KELLY AWARD

President McCallum stated that the Women's Section had nominated Mary Lee Stapp to receive the Maud McLure Kelly Award for 2013.

COMMISSIONER GAINES MOVED TO ACCEPT THE NOMINATION OF MARY LEE STAPP FOR THE MAUD MCLURE KELLY AWARD FOR 2013. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

17. VACANCY ON ALABAMA SECURITIES COMMISSION

President McCallum reported that there was a vacancy on the Alabama Securities Commission. He explained that the Alabama State Bar must send the name of three nominees to the Governor. He stated that from the three names which the state bar submits to the Governor, the Governor selects one to serve on the commission. President McCallum stated that the three state bar members whose names were being recommended for submission to the Governor are: Robert E. Battle (Birmingham); LaVeeda Battle (Birmingham) and Dag Rowe (Huntsville). The President stated that Mr. Battle and Ms. Battle were unrelated.

PRESIDENT MCCALLUM ASKED IF THERE WAS A MOTION TO CLOSE NOMINATIONS. COMMISSIONER ROBERT SIMMS THOMPSON MOVED TO CLOSE THE NOMINATIONS. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

COMMISSIONER CROW THEN MOVED TO SEND THE NAMES OF ROBERT BATTLE, LAVEEDA BATTLE AND DAG ROWE TO THE GOVERNOR FOR CONSIDERATION TO FILL THE VACANCY ON THE ALABAMA SECURITIES COMMISSION. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

18. REAPPOINTMENT OF BAR EXAMINERS - DANIEL JOHNSON, SUSAN KENNEDY, WARREN MATTHEWS AND BARRY RAGSDALE

The secretary noted that he had failed to submit to the commission the four named individuals for reappointment at the conclusion of the February 2012 bar examination. He said it was necessary to make their appointments retroactive to February 2012 since they had been serving since that time.

COMMISSIONER FAWAL MOVED TO REAPPOINT DANIEL JOHNSON, SUSAN KENNEDY, WARREN MATTHEWS AND BARRY RAGSDALE TO FOUR YEAR TERMS AS MEMBER OF THE BOARD OF BAR EXAMINERS AND TO APPROVE, ADOPT AND RATIFY ALL ACTIONS TAKEN BY THEM AS EXAMINERS SINCE FEBRUARY 2012. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

19. ABA DELEGATES

Prior to the conclusion of the meeting, the secretary informed the commission that the terms of current delegates, Commissioner Ken White and young lawyer member Navan Ward would end at the conclusion of the 2013 ABA annual meeting. He stated Mr. Ward would have to be replaced by a young lawyer member of the bar since Mr. Ward is no longer, by definition, a young lawyer. He said that Commissioner White would be a candidate for reappointment if he chose to continue to serve in the House of Delegates. The secretary asked that commissioners who wish to nominate someone for these positions please inform the president or the secretary.

20. ADJOURNMENT

President McCallum 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.

Phillip W. McCallum, President
Alabama State Bar

ATTEST:

Keith B. Norman, Secretary
Alabama State Bar