

**STATE BAR OF GEORGIA  
EXECUTIVE COMMITTEE EXTENDED MEETING  
MINUTES**

**Friday and Saturday, September 6-7, 2019/1:00 p.m.  
The Omni Grove Park Inn, Asheville, NC**

Members Participating:

Darrell L. Sutton, President; Dawn M. Jones, President-elect; Elizabeth Louise Fite, Treasurer; Sally B. Akins (by phone), Secretary; Kenneth B. Hodges, III, Immediate Past President; William T. Davis, YLD President; Bert D. Hummel, IV, YLD President-elect; Rizza O'Connor, YLD Immediate Past President; Ivy N. Cadle; Tony DelCampo; Amy V. Howell; R. Javoyne Hicks; David S. Lipscomb; and Nicki Vaughan.

Guests Present:

Patrick T. O'Connor and Martin Valbuena.

Staff Participating:

Sharon Bryant, Chief Operating Officer; Sarah Coole, Director of Communications; Jeff Davis, Executive Director; Paula Frederick, General Counsel; Christine Butcher Hayes, Director of Governmental Affairs; Bill NeSmith, Deputy General Counsel; and Ron Turner, Chief Financial Officer.

Call to Order

Darrell Sutton called the meeting to order at 1:00 p.m. Members of the Executive Committee in attendance are indicated above.

Future Meetings

Darrell reviewed the Future Meetings Schedule.

Executive Committee Minutes

By unanimous voice vote, the Executive Committee approved the minutes of the meeting held August 1, 2019.

Members Requesting Resignation

Pursuant to State Bar Rule 1-208, the Executive Committee approved the following resignation requests by unanimous voice vote: Daniel Lawrence Kent-415115; Bettye Ackerman-001519; Mark Alan Kalafut-132510; Benjamin Todd Hughes-375540; Brent R. Hendricks-346285; Priti Khanna-228108; Kenneth H.P. Bryk-092071; Katherine; Irene O'Connor-315199; Jennifer A. Wright-435103; Kenneth Michael Rodriguez-934138; Eun; Joo Hong-124970; Anthony Wayne Clark-126495; David Alan Shirlen-643285; Gabriel N. Finder-260340; Kevin Bradford Hall-183023; David Kris Zacharisen-782635; Stephen Noel-545360; Mark R. Swanson-694150; Susan Cramer Herring-349348; Sara Sherrer Sams-642227; Audrey L. Polk-677794; Katherine L. Henry-347825; Sara Elizabeth Goldsmith-297343; Bennett Lawrence Ross-615002; Jaclyn Courtney Platten-113250;

Thomas Ray Beindorf-173053; James H. Spalding-669005; Steven Carroll Lee-443997; Kelly Anne Grace-726548; Andrew Alden Lewis-449787; Gideon Isaac Alper-498207; Heidi M. Silcox-645970; Pennington G. Kamm-294073; Laura L. Allen-011099; Jennifer L. Boucek-069990; Kevin J. Saunders-627310.

#### Members Requesting Disabled Status

Pursuant to State Bar Rule 1-202, the Executive Committee, by unanimous voice vote, approved two requests for disabled status.

#### Members Status Appeals

The Executive Committee took the following action on member status appeals:

- 1) Allen W. Hobbs, Jr.: A motion and second to allow his registration with the Bar without reapplying to the Office of Bar Admissions, but also requiring the payment of all appropriate fees, was approved by unanimous voice vote.
- 2) Richard Lea: A motion and second approving his request for a waiver of late fee was approved by unanimous voice vote.
- 3) Matthew C. Mahoney: A motion and second denying his appeal to waive termination was approved by unanimous voice vote.

#### Amendments to Bylaws and Rules

Following a report by Deputy General Counsel Bill NeSmith, the Executive Committee took the following action on proposed Bylaws and Rules amendments:

- 1) Rule 1-202. Membership Status: Recommended to the Board of Governors by unanimous voice vote. (Exhibit A).
- 2) Article I Members, Section 9. Retired Status Member: Recommended to the Board of Governors by unanimous voice vote (Exhibit B).
- 3) Article 1 Members, Section 10. Members Unable to Practice due to a Disability: Recommended to the Board of Governors by unanimous voice vote (Exhibit C).
- 4) Rule 4.204.1. Notice of Investigation: Recommended to the Board of Governors by unanimous voice vote (Exhibit D).
- 5) Rule 1.15(III) Record Keeping; Trust Account Overdraft Notification; Examination of Records: Recommended to the Board of Governors by unanimous voice vote (Exhibit E).
- 6) Rule 1.0. Terminology and Definitions – Definition of “conviction” and Rule 8.4,

Misconduct: Failed to approve the proposed amendment by a voice vote of 1 in favor to 13 opposed.

- 7) Rule 1.0 Terminology and Definitions – Definition of “Prospective Client” and Rule 1.18 Duties to Prospective Client: Recommended to the Board of Governors by unanimous voice vote (Exhibit F).
- 8) Rule 1.1 Competence: Recommended to the Board of Governors by unanimous voice vote (Exhibit G).
- 9) GRPC Rule 1.6 Confidentiality of Information: Recommended to the Board of Governors by unanimous voice vote (Exhibit H).

#### Teleconference Guidelines

Darrell presented proposed Teleconference Guidelines. Following discussion by the Executive Committee, Darrell said he would incorporate suggested revisions and the guidelines will govern all future Executive Committee meetings.

#### CloudLaw Proposal and Request

Bill NeSmith presented a proposal from CloudLaw to increase members’ monthly fees for an enhanced profile from \$8 to \$10. For this new fee, members would receive a new enhanced profile that includes analytics. CloudLaw also proposed conducting a campaign advertising enhanced profiles to users who have a basic profile, encouraging them to upgrade to an enhanced profile. CloudLaw also proposed creating a partnership with the ABA-created CloudLaw’s Lawyer2Lawyer Referral Network. A motion and second that the State Bar send one email to basic subscribers informing them of the enhanced profile availability was approved by unanimous voice vote. No action was taken on the request to raise the enhanced profile cost from \$8 to \$10 per month, or on the request that we open the Lawyer2Lawyer Referral Network to Bar members. The Executive Committee expressed a preference to first gather more information about this Network.

#### Amicus Brief Policy

Following a report by General Counsel Paula Frederick, the Executive Committee, by majority voice vote, approved the following addition to Standing Executive Committee Policy 100:

##### Standing Executive Committee Policy 100

- i. The Executive Committee may authorize deviations from this policy in order for the State Bar of Georgia to file an Amicus Brief in federal litigation involving the existence or organization of the unified bar. Any deviation must be approved by a two-thirds vote of Executive Committee members present and voting, and must be reported to the Board of Governors at its next meeting.

### Recommendations of the Programs and Unified Bar Committees

Darrell reminded the Executive Committee about the Finance Committee's determination in the Spring of 2019 that a dues increase will be required in order for the Bar to operate with a balanced budget in the 2020-2021 Bar year. Considering that the Bar's expenses, by and large, are the Bar's programs, Darrell instructed the Programs Committee to this summer conduct an independent review of each program. This review resulted in each program receiving two ratings: a letter rating, indicating the Programs Committee's assessment about the relationship of that program to the Bar's mission, and a number rating, indicating the Programs Committee's assessment about that program's delivery of value

At the same time, but independently, the Unified Bar Committee performed its own assessment of each program, providing from its perspective an indication about each program's relationship to the Bar's mission.

Chief Financial Officer Ron Turner prepared various financial reports, including a Cash Activity Projection for 2019-2020 and Subsequent Years, Cash Activity Projections, and Estimated Programming Costs. The Cash Activity Projection reflects an \$8M deficit at the end of the 2024-2025 Bar year if no changes are made to programming and dues increase annually by the recently customary \$2. To achieve a balanced budget with no changes to programming, dues would need to be increased to \$276 for 2020-21; \$284 for 2021-22; \$292 for 2022-23; \$300 for 2023-24; and \$310 for 2024-25. Adding the annual professionalism assessment (\$15) and proposed annual Client Security Fund assessment (\$15) to those figures, a balanced budget would require Bar members to pay \$306 for 2020-21; \$314 for 2021-22; \$322 for 2022-23; \$330 for 2023-24; and \$340 for 2024-25.

Darrell suggested it is the Executive Committee's obligation to the membership to provide the Board of Governors with recommendations about each of the Bar's programs so the Board can decide whether to make cuts and set dues accordingly.

Martin Valbuena, chair of the Programs Committee, reported that the committee used a ranking system (Exhibit I) developed by the ABA and adapted to the State Bar of Georgia. Where a vote about a particular program was not unanimous, the Committee noted what the dissenting voters would have ranked it.

Darrell added that any program set for a cut – either in part or in whole – will have an opportunity at the Fall Board of Governors meeting to make a presentation advocating why that cut should not be made. Darrell indicated his hope that between the Fall and Midyear Board of Governors Meetings, Board members will engage in discussions with him and the other officers and gather information from their constituents so they can make their final determinations about programs at the Midyear Meeting.

The Executive Committee received copies of the 1) Programs Committee meeting minutes

for July 15, July 29, and August 12, 2019; 2) Unified Bar Committee meeting minutes for August 22, 2019; 3) State Bar of Georgia Programs and Related Entities Ratings; 4) Cash Activity Projections; and 5) mock-ups of the 2019-2020 and 2020-2021 License Fee and Assessment Notices.

#### Executive Session

Following a motion, second, and unanimous voice vote, the Executive Committee went into Executive Session to discuss the programs assessments made by the Unified Bar Committee. Thereafter, the Executive Committee, by unanimous voice vote, voted to move out of Executive Session.

#### Recommendations of the Programs and Unified Bar Committees (continued)

Before the Executive Committee began its review of each program and their rankings, a motion to not consider sunseting the following programs because they have no impact on mandatory dues as a result of independent funding sources was approved by hand vote of 7 in favor to 6 opposed: Attorney Wellness, CCLC, ICLE, Legislation, and Sections.

#### Adjournment

By unanimous voice vote, the Executive Committee adjourned the meeting at 5:15 p.m., with plans to reconvene at 9:00 a.m. on Saturday morning, September 7, 2019.

#### Call to Order

On Saturday, September 7, 2019, Darrell Sutton called the meeting to order at 9:00 a.m. Members of the Executive Committee in attendance are indicated on page one.

#### Member Appeal

Following a report by Bill NeSmith that the Executive Committee did not have the authority to approve its waiver of Fitness for Jennifer Coleman (action taken at August 1 Executive Committee meeting), a motion to rescind the previous decision was approved by unanimous voice vote. Thereafter, a motion and second to waive all late and reinstatement fees was approved by unanimous voice vote.

#### Recommendations of the Programs and Unified Bar Committees (continued)

Darrell reported that based upon requests from various Executive Committee members, he asked Ron Turner to provide an indication about what impact an across-the-board program cut would have upon a balanced budget and dues. Ron reported that, assuming all programs rated A would have no reduction in costs, a 9.3% across-the-board reduction would be required for a balanced budget with a \$10 dues increase; a 13.5% reduction across-the-board would be required for a balanced budget with a \$6 dues increase; and a 17% reduction across-the-board would be required for a balanced budget with a \$2 dues increase.

Thereafter, the Executive Committee made the following recommendations to the Board

of Governors:

- 1) There was a motion and second to eliminate the BASICS program. The motion was amended to recommend eliminating the funding for the BASICS program due to *Keller* issues. The amended motion failed by unanimous voice vote, with President-elect Dawn Jones abstaining. The motion to eliminate the BASICS program was approved by majority voice vote.
- 2) A motion and second to eliminate the Bar's funding for The Resource Center was approved by unanimous voice vote.
- 3) Following a motion and second to eliminate the funding for the Pro Bono Project, an amended motion to reduce the budget to cover only the salaries, benefits, and overhead of that program did not receive a second. The original motion to eliminate the funding for the Pro Bono Project failed by a hand vote of 6 in favor to 7 opposed. A motion and second that the Pro Bono Project be subject to further review before a final recommendation is made to the Board was approved by unanimous voice vote.
- 4) A motion to eliminate the Fee Arbitration Program did not receive a second. A motion and second that the Fee Arbitration Program be subject to further review failed by majority voice vote. Darrell reported that new rules are being drafted that will make the program more efficient and cost effective, and any decision about Fee Arbitration should await those changes.
- 5) A motion and second to eliminate funding for the Law-Related Education Program failed by majority voice vote. A motion and second to eliminate funding for iCivics was approved by a hand vote of 7 in favor to 6 opposed.
- 6) Following a motion and second to eliminate funding for the Military Legal Assistance Program, an amended motion to sunset the Bar's MLAP program in recognition of the establishment of other complementary legal clinics was approved by unanimous voice vote.
- 7) A motion to eliminate funding for the High School Mock Trial Program failed for lack of a second.
- 8) A motion and second to recommend to CJCP (1) elimination of its funding because the accreditation function is now being handled by the CCLC, (2) that CJCP become an advisory commission only, and (3) that the \$15 per member assessment be eliminated, was withdrawn. A motion and second to recommend a reduction in the professionalism assessment from \$15 to \$5, following consultation with and permission from the Supreme Court, was approved by majority voice vote. A

motion and second that the Bar continue to collect this reduced \$5 professionalism fee and pass it on to the CJCP was approved by majority voice vote.

The Executive Committee also took the following action:

- 1) By unanimous voice vote, approved a motion and second to pass credit card convenience fees on to those attorneys paying their license fees by credit card, unless increased cost in lockbox fees for receiving payments by check would exceed the amount of the convenience fees.
- 2) By majority voice vote, approved a motion and second to request each program provide a plan for reducing its costs by a target of 10% across-the-board.

It was the consensus of the Executive Committee to meet again prior to the Fall Board of Governors meeting in order to hear presentations from those programs for which the Executive Committee decided to make a recommendation to the Board of Governors. [That meeting was scheduled for 9:00 a.m. October 2, 2019]

#### President's Report

Darrell provided no additional report.

#### Treasurer's Report

Treasurer Elizabeth Fite reported on the Bar's finances. She also reported that finances for the 2018-19 Bar year are in the process of being closed.

The Executive Committee received copies of the Consolidated (Operational and Bar Center) Revenues and Expenditures Report as of May 31, 2019; Bar Center Revenues and Expenditures Report for the Eleven Months Ended May 31, 2019; Income Statement YTD-Operations for the Eleven Months Ending May 31, 2019; Status and Use of Cash and Investment as of May 31, 2019; Board-Designated and Donor Temporarily Restricted Net Assets; Summary of Members and Voluntary Legislative Contributions Paid Through May 31, 2019; Summary of Members and Voluntary Contributions to GLSP with Contributions Paid Through May 31, 2019; Legislative Activity Report from July 1, 2018 through May 31, 2019; and Cornerstones of Freedom Activity Report from July 1, 2018-through May 31.

#### YLD Report

YLD President Will Davis reported that the YLD had a great summer meeting, which continues to grow in attendance annually. Will also reported the YLD Fall Meeting will take place November 15-17, 2019 at Lake Lanier Islands. Lastly, he reported that YLD committees are busy at work on their programs.

### Executive Director's Report

Executive Director Jeff Davis said he will have a report at the next meeting, after meeting with department and program directors about budgets.

### Advisory Committee on Legislation/Legislative Report

Governmental Affairs Director Christine Butcher Hayes reported that the Advisory Committee on Legislation will meet Wednesday, September 11, 2019.

### Office of General Counsel Report

Paula Frederick reported about receipt of an order from the Supreme Court eliminating the JDPP and approving numerous scrivener changes.

### Elections - E-Ballot

Jeff Davis provided information on the 2019 Elections. Out of a total of 41,870 ballots, 23,394 paper ballots were mailed and 1,455 were returned. By contrast 8,476 electronic ballots were sent and 3,980 returned. The cost to the Bar to produce and mail paper ballots is \$19,740.

### Keller Script

At the request of the Unified Bar Committee, Paula Frederick presented a proposed script that the President and the Chair of the Advisory Committee on Legislation can use to remind members what to consider before deciding whether a proposal meets the requirements of *Keller*.

### Legislative Program Marketing/Awareness Campaign/Fund Reserve

This item was tabled to the November 2019 Executive Committee meeting.

### 2019 Attorney Fee Survey Results

The Executive Committee received a copy of the 1) International Survey of Attorney Licensing Fees ranked by Mandatory Annual Fee and Attorney Discipline; 2) National Survey of Attorney Licensing Fees ranked by States in Order of Fee Amount, and 3) National Survey of Attorney Licensing Fees ranked by Voluntary States in Order of Fee Amounts. The surveys were compiled on July 1, 2019 by the Office of Attorney Ethics of New Jersey.

### Old Business

There was no old business.

### New Business

Will Davis reported that the YLD will be assisting with the 11<sup>th</sup> Circuit Judicial Conference next Spring.

Considering the recent passing of Judge Stephen Goss and September being Suicide Prevention Month, Javoyne Hicks requested that the Bar send a *Use Your 6* flyer to all Bar members.

Adjournment

There being no further business, the meeting was adjourned at 12:20 p.m.

A handwritten signature in cursive script, appearing to read "Darrell L. Sutton", written over a horizontal line.

Darrell L. Sutton, President

A handwritten signature in cursive script, appearing to read "Sarah B. (Sally) Akins", written over a horizontal line.

Sarah B. (Sally) Akins, Secretary