

MINUTES

ALABAMA STATE BAR BOARD OF BAR COMMISSIONERS MEETING

**State Bar Building
Montgomery, Alabama**

Friday, September 8, 2023

I. CALL TO ORDER

President Brannon Buck 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 Fred Helmsing led the members in the Pledge of Allegiance.

II. PLEDGE OF ALLEGIANCE – Fred Helmsing

III. ROLL CALL

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

Conrad Anderson	Edgar Black
Mark Boardman	Sally Bowers
Jeff Bowling	Will Broome
Kitty Brown	Clay Carr
Matthew Carter	Hunter Compton
Bard Cornett	Mark Debro
Richard Fikes	Lang Floyd
Jana Garner	Kirk Garrett
Lisha Graham	Dana Grimes
Leon Hampton	Josh Hayes
Fred Helmsing	Scott Holmes
Ralph Holt	Angela Kennedy
Lee Knowles	Edwin Lamberth
David Langston	Jorja Loftin
Felicia Long	Don Mansell
Clay Martin	Doug Martinson
Bob Mc Millan	Cliff Mendheim
Andrew Nix	Manish Patel
Lynn Perry	Tom Perry
Chuck Price	John Rea
Ryan Robichaux	Steven Savarese
Pat Sefton	Tyler Sims
Doug Smith	John Smyth

John Stamps
 Jerome Thompson
 Suntrease Williams-Maynard

Andrew Stanley
 Leila Watson
 Robin Wolfe

The following commissioners were absent:

Pratt Austin-Trucks
 Joel Connally
 Deborah Dunsmore
 Scott Foster
 Carmen Howell
 Bill Lancaster
 Clint Maze
 Leslie Moore
 Bobby Poundstone
 Freddy Rubio
 Jeff Sherrer
 Elizabeth Smithart
 Brian Strength
 Jeff Utsey

Raymond Bell
 Chris Driver
 Sam Ford
 Erik Heninger
 Mitch Kemmer
 David Martin
 LaBella McCallum
 Steven Nicholas
 Chrissy Riddle
 Holly Sawyer
 Jason Simmons
 Kyra Sparks
 Jimbo Terrell
 Gibson Vance

QUORUM PRESENT

Staff members also in attendance were: Roman Shaul, Chad Coker, Merinda Hall, Melissa Warnke, Olivia Walker, Linda Lund, Katarina Essenmacher, Jeremy Rakes, Autumn Caudell, Suzi Huffaker, and Michelle Shaw.

IV. APPROVAL OF AGENDA

President Buck asked for approval of the agenda.

COMMISSIONER MARK DEBRO MOVED TO APPROVE THE AGENDA. THE MOTION WAS SECONDED BY JOHN SMYTH AND APPROVED BY UNANIMOUS VOICE VOTE.

V. INTRODUCTION OF GUESTS

President Buck recognized special guests including Supreme Court Clerk Megan Rhodebeck and Allen Howell.

VI. APPROVAL OF THE MINUTES OF THE JULY 12 AND JULY 15, 2023, BOARD MEETINGS AND THE MINUTES OF THE JULY 15, 2023, GRAND CONVOCATION AND BUSINESS MEETING.

President Buck stated that the minutes of the July 12, 2023, and July 15, 2023, Board Meetings and the minutes of the July 15, 2023, Grand Convocation and Annual Business Meeting had been transcribed and circulated prior to the meeting. He asked if there were any corrections, additions, or deletions.

COMMISSIONER SCOTT HOLMES MOVED TO APPROVE THE MINUTES OF THE JULY 12, 2023, AND JULY 15, 2023, BOARD MEETINGS AND THE MINUTES OF THE JULY 15, 2023, GRAND CONVOCATION AND ANNUAL BUSINESS MEETING. THE MOTION WAS SECONDED BY PAT SEFTON AND APPROVED BY UNANIMOUS VOICE VOTE.

VII. REPRIMANDS

Enterprise, Alabama attorney **Spencer Wade Jones** was issued a Public Reprimand without General Publication by the Disciplinary Commission of the Alabama State Bar on September 8, 2023, for violating Rules 7.3 [Direct Contact with Prospective Clients], 8.4(c), and 8.4(g) [Misconduct], Alabama Rules of Professional Conduct. Jones sent an improper direct solicitation letter to a prospective client, offering to represent the prospective client in bankruptcy and debt consolidation matters. Specifically, the solicitation letter was mailed to the prospective client prior to him being served with notice of the lawsuit filed against him, and prior to the passage of seven days from the date of service. Jones admits that he obtained the prospective client's information from Alacourt, wherein the prospective client was sued for collection of a debt. However, the letter is void of where the prospective client's information was obtained other than "publicly available information." With this conduct, Jones violated Rules 7.3 [Direct Contact with Prospective Clients], 8.4(c), and 8.4(g) [Misconduct], Alabama Rules of Professional Conduct, by sending a direct solicitation letter to a prospective client concerning a civil proceeding where the prospective client had yet to be served notice of the suit, for failing to accurately identify where the attorney obtained the prospective client's information, and for engaging in conduct that adversely reflects on his fitness to practice law. Jones is also required to pay any costs taxed against him pursuant to Rule 33, Alabama Rules of Disciplinary Procedure, including but not limited to a \$1,000 administrative fee.

Florence, Alabama, attorney **Andrew Jay Spry** was issued a Public Reprimand without General Publication by the Disciplinary Commission of the Alabama State Bar on September 8, 2023, for violating Rules 8.4(c), (d), and (g), *Alabama Rules of Professional Conduct*. An attorney formerly employed by Spry's office filed a complaint after Spry signed her name to final title insurance policies, without her permission, after she was terminated. At the time of her termination, the attorney had reviewed several dozen title searches in preparation for the issuance of the title policy/opinion. During this time period, the firm was several months behind on issuing final title insurance policies on closings already conducted by the firm. Spry's firm utilizes a real estate software program called Qualia to prepare the title policies/opinions. The software automatically populates the responsible attorney's name into the policy or opinion. In addition, the software allowed a "signature stamp" of the attorney's name to be added to the policy. After the attorney's termination, Spry continued to use the attorney's "signature stamp" in the software to sign the attorney's name to final title insurance policies because the attorney conducted the closing and acted as title agent. After the attorney revoked permission to use her name on any further policies, Spry continued to add her signature to approximately 20-75 other policies issued by the firm.

Dothan, Alabama attorney **Arthur Ross Medley**, was issued a Public Reprimand without General Publication by the Disciplinary Commission of the Alabama State Bar on September 8, 2023, upon completion of a two (2) year probationary period, for violating Rules 1.3 [Diligence] and 8.4(a) and (g) [Misconduct], *Alabama Rules of Professional Conduct*. The order of Disciplinary Commission was based on a complaint filed with the Office of General Counsel wherein, after investigation, it was determined that Medley failed to timely file a brief in representing a client before the Alabama Court of Criminal Appeals. Further, Medley previously failed to timely file briefs at the Alabama Court of Criminal Appeals on multiple occasions and had been disciplined for doing so within the two years preceding 2021.

Birmingham, Alabama attorney **Irene Blomenkamp**, was issued a Public Reprimand without General Publication by the Disciplinary Commission of the Alabama State Bar on September 8, 2023, for violating Rules 1.1 [Competence], 1.3 [Diligence]; 1.4 [Communication]; and 8.1 [Bar Admission and Disciplinary Matters], *Alabama Rules of Disciplinary Procedure*. Blomenkamp was retained to assist a client with obtaining a refund of a tax payment overage. Blomenkamp failed to return multiple phone calls from the client, failed to return the client's documents or properly conclude the representation. On February 22, 2019, the Disciplinary Commission ordered the attorney complete the Practice Management Assistance Program ("PMAP") within twelve (12) months of the order. Blomenkamp failed to meet the deadline and/or complete PMAP.

VIII. PRESIDENT'S REPORT

President Buck thanked the staff for the Annual Meeting. Strategic Plan, ATJ, Leadership Summit, Association lists, regional visits, outreach tour, appointed three task forces, ATJ, QR Codes, Lawyer Specialization. Allen Howell, chair of Pro Bono Celebration Task Force

IX. SECRETARY / EXECUTIVE DIRECTOR'S REPORT

Executive Director Terri Lovell shared that the annual meeting had 360 registered guests, 55 speakers, and 32 exhibitors. She reminded the Board that the 2022-2023 Annual Report was distributed at the meeting and is available on the ASB website. She focused her report on Strategic Plan activities related to Goal 1: *To serve and protect the public by maintaining and advancing the highest standards of the legal profession*; and Goal 4: *To promote and support the overall health and well-being of our members*. As to Goal 1, the Executive Director reported on Law School orientations and networking including a soon-to-launch quarterly e-newsletter, the new membership portal, OGC case management system, the future of the Bar Exam, and a recent Supreme Court Order related to the ASB Financial Compliance direction. She then discussed Goal 4 and steps being taken to evaluate the success of the counseling program, our ALAP helpline, and the demographics and program in place to address mental illness and suicide in the profession. She reminded the Board of two upcoming suicide prevention CLEs being offered. Lovell shared with the Board that the ABA Medal was recently bestowed upon former ASB President Fred Gray (2002-2003)

at the ABA Meeting in Denver, CO. She shared the topic of Artificial Intelligence and its impact in the Legal Profession was a matter of great emphasis at the ABA meeting. Lovell stated that there will be several upcoming CLEs to provide more information on the topic. She concluded by asking Chad Coker, Director of Operations, to provide an update on the recent electrical and plumbing issues and repairs that have been addressed.

X. OFFICE OF GENERAL COUNSEL REPORT

General Counsel Roman Shaul updated the BBC on the dismissal of the civil lawsuit filed by former employee, Katherine Church, based on immunity grounds. The time for appeal has not run. The General Counsel also mentioned two new civil lawsuits filed in Montgomery County against the bar related to pending disciplinary matters. In both new cases the attorney was seeking only declaratory and injunctive relief and was not seeking a monetary recovery. The General Counsel has already filed motions to dismiss in both cases. The General Counsel discussed the proposed amendment to Rule 26, Alabama Rules of Disciplinary Procedure, that was listed as an action item.

XI. EXECUTIVE COUNCIL REPORT

Executive Council Member John Smyth gave an overview of the Executive Council retreat held in New Orleans, Louisiana, on August 21-23. He expressed a great appreciation to President Buck, the Executive Committee, and the staff toward their goal setting for this year.

XII. JULY BAR EXAM REPORT

Executive Director reported on the July 2023 Bar Exam. She announced that there were no major delays or technical issues, the exam was administered to 483 examinees, with 58 examinees receiving special accommodations. She also gave a brief timeline update on the NextGen Bar Exam.

XIII. FINANCIAL REPORT

The Carr, Riggs, and Ingram audit firm completed their audit of the ASB FY 2022 financial statements in August, after a delay due to changes in the state procurement requirements and issued an unmodified (clean) opinion again this year. Although the auditors noted that the ASB internal and fraud controls are intact, there were two findings cited in the state compliance area for not competitively bidding or submitting professional services contracts to the state contract committee for review. ASB is working diligently on a financial compliance plan and legislation that will help alleviate some of the state compliance issues that have arisen in the past few years.

MOTION MADE BY COMMISSIONER LANG FLOYD TO ACCEPT THE REPORT,
SECONDED BY FRED HELMSING, AND APPROVED BY VOICE VOTE.

DISCUSSION ITEMS:

XIV. FY2025 BUDGET PROPOSAL

Finance Director Merinda Hall presented the FY2025 state budget proposal at \$7.07 million, a 2.5% increase over the FY2024 state budget. An overview of the FY2025 budget includes membership dues returning to \$325. Anticipated in this budget proposal is a marginal cost of living increase, adjustments to the travel lines for inflation and annual meeting variances, and projected increases in rentals/leases to the ASB Foundation, as well as outside professional services.

XV. APPOINTMENT TO THE ALABAMA SECURITIES COMMISSION

A vacancy has been created by the expiration of Dag Rowe's appointment to the Securities Commission. The names of three nominees will be forwarded to the Governor for her consideration. Nominations will be accepted until October 18, 2023.

ACTION ITEMS:

XVI. APPROVAL OF THE VACANT CLAY/COOSA COMMISSIONER SEAT

MOTION TO NOMINATE TYLER SIMS TO FILL THE CLAY/COOSA COMMISSIONER SEAT MADE BY FRED HELMSING, SECONDED BY BOB MCMILLAN, AND APPROVED BY UNANIMOUS VOICE VOTE.

XVII. PROPOSED CHANGE TO RULE 26, ALABAMA RULES OF DISCIPLINARY PROCEDURE

The proposed amendment is intended to clarify disciplinary situations where a lawyer surrenders his or her license under threat of either a criminal prosecution or disciplinary prosecution. Under the new language, after surrendering their license, lawyers will have to apply to the Disciplinary Commission if they want to work in the legal field (e.g., as a paralegal or law clerk).

MOTION TO APPROVED PROPOSED CHANGE TO RULE 26, ALABAMA RULES OF DISCIPLINARY PROCEDURE MADE BY ROBYN WOLFE, SECONDED BY CLAY MARTIN, AND APPROVED BY VOICE VOTE.

XVIII. DIRECT SECRETARY TO SEND NOMINEES TO THE DISPLINARY BOARD TO THE ALABAMA SUPREME COURT

MOTION TO CLOSE NOMINATIONS AS TO PROPOSED NOMINEES TO THE DISCIPLINARY BOARD MADE BY ANGELA KENNEDY, SECONDED BY MANISH PATEL, APPROVED BY VOICE VOTE.

MOTION TO DIRECT THE ASB SECRETARY TO SEND THE LIST OF DISCIPLINARY BOARD NOMINEES TO THE ALABAMA SUPREME COURT MADE BY KITTY BROWN, SECONDED BY DOUG MARTINSON, AND APPROVED BY VOICE VOTE.

The following names were submitted to the Court:

Raymond Bell – Current Board Member
 Andrew Stanley – Current Board Member
 Dana Grimes – Current Board Member
 John Stamps – Current Board Member
 Pratt Austin-Trucks – Bar Commissioner
 Bobby Poundstone – Bar Commissioner
 Paul Patterson
 Mike Crow
 Bryan Coleman
 Martha Thompson
 Will Lee
 Hon. Mike Bolin
 Terri Tompkins
 Aylia McKee

XIX. APPOINTMENT TO THE ALABAMA LAW FOUNDATION BOARD OF DIRECTORS

MOTION MADE BY SALLY BOWERS TO RE-APPOINT JEANNE RIZZARDI AND TOM HEFLIN TO THE ALABAMA LAW FOUNDATION BOARD, SECONDED BY DON MANSELL, AND APPROVED BY VOICE VOTE.

XX. APPROVAL OF CHARACTER AND FITNESS MEMBERS

President Buck proposed the following members for appointment to the Character and Fitness Committee:

Chairs: Shawn J. Cole, Glenda D. Freeman, Charles James, II, Patrick L. Wheeler, Harold B. Wallace, and W. Christopher Waller, Jr.

Members: Celeste P. Armstrong, Bryan O. Balogh, Philip J. Carroll, III, Darron C. Hendley, William L. Lee, IV, Stephanie H. Mays, Sherrie L. Phillips, Kimberly K. Rucker, H. Harold West, Jr.

Alternates: J. Evans Bailey, Leslie R. Barineau, J. Mark Englehart, Kaasha Griffin, Vania L. Hosea, Carmen F. Howell, Jason S. Isbell, Benita B. Jenkins, Tiffany M. Jones, Thomas F. Kelly, Jr., Peter A. McNish, Blake L. Oliver, Lloyd C. Peeples, III, Robert C. Pitman, Robert E. Riddle, Clay T. Rossi, Holly L. Sawyer.

MOTION MADE BY LEON HAMPTON TO APPROVE THE PRESIDENT'S APPOINTMENTS TO THE CHARACTER AND FITNESS COMMITTEE, SECONDED BY LISHA GRAHAM, AND APPROVED BY VOICE VOTE.

XXI. YOUNG LAWYERS SECTION DUES INCREASE

The Young Lawyers Section Board has voted to increase annual dues from \$20 to \$30 for the FY2024 dues cycle, President Buck recommended to the Board approval of the dues increase.

MOTION MADE BY CLAY MARTIN TO INCREASE YOUNG LAWYERS SECTION DUES FROM \$20 TO \$30 EFFECTIVE IMMEDIATELY, SECONDED BY MANISH PATEL, AND APPROVED BY VOICE VOTE.

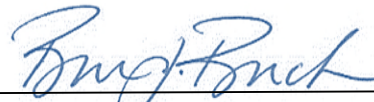
XXII. APPROVAL OF STAFF COMPENSATION FY2023-2024

Staff compensation for FY2023-2024 is recommended at a total of \$3,544,103 and represents an approximate 4% increase from the amount approved for the FY2022-2023 budget year. The recommended amount provides for a 2% Cost of Living Adjustment (COLA), as authorized by the State of Alabama in Act 2023-382, plus a 1% merit raise for all bar employees. Although the total salary recommendation for all employees exceeds the \$3,275,000 salary budget line amount approved by the BBC last September, a selection of the employee salaries will be funded by other funding sources to reduce the total funded by the state budget to approximately \$3,126,360.

COMMISSIONER EDWIN LAMBERTH MOVED TO APPROVE STAFF COMPENSATION FOR FY2023-24 IN THE AMOUNT OF \$3,544,103, SECONDED BY STEVEN SAVERESE, AND APPROVED BY VOICE VOTE.

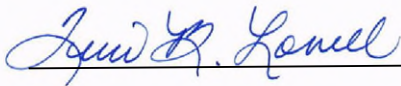
XXIII. ADJOURNMENT

President Buck asked if there was any further business to come before the Board. President Buck announced the meeting adjourned at 11:48 a.m.



Brannon J. Buck, President
Alabama State Bar

ATTEST:



Terri B. Lovell, Secretary
Alabama State Bar