

**STATE BAR OF GEORGIA
EXECUTIVE COMMITTEE
MINUTES
August 14, 2015
State Bar Building/Atlanta, GA**

Members Participating:

Robert J. Kauffman, President; Rita A. Sheffey, President-elect; Patrick T. O'Connor, Treasurer; Brian D. (Buck) Rogers, Secretary; Patrise M. Perkins-Hooker, Immediate Past President; John R.B. Long, YLD President; Jennifer Campbell Mock, YLD President-elect; V. Sharon Edenfield, YLD Immediate Past President; Thomas R. Burnside, III; Elizabeth Louise Fite; Kenneth B. Hodges, III; Phyllis Holmen; David S. Lipscomb; and Nicki Vaughn.

Staff Participating:

Sharon Bryant, Chief Operating Officer; Jeff Davis, Executive Director; Paula Frederick, General Counsel; Steve Laine, Chief Operating Officer; Bill NeSmith, Bar Counsel; and Thomas Worthy, Director of Governmental Affairs.

Future Meetings Schedule

President Bob Kauffman referred the Executive Committee to the copy of the Future Meetings Schedule and discussed the arrangements for the upcoming Executive Committee Retreat.

Executive Committee Minutes

The minutes of the May 15 and June 24, 2015 Executive Committee Meetings were approved by unanimous voice vote.

Members Requesting Resignation

Pursuant to State Bar Rule 1-208, the Executive Committee, by majority voice vote, approved the following resignation requests: Nicola King-409701; Bonnie M. Grant-159024; Grace Shang-Wen Yang-435126; Natalie C. Lee-516171; Ross P. Kendall-414069; Richard G. Pechin-569650; Thomas O. Lasley-438513; Alyne Sue Assunto-026120; John S. Butler-099675; John R. Justice-705723; Robert Arthur Smith-662715; Sam R. Lowe III-459950; Melissa A. Mullin-528610; Ashley Olsson-940464; Denise Roy-617319; Christine Mabe Scott-462680; Henry T. Hardin III-324850; Forrest W. Hunter-378850; Susan A. Adams-004175; Rebecca Anne Womeldorf-736667; Terence P. McElwee-526120; Charles W. Christian-125250; Grover E. Taylor-700225; Marcelle A. Castillo-116129; James Leonard-446656; Steven R. Thorpe-710671; Frank R. Labudde-431028; Robert B. Kinz-422380; Derrick Smith-655602; Davis S. Rand-593725; Jessica McArdle-738218; Lawrence Hunter-379167; Beth L. Rowe-616632; Joseph S. Dunn-234275; Mark A. Fink-450463; Joel Beerman-046929; Daniel T. Hansmeier-142060; Peng Li-192656; Paul A. Ray-593406; Deborah S. Miknis-940656; William Helmstetter-964570; Jeffrey S. Norwood-733087; Louis Shannon Copponex-187343; Thomas R. Foley-267189; Raymond Lee Coss-189127; Mark E. Swofford-695530; Bonnie Hanna-838972; Roger A. Brown-089450; Monali Vikram Matcha-483697; Veronica Jones Carey-403955; Edwin L. Hoffman -359725; Stacey Lynn Ewhrllich-746437; Janie Duncan-233462; Jason Harrington-329029; Roger A. Brown-089450; Barbara K. Geier-288885

David Lipscomb asked for confirmation that every member above personally requested to resign and it was not requested by a third party, such as a court-appointed guardian. Following the meeting, Brinda Lovvorn, Membership Director, confirmed that all of the above resignation requests were requested by each attorney. She also stated that in the case of a resignation request from a third party, she consults with the Office of General Counsel for a course of action.

Members Requesting Disabled Status

Pursuant to State Bar Rule 1-202, the Executive Committee, by unanimous voice vote, approved the following requests for disabled status: Elizabeth H. Petersen-749624; Peter G. Kelley-412324; Robert W. Steinbruegge-679150; William David Tate Jr.-818812; Craig Carten-113597; Harold Stephen Berezin-53942; M. Shannon Feeney-257256

Member's Request for a Hearing - Waiving Penalties and Late Fees: James Dickey (001030)

Pursuant to Rule 1-501, the Executive Committee, by unanimous voice vote, relegated the naming of a Special Master by Bryan Cavan, Coordinating Special Master, to hear the appeal of James Dickey, Jr.

Member's Request for Military Dues Waiver: Robert W. Mayhue, Jr. (479614)

The Executive Committee, by majority voice vote, denied a request by Robert W. Mayhue, Jr. for a Military Dues Waiver as his active duty salary exceeds his regular salary. David Lipscomb requested that the section asking for income on the waiver form be amended to just reflect "List your active duty income."

Elections Committee Proposed Bylaws Amendments

Following a report by Bill NeSmith, the Executive Committee, by majority voice vote, approved recommending to the Board of Governors the following proposed amendments to Bylaw Article VII Nomination and Elections:

Section 6. Ballots.

The Elections Committee shall determine the list of candidates and have ballots prepared. The ballot shall include the name of each candidate and a space for a write-in vote for each position to which the ballot applies. If practicable, the space for a write-in vote may be eliminated from ballots for which no write-in candidate has declared under Article VII, Section 1 (c) or Article VII, Section 2 (c) above. The ballot shall contain voting instructions and a notice of the location and last date by which the ballot must be received. The Board of Governors shall annually determine this date. The ballots may be in written or electronic form, or both.

Section 7. Voters Lists; Distribution of Ballots.

- (a) A voters list shall be prepared containing the names of the members qualified to vote in elections for officers, ABA delegates, circuit board members and nonresident board members. Each member shall be assigned a distinguishing number.
- (b) On the date determined according to Section 14 of this Article, all active members in good standing shall be furnished by regular mail a ballot for the elections in which they are qualified to vote and a return envelope.
- (c) In lieu of the written ballot described above, a member may vote by a secure electronic ballot which meets all the requirements for integrity as determined by the Elections Committee. Should any member submit both a paper ballot and an electronic ballot, only the electronic ballot shall be counted.

Section 8. Method of Voting.

For written ballots, the member shall mark the ballot according to its instructions and shall return the ballot or ballots in the envelope provided on or before the date specified by the Board of Governors. Only written ballots of an individual member, timely returned in the envelope provided with the ballot, shall be deemed valid. Electronic ballots shall be cast according to the instructions provided with the electronic ballot.

Section 9. Elections Committee.

The Elections Committee shall conduct the election, count or supervise the counting of the ballots, and report the results on the date determined according to Section 14 of this Article under procedures established by the Board of Governors. The Elections Committee may utilize State Bar and independent and impartial contract staff and facilities as the Committee deems appropriate. In computing the number of votes constituting a majority of those cast in each election of officers, the Committee shall exclude from the computation the votes cast for a properly declared "write-in" candidate receiving less than two percent of the total votes cast.

Section 11. Tie Vote.

(a) Officers and ABA delegates. If there is a tie vote between two or more candidates receiving the highest number of votes in any election for officers or ABA delegates, the incumbent shall continue to serve until the Board of Governors elects one of the tying candidates as the successor. If more than one election results in a tie vote, the Board of Governors shall first determine who shall be elected in this order: Treasurer, Secretary, President-Elect and, when appropriate, President.

(b) Circuit Posts. If there is a tie vote between two or more candidates receiving the highest number of votes in any election for a circuit post, a run-off election shall be held pursuant to Article VII, Section 12 of these Bylaws.

Section 12. Runoff.

If no candidate for office receives a majority of the votes cast or if there is a tie vote for a circuit post, within ten days from the date of the report of the Elections Committee, the Board of Governors shall make provisions for a runoff election between the two candidates receiving the highest number of votes or all tied candidates. The runoff election shall be held no later than thirty days from the date of the report of the Elections Committee and shall be conducted as provided for regular elections. The incumbent shall continue to serve until the successor is determined. In runoff elections, members of the Board shall be elected by plurality vote.

Section 13. Recount.

Any candidate dissatisfied with the result of the count may file a written recount request with the Executive Director, within two business days after the winners are declared. The Executive Director shall notify the President of the request for a recount and the President shall direct the Elections Committee to review the request(s). If deemed appropriate, the Elections Committee will direct an independent elections vendor to conduct a recount. Once the certified recount totals are received, the Elections Committee will announce its findings to all candidates in the disputed election and any other concerned parties. The results of the recount shall be final.

Section 14. Date of Elections.

(a) The Elections Committee shall timely meet and publish a proposed schedule for the upcoming elections which shall set out the specific dates for the following events: the date the Official Election Notice is to be published in the *Georgia Bar Journal*; the date the Nominating Petition package shall be mailed to Board of Governors Incumbents; the date the Board of Governors shall nominate candidates for officers of the State Bar; the deadline for the receipt of nominating petitions for incumbent Board Members; the deadline for the receipt of nominating petitions for new Board Members; the deadline for receipt of nominations of nonresident members of the Board; the date on which the ballots are to be mailed; the deadline for ballots to be cast in order to be valid; and the date the election results shall be reported and made available.

(b) The Executive Committee shall review and approve, or modify and approve such schedule as submitted by the Elections Committee. The schedule, as approved by the Executive Committee,

shall then be submitted to the Board of Governors no later than the Annual or Summer Meeting preceding the election for approval.

(c) For good cause, the Executive Committee may modify this approval schedule.

YLD President Jack Long discussed the YLD Secretary election runoff that took place this year when no candidate received a majority vote, and whether or not the Bar should consider moving to a plurality vote to prevent future runoffs. The cost to conduct the runoff was in excess of \$10,000. The Executive Committee agreed to send the issue to the Elections Committee for consideration. Thomas Burnside, a former Elections Committee chair, stated that the Elections Committee has considered this issue in the past.

Proposed Rules Amendments

Following a report by Bill NeSmith, the Executive Committee, by unanimous voice vote, approved recommending to the Board of Governors proposed amendments to Rule 1-501 License Fees, as revised (Exhibit A), and to Rule 102-4 Good Standing as shown below:

Rule 102-4. Good Standing

No lawyer shall be deemed a member in good standing:

- a. while delinquent after September 1 of any year for nonpayment of the annual license fee and any costs of fees of any type as prescribed in Chapter 5, Rule 105-1 (a) (c) hereof;
- b. while suspended for disciplinary reasons;
- c. while disbarred;
- d. while suspended for failure to comply with continuing legal education requirements;
- e. while in violation of Bar Rule 1-209 for failure to pay child support obligations.

Authorization for Parking Garage Upgrades

Following a report by Jeff Davis, the Executive Committee, by unanimous voice vote, approved proposed improvements to the Bar's parking deck in the amount of \$192,583. Upgrades include curb improvements to the Spring Street and Marietta Street entrances and technology upgrades to increase efficiency in moving cars in and out of the deck.

Appointments to the Georgia Legal Services Program (GLSP) Board of Trustees

The Executive Committee, by unanimous voice vote, approved the appointments of D. Tennell Lockett and Deangelo Norris to the GLSP Board of Trustees for two-year terms. Phyllis Holmen provided an overview of composition of the Board.

Appointment of Robert Pannell to the Working Group on Legal Opinions (WGLO)

The Executive Committee, by unanimous voice vote, approved the appointment of Robert D. Pannell to the WGLO as the State Bar of Georgia representative.

President's Report

President Bob Kauffman reported on three initiatives being undertaken this year: 1) strategic planning, 2) a review of the discipline system, and 3) the creation of a Wellness Task Force. The Executive Committee held the first of several strategic planning sessions preceding the Executive Committee meeting. President Kauffman reported that the Disciplinary Rules and Procedures Committee met last week to begin its task of reviewing the entire disciplinary process from start to finish. At that meeting, Tee Barnes, Clerk of the Supreme Court, provided insight on how the Court handles discipline cases. Immediate Past President Patrise Perkins-Hooker asked if there are any lay members on the Disciplinary Rules and Procedures Committee to provide input into the process. Currently there are none, which led to a discussion of perhaps appointing some of the lay members serving on the State Disciplinary Board to the committee. President Kauffman reported that Ken Hodges is chairing the Attorney Wellness Task

Force. He and Ken are putting together a core group of lawyers to set the agenda and lay out what needs to be accomplished. He announced that Michael Ethridge, chair of South Carolina's Attorney Wellness Committee, will be at the Fall Board of Governors meeting to discuss South Carolina's *Living Above the Bar* program.

Treasurer's Report

Steve Laine provided a report on the Bar's finance and distributed a preliminary Consolidated Revenues and Expenditures as of June 30 that reflects an operating loss of \$777,468.

The Executive Committee received copies of the Operations and Bar Center Consolidated and Individual Revenue and Expenditures Reports and Income Statement YTD for the seven months ended May 31, 2015, the Balance Sheet as of May 31, 2015, and the Summary of Dues and Voluntary Contributions for May-April 2013-2015.

YLD Report

YLD President Jack Long reported on the activities of the Young Lawyers Division. He congratulated YLD Immediate Past President Sharri Edenfield for her successful year as YLD president and announced that the Georgia YLD was recognized in all five ABA award categories in Division 1A. Specifically, it received 1) the 2014-15 Outstanding Service to the Public Award, one of two awards presented to YLDs from states of all sizes, for its Military Support Initiative, 2) four first place awards within its division for Service to the Bar for its Succession Planning Pilot Program, for Service to the Public for the Military Support Initiative, for Best Newsletter and as Overall Comprehensive Best YLD, and 3) Special Recognition in the Diversity Project category for its *Plessy v. Ferguson* Continuing Legal Education (CLE) session at its Spring Meeting in New Orleans. He stated that his goals this year include strengthening current programs of the YLD, increasing meeting attendance, and opening up the meetings to all YLD members by offering the Business Meetings and CLE seminars live through online streaming. He reported that the Estate and Elder Law Committee will begin rewriting the Senior Citizens Handbook and that there will be a joint project with the Texas YLD to create a handbook for divorcing military spouses. He announced that there will be a regional summit of bordering states' YLD's to share ideas and talk about how to make programming better. He reported that the Succession Planning program, which seeks to connect Georgia attorneys who want to transition out of full-time practice with new attorneys who may be interested in succeeding the attorney, needs help. There has been an overwhelming response from young lawyers, but not from transitioning lawyers.

Executive Director's Report

Jeff Davis reported that yesterday he signed new leases with the Criminal Justice Coordinating Council (CJCC) and the Georgia Public Defender Standards Council totaling 22,000 sq. ft. He recently attended the NABE conference that was dominated with topics on challenges facing mandatory bar associations. He stated that we all recognize the value of a mandatory bar, but that we need to be mindful of what we do and how we do it, and to think about these things as we approach our strategic planning process.

President Bob Kauffman reported that the vacant 5th floor is suitable for a data center due to the fiber optic lines running to the building and the floor having a separate chiller and generator. He recently met with a representative from Cushman Wakefield and a data center representative about that possibility. A technology storage space consultant is putting together a list of the size of services the Bar could house on the 5th floor and may have a lead on a prospective tenant. There has been a tremendous increase in demand for data centers, and those tenants typically don't require a lot of parking and pay higher square footage rental rates.

Office of General Counsel's Report

The Executive Committee, by unanimous voice vote, approved a motion to go into Executive Session to discuss litigation and other matters. Thereafter, the Executive Committee, upon a motion and second, moved out of Executive Session.

Paula Frederick reminded the Executive Committee that the annual reunion of the State Disciplinary Board will take place on September 17 at Bill Smith's cabin on Lake Rabun.

Legislative Program Report

Thomas Worthy provided a report on the upcoming legislative session. He announced that the Advisory Committee on Legislation (ACL) will meet on September 15 at 10:00 a.m., and again on December 8 at 10:00 a.m. He reported that there are still a lot of legislative issues left over from last year's agenda that the Bar will be dealing with in addition to any new items recommended by the ACL and approved by the Board of Governors for the upcoming 2016 legislative session.

Board of Governors Minutes

The Executive Committee received copies of the June 19 and June 20, 2015 (draft) Board of Governors Minutes. A revision was made to the June 20 Board minutes to reflect that the Cornerstones of Freedom funding was to be set aside as a reserve fund, but not as a Board Designated Reserve.

International Bar Association Annual Conference (Atlanta)

The Executive Committee received a copy of a letter to David Rivkin, President of the International Bar Association (IBA), from President Bob Kauffman extending an invitation for the IBA to hold its 2020 Annual Conference in Atlanta.

Members Rating of the 2015 Election Process

The Executive Committee received a copy of members' ratings of the State Bar's 2015 Official Election from DirectVotePlus.

Foundation for Practice

The Executive Committee received information on the Foundations for Practice survey.

Donation Acknowledgment from the Center for Civil and Human Rights

The Executive Committee received a copy of the \$25,000 donation acknowledgement from the Center for Civil and Human Rights.

Daily Report Article on the JQC

The Executive Committee received two *Daily Report* articles about the JQC.

National Law Journal Article on Antitrust Liability for State Bars

The Executive Committee received a copy of a *National Law Journal* article on a U.S. Supreme Court decision, *North Carolina Board of Dental Examiners v. Federal Trade Commission* that could force state bars to re-examine their operations to avoid potentially antitrust liability.

ABA Journal Article on House of Delegates Meeting

The Executive Committee received a copy of an *ABA Journal* article on the Avvo founder telling lawyers to get rid of UPL if they want innovation and access to justice and other speakers that addressed the ABA House of Delegates.

Bar Leaders Articles on Recent Challenges to Unified Bars and Bar Association Governance for Changing Times

The Executive Committee received *Bar Leader* articles on recent challenges, including “teeth whitening” and Legal Zoom cases and Bar association governance for changing times.

February 2015 Georgia Bar Examination Results

The Executive Committee received a copy of the February 2015 Georgia Bar Examination Pass List.

Old Business

YLD President Jack Long reported that until some malpractice coverage is in place for volunteers, the YLD Wills Clinic initiative is indefinitely suspended. He reached out to the Chicago Bar that operates a similar program, and which does have lawyers’ professional liability coverage. He asked the Executive Committee for permission to apply for the same coverage to see if he can get a policy in place to cover the Wills Clinic program. President-elect Rita Sheffey reported that Bar Counsel is also aware of the issue and is checking into coverage. The consensus of the Executive Committee was that the YLD should move forward with applying for coverage if such coverage was appropriate for the YLD program, subject to review by the Office of General Counsel.

New Business

There was no new business.

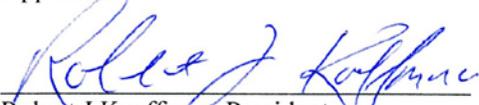
Adjournment

There being no further business the Executive Committee meeting was adjourned by unanimous voice vote.



Brian D. (Buck) Rogers, Secretary

Approved:



Robert J. Kauffman, President