

MINUTES

**ALABAMA STATE BAR
BOARD OF BAR COMMISSIONERS MEETING**

**Marriott Shoals Hotel & Spa
Florence, Alabama**

Friday, March 6, 2020

1. CALL TO ORDER

President Christy Crow convened this meeting of the Alabama State Bar Board of Commissioners at 10:00 a.m. at the Marriott Shoals Hotel & Spa, Florence, Alabama. Commissioner Christy Graham gave the invocation.

2. ROLL CALL

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

Emily Baggett	Fredrick Helmsing	Chuck Price II
Mark Boardman	Scott Holmes	Barry Ragsdale
Robert Bowers	Ralph Holt	James Rebarchak
Sally Bowers	William Lancaster	Chrissy Riddle
Jeffrey Bowling	Donald Mansell	Jeanne D. Rizzardi
John Brinkley	Clay Martin	Pat Sefton
William Broome	Randall May	Taze Shephard
Brannon Buck	Clint Maze	Elizabeth Smithart
Joel Connally	LaBella McCallum	John Symth
Bradley Cornett	Rebekah McKinney	John Stamps
Diandra Debrosse	Cliff Mendheim	Jimbo Terrell
Deborah Dunsmore	Kenneth Moore	Halron Turner
Michael Ermert	Larry Morris	Gibson Vance
Kira Fonteneau	Levi Nichols	Gregory Varner
Christy Graham	Tom Perry	
Tom Heflin	Amanda Porter	

The following commissioners were absent:

Raymond Bell	Erskine Funderburg	Carmen Howell
Robert Brogden	Jana Russell Garner	Clinton Hyde
Bryan Comer	Kirkman Garrett	Richard
Latisha Davis	Anne Malatia Glass	Kemmer
Jeffrey Duffey	Dana Grimes	Brett King
Langford Floyd	Erik Heninger	Jason Knight

Lauren Laneaux
 Patrick Loftin
 David Martin
 Chalres Zackery
 Moore

George Parker
 Manish Patel
 Lynn Perry
 Freddie Rubio
 Allison Skinner

Andrew Stanley
 Charles Tatum,
 Jr.
 Terri Tompkins

Also in attendance was President-elect Bob Methvin. Staff members in attendance were: Roman Shaul, Ashley Penhale, Melissa Warnke, and Megan Hughes, and Suzi Huffaker.

3. **APPROVAL OF THE AGENDA OF THE MARCH 6, 2020 BOARD MEETING**

President Crow stated that the agenda of the March 6, 2020 Board Meeting had been published prior to the meeting. She asked if there were any corrections, additions or deletions. There were none.

COMMISSIONER BRINKLEY MOVED TO APPROVE THE AGENDA OF THE MARCH 6, 2020 BOARD MEETING. THE MOTION WAS SECONDED AND APPROVED BY UNANIMOUS VOICE VOTE.

4. **INTRODUCTION OF GUESTS**

President Crow recognized special guests including Associate Justice Sarah Stewart, Charlotte Gardner and Doug Johnson, representatives of Insurance Specialists, Inc., Michael Upchurch, and Edgar Black, past president of the Colbert County Bar.

5. **APPROVAL OF THE MINUTES OF THE JANUARY 10, 2020 BOARD MEETING**

President Crow stated that the minutes of the January 10, 2020 Board Meeting had been transcribed and circulated prior to the meeting. She asked if there were any corrections, additions or deletions. There were none.

COMMISSIONER REBARCHAK MOVED TO APPROVE THE MINUTES OF THE JANUARY 10, 2020 BOARD MEETING. THE MOTION WAS SECONDED AND APPROVED BY UNANIMOUS VOICE VOTE.

6. **PRESIDENT'S REPORT**

President Crow informed the commission that 2020 is off to a busy start. She reviewed the Midyear Meeting, which was held on January 22 and 23 at The Lodge at Gulf State Park. She reported that attendance was good at the meeting and that those who attended have given positive feedback about the meeting, the CLE programming and the affordable cost to attend.

President Crow also reported that the bar was represented at the ABA Midyear Meeting and the meeting of the Southern Conference of Bar Presidents in Austin, Texas in February. She said this meeting is always a great opportunity for our bar leaders to network with other bar leaders and come away with good ideas of what other bars are doing.

President Crow reported on other events since the last board meeting including the Lawyer Legislator Breakfast and State of the Bar programs in Geneva, Anniston, Columbiana and Enterprise. She also informed the board that the Legislative Oversight Committee on License Plates had approved the Lawyers Render Service license plate and that the bar is now awaiting IRS approval of the 501(c)(3) application for Lawyers Render Service, Inc. to begin selling the license plates.

President Crow concluded her remarks by saying that the thoughts and prayers of the board are with the tornado victims in Nashville, Tennessee. She said it was customary for the bar to send a monetary donation to relief efforts after tragedies such as this and that she proposed a \$1,000 donation be made to a cause for relief efforts in Nashville. She asked if there was any objection from the board and there was none.

7. **PRESIDENT-ELECT REPORT**

President-elect Bob Methvin updated the board on the economic impact study that was commissioned by the board and is being coordinated by the University of Alabama. He informed the board that questionnaires would be going out to lawyers and law firms within the next two weeks. Mr. Methvin encouraged commissioners to complete the questionnaire and to encourage lawyers in their circuits to do the same. He also informed the board that the responses would be completely confidential and would not be shared with the bar or any other entity.

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

Secretary/Executive Director McCallum thanked Commissioners Heflin, Holt and Bowling for their work in coordinating the board meeting and other activities in Florence. He also thanked local firms who contributed to covering the costs of the reception on Thursday night.

Mr. McCallum informed the board that at-large commissioner applications are due by April 1, and that at-large commissioners for Places 3, 6 and 9 would be voted on at the board meeting in May.

Mr. McCallum said that thoughts and prayers are with Judge Joseph Boohaker, who recently received a lung cancer diagnosis and retired from the bench to undergo treatment. He also introduced Megan Hughes who has been hired as the bar as Content and Outreach Manger in the Communications Department. Mr. McCallum informed the board that Commissioner Clynt Hyde was appointed by the governor to serve as District Judge in Monroe County. He also congratulated Commissioner Emily Baggett

on making the run-off election for District Judge in Morgan County, and Commissioner Zackery Moore for receiving the Republican nomination as District Judge in Mobile County. Mr. McCallum concluded his remarks by congratulating Commissioner John Brinkley and his wife, Kristen, as they are expecting their eighth child.

9. OFFICE OF GENERAL COUNSEL REPORT

General Counsel Roman Shaul informed the board that Stacey Moseley was promoted to Disciplinary Clerk, which left a vacancy in a paralegal/investigator position. He said that many applications were received for the position and Dawynrico McCain was hired to fill the position.

Mr. Shaul updated the board on litigation matters in which the Office of General Counsel is currently involved. He also reviewed the 2019 statistics of the Office Of General Counsel and noted that there were 1,374 complaints against attorneys, of which 974 were screened out. He also informed the board that the office issued 17 private reprimands, 12 public reprimands, 31 suspensions, 14 disbarments, and one surrender of license. Mr. Shaul concluded the report on statistics by informing the board that 3,260 informal ethics opinions were issued in 2019, which is a valuable free resource offered by the bar.

10. DISCIPLINARY RULES & ENFORCEMENT COMMITTEE REPORT ON SEVEN SERIES RULES

President Crow recognized Michael Upchurch to give a report on the work of the Disciplinary Rules & Enforcement Committee. Mr. Upchurch gave a review of the historical and constitutional context of lawyer advertising and reminded the board that having an understanding of these contexts is important as the bar considers changes to its lawyer advertising rules.

Mr. Upchurch informed the board that the Disciplinary Rules & Enforcement Committee has developed recommended changes to Rules 7.1, 7.2 and 7.3 of the Alabama Rules of Professional Conduct, after review of ABA Model Rules, a survey of rules across the states, and consultation with the Office of General Counsel.

Changed designation of lawyer advertising to lawyer communication; do not allow lawyers to compare themselves to other lawyers; every advertisement must have the name of the lawyer responsible for its content; new general disclaimer; any disclaimer must be conspicuously presented and easily understood; if lawyer or law firm does not routinely handle the cases being presented a disclaimer to that effect is required; only actual clients can give testimonials, testimonials must be accurate; disclaimer if compensation for testimonial; advertising lawyer not licensed in al must be disclaimed; office must disclosed; judges police officers not allowed to give testimonials; actors not allowed to portray lawyer in advertisement; solicitation rule not dramatically

different; beefing up prohibition on case running; any solicitation must have advertising disclaimer;

Emphasize that committee presents to BBC for input and changes and will not be upset if changes are made or all recommendations are not accepted. Reasonable/benefit public but not be misleading and provide framework that is enforceable.

Crow – recommended rule changes are in meeting materials; encourage to share with members and share

11. **LEGISLATIVE UPDATE**

Legislative Counsel Suzi Huffaker reminded the board that the Legislative Update email is going out to all bar members on each Friday, and that the Communications Department has reported that over 5,000 lawyers are opening the email each week. She informed the commission that almost 1,000 bills have been filed this legislative session and that approximately 275 bills of interest to the bar are being tracked. Mrs. Huffaker said that she expects activity in the session to pick up substantially after spring break.

12. **ANNUAL MEETING UPDATE**

Director of Programs Ashley Penhale informed the board that registration for the 2020 Annual Meeting opens on Monday, March 9th. She also noted that registration will be different this year in that the registration form is behind the member login section of the website. Ms. Penhale informed the board that sponsorship information would be released soon and that staff is working on ways to enhance sponsorship opportunities that provide more value for sponsors. She also informed commissioners that there will be marketing and promotion opportunities for them to participate in, and that they are encouraged to submit ideas for speakers.

13. **INSURANCE BENEFITS – CYBER LIABILITY**

President Crow recognized Charlotte Gardner and Doug Johnson of Insurance Specialists, Inc. (ISI) to make a presentation to the board on cyber liability insurance. Mr. Johnson informed the board that the cyber liability product being offered to bar members is through a risk purchasing group. As a result, bar members are able to apply for coverage by completing a simple application. Mr. Johnson explained to the board the importance of having cyber liability protection, regardless of the size of firm or type of work performed by the firm. Mr. Johnson provided the details of the product and asked commissioners to encourage members take advantage of this new member benefit.

14. **INSURANCE BENEFITS – HEALTH INSURANCE**

President Crow informed the board that the Insurance Benefits Committee has evaluated the possibility of providing an association health insurance plan for bar members. She stated that Blue Cross Blue Shield has agreed to offer an association health insurance plan that will be available to bar members so long as the member has at least one non-relative employee. President Crow informed the board that the Insurance Benefits Committee reviewed presentations of four different plan administrators and that the committee recommends Alliance Insurance Group of Montgomery to administer the plan for the state bar. She stated that the administrator will pay all costs of administering the plan and that the bar would not be responsible for any hard costs associated with the plan.

COMMISSIONER HELMSING MOVED TO SUSPEND THE RULES AND MAKE THIS DISCUSSION ITEM AN ACTION ITEM. THE MOTION WAS SECONDED AND APPROVED BY THE NECESSARY TWO-THIRDS VOTE.

COMMISSIONER LANCASTER MADE A MOTION THAT ALLIANCE INSURANCE GROUP OF MONTGOMERY BE APPROVED AS THE THIRD-PARTY ADMINISTRATOR OF THE ALABAMA STATE BAR HEALTH INSURANCE PLAN. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

15. VACANCY ON THE JUDICIAL COMPENSATION COMMISSION

President Crow informed the board that E. Tatum Turner has resigned his position as a member of the Judicial Compensation Commission. She stated that nominations may be submitted and that the appointment would be an action item for the next board meeting.

16. RESIGNATION OF CLYNT HYDE AS BAR COMMISSIONER FOR THE 35TH JUDICIAL CIRCUIT

President Crow informed the board that Judge Clynt Hyde, upon appointment as District Judge of Monroe County, resigned his position as a member of the Board of Bar Commissioners from the 35th Judicial Circuit. She stated that the local bar would submit a nominee and that filling the position would be an action item for the next board meeting.

17. VACANCIES ON LEGAL SERVICES ALABAMA BOARD OF DIRECTORS

President Crow informed the board that there are three vacancies on the Legal Services Alabama (LSA) Board of Directors. She informed the board that LSA had recommended three nominees – Leon Hampton, Jacqueline Aranda Osorno, and Lucy Tufts – to fill the vacancies. President Crow stated that this is a discussion item, but that LSA requested the appointments be made as soon as possible because vacancies on the LSA Board of Directors can impact federal funding.

COMMISSIONER MAZE MOVED TO SUSPEND THE RULES AND MAKE THIS DISCUSSION ITEM AN ACTION ITEM. THE MOTION WAS SECONDED AND APPROVED BY THE NECESSARY TWO-THIRDS VOTE.

A MOTION WAS MADE BY COMMISSIONER ERMERT TO CLOSE NOMINATIONS. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

COMMISSIONER MAZE MADE A MOTION TO APPOINT LEON HAMPTON, JACQUELINE ARANDA OSORNO, AND LUCY TUFTS TO THE LEGAL SERVICES ALABAMA BOARD OF DIRECTORS. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

18. LONG RANGE PLANNING COMMITTEE REPORT

Commissioner Jeanne Rizzardi reminded the board that, in 2017, it adopted a five-year strategic plan, which included a feature that the bar ensure that the plan is current during the relevant time period. The current Long Range Planning Committee is responsible for evaluating current practices to ensure that they are consistent with the strategic plan. She stated that the committee was divided into 15 subcommittees that have reached out to sections, committees, bar staff and other groups to receive feedback on current issues and practices. Mrs. Rizzardi said that the committee intended to provide the board with a written report, but they are delaying that report until a new subcommittee – Making the Bar Relevant – has completed its survey, which seeks to evaluate the relevancy of the bar and make recommendations as to how the bar can be more relevant for its members.

19. NEW PRO BONO AWARD CATEGORY (PUBLIC INTEREST ATTORNEY)

President Crow recognized Commissioner Jeanne Rizzardi to address the board about the creation of a Public Interest Attorney category for the Pro Bono Awards. Commissioner Rizzardi informed the board that information, including criteria for receiving the award, is included in the meeting materials. She reminded the board that this is a discussion item, but pointed out that April 1, 2020, is the deadline to receive nominations for Pro Bono Awards that will be presented this year.

COMMISSIONER BAGGETT MOVED TO SUSPEND THE RULES AND MAKE THIS DISCUSSION ITEM AN ACTION ITEM. THE MOTION WAS SECONDED AND APPROVED BY THE NECESSARY TWO-THIRDS VOTE.

COMMISSIONER SALLY BOWERS MADE A MOTION TO APPROVE PUBLIC INTEREST ATTORNEY AS A NEW PRO BONO AWARD CATEGORY. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

20. PRO HAC VICE ANNUAL CERTIFICATION

President Crow informed the board that she learned at the ABA Midyear Meeting that other states charge an annual certification fee to attorneys who are admitted Pro Hac Vice. She said the annual certification seems fair based on the fact that bar members in the state are required to pay an annual license fee. The annual certification will also serve to keep the bar aware of current information on the attorneys who are admitted Pro Hac Vice. President Crow reminded the commission that a proposed rule change on this item is included in the meeting materials and that it will be an action item at the next board meeting.

21. CONSOLIDATION OF AWARD DEADLINES

Secretary/Executive Director McCallum informed the board that the Alabama State Bar awards have different nomination deadlines. He said that Director of Programs Ashley Penhale had recommended creating a single nomination deadline for all awards. He also informed the board that a procedure is being developed for the award nominations to be made by electronic means. Mr. McCallum stated that more information would be forthcoming so that the board can make an informed decision on these changes.

22. AWARD NOMINATIONS APPROVED BY THE BOARD OF BAR COMMISSIONERS

Secretary/Executive Director McCallum reminded the board that nominations are being accepted and the board will be required to approve recipients for the following awards:

1. William D. "Bill" Scruggs, Jr. Award
2. J. Anthony "Tony" McLain Professionalism Award
3. Award of Merit
4. Judicial Award of Merit
5. Commissioners Award
6. Maud McLure Kelly Award
7. Susan Bevill Livingston Award
8. Jeanne Marie Leslie Award
9. Edward M. Patterson Servant Leadership Award

23. MEMBER BENEFIT - FASTCASE

President Crow reminded the board that bar staff and members have been testing Fastcase, a competitive product to Casemaker, as a potential member benefit. She recognized Secretary/Executive Director Phillip McCallum and Director of Programs Ashley Penhale to update the board on the status of the evaluation of Fastcase.

Mr. McCallum stated that Casemaker is one of the most significant member benefits that the bar offers. He said that Fastcase is one of the main competitors of Casemaker and that most of the bars of the southeastern states use Fastcase. He said the

overwhelming feedback from members is that Fastcase is a tool that the bar should pay close attention to as a legal research product.

Ms. Penhale explained that a multi-step process was used to test Fastcase. First, the bar assembled a group of testers that included private sector attorneys from varying firm sizes, public sector attorneys, and attorneys from academia. These attorneys tested the product and submitted questions that were answered by the Fastcase. Next, bar commissioners were encouraged to introduce Fastcase to their constituents and encourage them to obtain test credentials and provide feedback. The feedback of all of those who have tested the product have been compiled and addressed by Fastcase.

President Crow encouraged commissioners to continue to talk to their constituents about Casemaker and Fastcase and to request test credentials if they were interested in evaluating Fastcase. She reminded the board that this would be an action item at the next board meeting.

24. **COMMISSIONER COMMENTS**

President Crow recognized Commissioner Tom Heflin to make remarks on behalf of the Colbert County Bar. Mr. Heflin welcomed the commissioners to the Shoals area and encouraged them to visit often. He said that the local bars in the area are active and there is much congeniality among the lawyers of the local bars in the area. He encouraged commissioners to visit local attractions, particularly those that highlight the rich music heritage of the Shoals area.

President Crow recognized Commissioner Chrissy Riddle, who represents the 25th Judicial Circuit (Marion County and Winston County). Commissioner Riddle said that she is a young lawyer who has quickly learned the value of member benefits, such as Casemaker, offered by the state bar. She said that she has joined the Solo & Small Firm Section and has been able to gain valuable insight and resources from other section members. She encouraged commissioners to become involved, learn what resources are available from the bar, and to continue to promote the value of bar membership and member benefits to their constituents.

25. **APPOINTMENT OF MEMBER TO THE ALABAMA COURT OF THE JUDICIARY**

President Crow informed the commission that the term of S. Dagnal Rowe, Sr. is expiring on the Court of the Judiciary. She reported to the commission that nominations were open and that Michael Upchurch had been nominated to fill the position.

COMMISSIONER ERMERT MOVED TO CLOSE NOMINATIONS FOR MEMBER OF THE COURT OF THE JUDICIARY. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

COMMISSIONER MAZE MOVED TO APPROVE MICHAEL UPCHURCH AS A MEMBER OF THE COURT OF THE JUDICIARY. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

26. **APPROVAL OF NOMINATIONS TO THE ALABAMA SECURITIES COMMISSION**

President Crow informed the commission that it is responsible for submitting three names to the governor for an appointment to the Alabama Securities Commission. The governor selects from the three names submitted and makes the appointment. President Crow reported to the commission that she had received several nominations and their information has been provided to the commissioners for consideration.

COMMISSIONER BRINKLEY MOVED TO CLOSE NOMINATIONS FOR RECOMMENDATIONS FOR APPOINTMENT TO THE ALABAMA SECURITIES COMMISSION. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

AFTER DISCUSSION OF EACH NOMINEE, THE COMMISSION VOTED ON EACH NOMINEE, WITH GUY HENLEY, HOPE MARSHALL, AND TOM OLDWEILER RECEIVING THE HIGHEST NUMBER OF VOTES.

COMMISSIONER HEFLIN MOVED TO SUBMIT THE NAMES OF GUY HENLEY, HOPE MARSHALL, AND TOM OLDWEILER TO THE GOVERNOR FOR SELECTION OF ONE FOR APPOINTMENT TO THE ALABAMA SECURITIES COMMISSION. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

27. **APPROVAL OF APPOINTMENT TO ALABAMA BOARD OF COURT REPORTING**

President Crow reminded the commission nominations were open to fill a vacancy on the Alabama Board of Court Reporting. She reported that Jennifer Egbe had been nominated to serve on the Alabama Board of Court Reporting.

COMMISSIONER PERRY MOVED TO CLOSE NOMINATIONS FOR THE ALABAMA BOARD OF COURT REPORTING. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

COMMISSIONER PERRY MOVED TO APPROVE THE APPOINTMENT OF JENNIFER EGBE TO THE ALABAMA BOARD OF COURT REPORTING. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

28. **APPROVAL OF APPOINTMENT TO PRIVATE INVESTIGATORS BOARD**

President Crow informed the commission nominations were open to fill a vacancy on the Alabama Private Investigators Board. She reported Yuri Linetsky and Scott Hawk were nominated to serve on the Alabama Private Investigators Board.

COMMISSIONER BRINKLEY MOVED TO SUBMIT THE NAMES OF YURI LINETSKY AND SCOTT HAWK TO THE GOVERNOR FOR SELECTION OF ONE FOR APPOINTMENT TO THE ALABAMA PRIVATE INVESTIGATORS BOARD. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

29. **RESOLUTION TO SUPPORT JUDICIAL COMPENSATION COMMISSION'S JUDICIAL RESTRUCTURE PROPOSAL**

Justice Stewart and Suzi Huffaker spoke in favor of the proposed resolution.

COMMISSIONER HEFLIN MOVED TO APPROVE A RESOLUTION OF THE BOARD OF BAR COMMISSIONERS TO SUPPORT THE JUDICIAL COMPENSATION COMMISSION'S JUDICIAL RESTRUCTURE PROPOSAL. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.


30. **ADJOURNMENT**

President Crow 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 12:16 p.m.



Christina D. Crow, President
Alabama State Bar

ATTEST:



Phillip W. McCallum, Secretary
Alabama State Bar