

**STATE BAR OF GEORGIA
EXECUTIVE COMMITTEE
MINUTES
Friday and Saturday, September 9-10, 2016
The Brice Hotel/Savannah, GA**

Members Participating:

Patrick T. O'Connor, President; Brian D. (Buck) Rogers, President-elect; Kenneth B. Hodges, III, Treasurer; Darrell L. Sutton, Secretary; Robert J. Kauffman, Immediate Past President; Jennifer Campbell Mock, YLD President; Nicole C. Leet, YLD President-elect, John R.B. Long, YLD Immediate Past President; Thomas R. Burnside, III; Elizabeth Louise Fite; Phyllis Holmen; Dawn Jones; David S. Lipscomb; and Nicki Vaughn.

Staff Participating:

Sharon Bryant, Chief Operating Officer; Christine Butcher, Director of Governmental Affairs; Jeff Davis, Executive Director; Paula Frederick, General Counsel; Steve Laine, Chief Financial Officer; and Bill NeSmith, Deputy General Counsel.

Call to Order

President Pat O'Connor called the meeting to order. All members of the Executive Committee were in attendance as indicated above. After that, he stated that a Legislative Report has been added to the agenda.

Future Meetings Schedule

President Pat O'Connor referred the Executive Committee to the Future Meetings Schedule.

Executive Committee Minutes

The minutes of the August 16, 2016, meeting of the Executive Committee were approved, as revised, by unanimous voice vote.

Members Requesting Resignation

Pursuant to State Bar Rule 1-208, the Executive Committee, by unanimous voice vote, approved the following resignation requests: Joan H. Marler-470933, Karen W. Grochau-076153, Robert P. Hotchkiss-368425, Maxell Paul Clayton-624244, Erica H. Peden-975093, Irving Handelman-322825, Craig Bryant-091550, Joyce Kramer-428973, Almalee P. Guttshall-315935, Robert E. Toone-714670, Robert W. Lough-458524, Chenwei Zhang-705671, Michael Dennis Ronan-613879, Lisa-Marie Ross-615185, Caitlin Berberich-601182, Kevin Cox Angstenberger-613049, Robin Terry-435121, Laurence Harry Margolis-470580, Rebecca F. Bracewell-073587, Ronald Edward Houser-369236, Whitney Travis-177646, Courtney H. Chacos-347055, Winifred J. Rush-619530, Davis Roy Mellon-501205, Anila Sundaram-558210, Kenneth Terrell Dismukes Jr.-142101

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: Joyce F. Sims-648510, George C. Turner, Jr.-719237

Member Request for Military Dues Waiver

The Executive Committee, by unanimous voice vote, granted a Military Dues Waiver request for Evan McCulloch.

The Executive Committee discussed if the required active duty income information on the waiver form should be removed, but the consensus was that it provides valuable information in determining the requests.

Office of Bar Admissions

President Pat O'Connor recounted the recent challenges facing the State Bar and the legal profession arising with the proposed reconstitution of Judicial Qualifications Commission, the recent ICLE audit, and the scoring issues at the Office of Bar Admissions. He reported that hearings started yesterday by the JQC House Study Committee, to which Jeff Davis was called to testify. He announced that Immediate Past President Bob Kauffman will report on the ICLE issues and President-elect Buck Rogers will report on the work of the Task Force.

President O'Connor reported that he was called to a meeting ten days ago with Past President John Sammon, Board of Bar Examiners Chair, and Tom Cauthorn about the Office of Bar Admissions scoring errors on the July 2015 and February 2016 bar examinations, affecting 90 test takers. Past President Sammon said he was going to personally call everyone to apologize and would issue a press release later that day. President O'Connor reported that once he learned about the scoring errors, he immediately reported them to the Executive Committee and the Board of Governors to let them know what was going on. The scoring errors have been reported nationally as the largest and most egregious bar exam error in the history of the nation. While the State Bar does not administer or grade the bar exam, the public's perception and that of some lawyers is that it is Bar related.

JQC Legislation Task Force

President-elect Buck Rogers, Chair of the JQC Legislation Task Force, reported that Task Force member Dennis O'Brien did a survey on how other states structure their judicial disciplinary commissions and Georgia was in the minority with one of the smallest commissions and one without separate adjudicative and investigative panels. The Task Force is proposing expanding the commission to strengthen the due process system by separating the investigative function from the adjudicative function. The Task Force will meet again before the Fall Board meeting. At the Fall Board meeting it will report on its activities and provide talking points to the Board members to use with their constituents so that the State Bar's message is consistent.

President-elect Buck Rogers and Jeff Davis reported on Supreme Court Justice David Nahmias' committee that is working on revising the rules of the JQC. The Supreme Court of Georgia has the authority to implement the rules of the JQC regardless of whether or not the constitutional amendment passes. The rules revisions have been a multi-year project. The committee's proposed rules provide for a larger committee and a two-panel bifurcated system (investigative and hearing panel). Any rules changes that contemplate a two-panel JQC will require a constitutional amendment. The State Bar hopes to have proposals from both entities, which will have to go through the State Bar's legislative process and to the Board of Governors.

President Pat O'Connor reported that he met with Representative Wendell Willard last week and discussed that the State Bar wants Bar involvement in the JQC appointment process.

Immediate Past President Bob Kauffman reminded the Executive Committee that if the constitutional amendment passes, the State Bar needs to be ready to submit 10 names for each of the two Bar's appointments to the reconstituted JQC after January 1, 2017.

Proposed Disciplinary Rules Changes

Paula Frederick, after briefly providing a historical perspective of the current disciplinary process, reviewed several proposed revisions to the disciplinary rules as recommended by the Disciplinary Rules and Procedures Committee.

Dawn Jones expressed her belief that David Lipscomb should abstain from voting on the proposed disciplinary rules revisions because he represents respondents in disciplinary cases. President Pat O'Connor said the point raised is worthy of discussion; in fact, he has already asked the Officers, to the extent any of them represent respondents, to decline from doing so while they are Officers, even though there are no rules prohibiting it. David Lipscomb explained that he has represented respondents in disciplinary cases for years and has always divulged that information, and he feels no need to abstain considering that it will be up to the Board of Governors to approve the proposed revisions to the disciplinary rules.

Following that, the Executive Committee took the following action:

1. A motion and second to refer back to Disciplinary Rules and Procedures Committee a proposal that leaves the Review Panel in place with its current duties, but with time limits on its decision process and term limits for the chair, failed by a hand vote of 3 in favor to 10 opposed; and
2. A motion and second that the Executive Committee support the recommendations of the Disciplinary Rules and Procedures Committee, but deferring to the Board of Governors for discussion and approval at the Fall Board meeting, passed by a hand vote of 10 in favor to 3 opposed.

The Executive Committee requested that a summary of revisions by rule, and cost estimates for any budget impact created by them, be included in the agenda materials.

Aging Lawyers Task Force

Secretary Darrell Sutton, co-chair of the Aging Lawyers Task Force, provided a preliminary informational report from the Task Force. It began with a demographic overview showing the graying of America, which statistically shows a shrinking population of young lawyers and rising population of aging lawyers. This is important because age is the single greatest risk factor of cognitive impairment, so based on the statistics, the number of lawyers who reach and exceed the age of 65 will continue to rise, which means the State Bar will see an increasing number of lawyers every year with cognitive impairment. Dealing with aging issues requires a balance of empathy and sensitivity. There are a number of State Bar and bar-related entities working on the aging issue, but their efforts are not coordinated. He and co-chair Bill Gentry have spent the last three months gathering information before meeting with the other members of the Task Force. They have identified immediate term, short term and long term goals for the Task Force. In the immediate term, there is a need to develop a non-disciplinary track for cognitively impaired lawyers, including the creation of a membership classification that makes it acceptable for attorneys to step away from their practices, and a place to house initiatives relating to aging lawyers and be a source of information and education, such as a Senior Lawyers Division. In the short term, there needs to be the development of significant educational programming to inform lawyers at a younger age about issues they may face as they age, finding ways for young lawyers to partner with older lawyers that may be transitioning out of the law practice, and engaging other stakeholders to provide older lawyers, not cognitively impaired, the opportunity for pro bono or other services. In the long term, all of the ideas need to come together and be placed in a platform where they can endure for the long term and be supported by the State Bar.

Immediate Past President Bob Kauffman reported that the Attorney Wellness Task Force has discussed the idea of a mandatory 1-hour mental health CLE. Dawn Jones reported that preventative CLE's would be better attended. YLD President-elect Nicole Leet discussed mentorships, like SCORE, and the need to have more young lawyers on the Task Force.

ICLE Update

Immediate Past President Bob Kauffman, Chair of the ICLE Board of Trustees, reported on the history of ICLE, the whistle-blower complaint, the University of Georgia's (UGA) audit and findings, and the UGA triage committee's recommended firing of three ICLE staff. When the ICLE Trustees met, it recommended the suspension of the three staff with pay and to undertake its own audit by the accounting firm of Cherry Bekaert. In the meantime, the Attorney General's office is now seeking information from ICLE. Doug Ashworth was appointed the interim director, an accounting temp has been hired, and two more temps are to be hired to provide administrative support. The Trustees have appointed an audit committee and a long-range planning committee. Options facing the Trustees in the very near future include 1) working out an acceptable arrangement with UGA so ICLE stays under UGA's umbrella, 2) having ICLE incorporate into a stand-alone non-profit entity, or 3) folding ICLE into the State Bar. All options are complex but may need to be decided on in the next 60-90 days. In the meantime, the State Bar is looking at what would be entailed if ICLE is folded into the State Bar or becomes a stand-alone entity.

President Pat O'Connor reported that he is appointing a Bar committee to study the latter two options and be ready to make a recommendation to the Executive Committee and Board of Governors if they become necessary.

The Executive Committee received a copy of the Limited Review of the Institute of Continuing Legal Education from the University of Georgia's Internal Auditing Division and two *Daily Report* articles on the ICLE audit.

Proposed Revisions to Rule 5.5, Georgia Rules of Professional Conduct

Following a report by Bill NeSmith, the Executive Committee, by unanimous voice vote, approved recommending to the Board of Governors proposed revisions to Rule 5.5 (Exhibit A), Georgia Rules of Professional Conduct.

Section 7. Emeritus Members

Following a report by Bill NeSmith, the Executive Committee, by unanimous voice vote, approved recommending to the Board of Governors proposed amendments to Article 1, Section 7 as follows:

Section 7. Emeritus Members

In addition to the classes of membership provided in the preceding sections of this Article, the Membership Department may approve or disapprove applications for emeritus member status as provided for in Rule 1-202(d) of the Bar Rules. Applications for emeritus membership shall be on forms prescribed by the Membership Department.

Emeritus membership shall have the same privileges, rights, duties and responsibilities as active membership, except that emeritus members shall not give legal advice or otherwise practice law, except as set out in Rule 1-202(d), nor shall they hold office in the State Bar.

Emeritus members may be required to pay section dues at the option of each section of the State Bar.

At the sole discretion of the Membership Department, a member who has attained the age of 70 years, and who has been admitted to the practice of law for at least 25 years, may be placed in emeritus status in the event the Membership Department is unable to locate or contact the qualifying member and provided there is no pending disciplinary action against the member

Sponsorship Request

Following a report by President Pat O'Connor and Jeff Davis, the Executive Committee, by a hand vote of 8 in favor to 4 opposed, approved proposed State Bar of Georgia Sponsorship Guidelines, as revised (Exhibit B).

The Executive Committee, by majority voice vote, approved a \$600 request from Emory Law's Black Law Students Association for its 10th Annual Lecture Series. The funding request for the balance due for a reception held for ABA President Linda Klein was withdrawn as additional sponsorships from other entities covered the cost.

Officer Allowance Accounts

President Pat O'Connor stated that two proposed Officer Expense Reimbursement Policies handed out at the meeting were for information purposes only and will be an action item at a future meeting.

CloudLaw/Zeekbeek Consortium (State Bar Enhanced Membership Directory)

Jeff Davis reported on a proposal for a potential partnership with CloudLaw, Inc. to create linked member directories that help consumers find active attorneys on Zeekbeek.com. Features members can take advantage of include the ability to create customized profiles that consumers can search to find a lawyer, establish unique URLs that allow members to use the profile page as a personal website, and several others. It would be a free service for State Bar members and a good resource to members of the public needing lawyers.

Bill NeSmith reported that the Member Benefits Committee met to discuss the proposal, but took no action so that it can have a presentation by CloudLaw at its next meeting. The proposal will be an information item at the Fall Board meeting.

President's Report

President Pat O'Connor reported that the 2016 Media Campaign is going very well. He thanked the Executive Committee and Bar staff for their commitment and assistance in dealing with the issues brought forth by the ICLE audit, the Office of Bar Admissions scoring issues, and the reconstitution of the JQC. He thanked Jeff Davis and Steve Laine for their assistance to ICLE's staff. He announced that the Advisory Committee on Legislation will meet on September 14, and he thanked Christine Butcher for her work on its behalf. He requested that the Executive Committee read the policies and guidelines provided to them by Paula Frederick.

Treasurer's Report

Treasurer Ken Hodges and Bar CFO Steve Laine reported on the State Bar's finances and investments. The Executive Committee received copies of the Consolidated (Operational and Bar Center) Revenues and Expenditures Report as of June 30, 2016; Income Statement YTD for the Twelve Months Ended June 30, 2016; Bar Center Revenues and Expenditures Summary for the Twelve Months Ended June 30, 2016; State Bar Balance Sheet as of June 30, 2016; Summary of Dues and Voluntary Contributions at July 31, 2016; Legislative Fund and Cornerstones of Freedom Fund Activity Reports through June 30, 2016; and the 2015-16 Bar Year Overall Financial Impacts.

Legislative Report

After the Executive Committee approved adding the Legislative Report to the meeting agenda by unanimous voice vote, Christine Butcher provided an update on the legislative proposals that will be presented to the Advisory Committee on Legislation at its September 14 meeting.

Strategic Plan

The Executive Committee reviewed the Strategic Plan's Priority Strategy. Many of the Priority Strategies

have been or are being accomplished, and they will be reported to the Board of Governors at the Fall Board meeting. Following that, by unanimous voice vote, the Executive Committee approved incorporating Strategy D-1, *Promote the positive role of lawyers and the value of the legal system through various media*, into the Priority Strategy list. President O'Connor also discussed the need for the establishment of the baselines. These quantifiable targets are needed in order to measure the success of the goals. He instructed Bar staff to plug in the baseline figures where data and information is currently available by no later than the Midyear Meeting. Other baselines will need to be determined by surveys.

YLD Report

YLD President Jennifer Campbell Mock reported on the activities of the YLD. The YLD Summer Meeting took place at St. Simons Island on August 18-21, 2016. It featured a CLE on Marketing for Young Lawyers and an afternoon service project benefitting CASA Glynn County. She thanked everyone who attended the 100th Anniversary of Women in the Profession Celebration on August 24, 2016, and recognized Morgan Clemons, Chair of the Women in the Profession Committee, for all of her work in putting the program together. She also thanked the Executive Committee members who responded to her invitation to attend one of the YLD meetings this year to meet and share their experiences with the YLD members. The YLD Fall Meeting will take place in Orlando, Florida, on November 3-6, 2016.

Executive Director's Report

There was no Executive Director report as the items were covered elsewhere throughout the meeting.

Office of General Counsel Report

Paula Frederick reported on the activities of the Office of General Counsel. She discussed proposed internal operating rules developed by the Insurance Committee. The policy states that the Insurance Committee will come to the Executive Director or the Executive Committee before responding to a request for information of a sensitive nature. Along the lines of the aging attorney population, she reported that she is going to ask the Personnel Committee to help her develop a succession plan for the Office of General Counsel.

Employee Background Checks

Jeff Davis reported that a proposal on Bar employee background checks is not yet ready for review or action.

Media Articles

The Executive Committee received a copy of an nbcnews.com article on *Justice Department Says Poor Can't be Held When They Can't Afford Bail*, and a myajc.com op-ed on the *Integrity of Georgia Judicial Disciplinary Process Under Attack*.

Old Business

There was no old business.

New Business

Elizabeth Fite reported that the Executive Committee will be receiving an invitation from King and Spalding for its September 29th program raising awareness about the Safe Harbor for Exploited Children Fund constitutional amendment on the November ballot. Attorney General Sam Olens is the guest speaker.

Executive Session

There was no Executive Session.

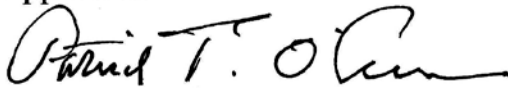
Adjournment

There being no further business the meeting was adjourned.



Darrell L. Sutton, Secretary

Approved:



Patrick T. O'Connor, President