

STATE BAR OF GEORGIA
EXECUTIVE COMMITTEE EXTENDED MEETING
MINUTES
August 20-21, 2021 at 1 p.m.
Zoom Meeting

Members Participating

Elizabeth L. Fite, President; Tony DelCampo, Treasurer; Ivy N. Cadle, Secretary; Dawn M. Jones, Immediate Past President; Elissa B. Haynes, YLD President; Ronald E. Daniels, YLD President-Elect; Bert D. Hummel, IV, YLD Immediate Past President (via Zoom Aug. 20/in person Aug. 21); William C. Gentry; R. Javoyne Hicks; Shiriki Jones; David S. Lipscomb (via Zoom); Martin Valbuena; and Nicki N. Vaughan (via Zoom).

Members Absent

Sally B. Akins, President-Elect.

Staff Participating

Sarah Coole, Chief Operating Officer; Damon Elmore, Executive Director; Paula Frederick, General Counsel; Michelle Garner, Director of Meetings; Christine Butcher Hayes, Director of Governmental Affairs; Bill NeSmith, Deputy General Counsel; and Ron Turner, Chief Financial Officer.

Call to Order

President Elizabeth L. Fite called the meeting to order at 1:03 p.m. Members of the Executive Committee in attendance are indicated above. The beginning of the meeting was spent in introductions of those in attendance both in person and on Zoom.

President Elizabeth L. Fite discussed the responsibilities of the Executive Committee, including serving as Executive Committee liaisons to State Bar committees. She then called upon each of the following for more information: Executive Director Damon Elmore, Chief Financial Officer Ron Turner, General Counsel Paula Frederick and Director of Governmental Affairs Christine Butcher Hayes.

Executive Director Damon Elmore discussed the duties of the Executive Director: managing the Bar as a whole; overseeing several managers who report directly to his office; focusing on operating the Bar in the current environment, improving procedures, protecting the fiscal responsibility of the Bar and spending; looking for efficiencies in procedure; and making sure we have competent and qualified staff in the right positions. Executive Director Elmore said many of the duties are based on accountability, and not focusing on the project right in front of us, but rather long-range planning and anticipating issues on the horizon. He reported that he is intentional when speaking to committee and section leaders about remarks and statements to the press, trying to ensure that correspondence goes through the Communications Department for consistency and accuracy. He stated that his secondary role is to serve as a representative of the Bar, reminding Bar members of the value of the Bar and why they should be proud to be a Georgia lawyer.

Chief Financial Officer Ron Turner discussed the Officer Reimbursement Policy. Two years ago, the Bar went to a practice of per diem rates rather than looking at individual expenses. The information on the financial statements they receive each month is only as good as the timeliness of expenses being turned in. Financial audits have been conducted in January, February and March in the past, but the goal is to have that done closer to the end of the year. He reported that for members of the Executive Committee that are non-officers, the current policy provides for accommodations and group meals to be covered only for the following from the Executive Committee line item: Executive Committee extended meeting, Supreme

Court and Executive Committee joint meeting. For officers, officer budgets cover those as well. The Bar doesn't cover travel costs or meals outside provided meals for non-officers.

General Counsel Paula Frederick reviewed Standing Board Policy 600 (Conflicts of Interest). A volunteer member "shall disclose any conflicting interest to the officer or chairperson immediately presiding over the business of the Bar to which the conflict may relate." General Counsel Frederick spoke to the Executive Committee about revising the policy in order to allow for Bar staff to report to either the Executive Director or General Counsel conflicts that are brought to their attention, among other issues. She also brought Standing Executive Committee Policy 1200 (Endorsement of Political or Judicial Candidates) to the attention of the Executive Committee, which states in part, "State Bar officers may not use their official title or include their connection to the Bar in any public endorsement of political or judicial candidates. When an officer of the State Bar of Georgia verbally endorses a candidate, the officer shall clearly state that the endorsement is made in his or her personal capacity and is not the endorsement of the State Bar of Georgia." She explained *Keller*, which prohibits spending mandatory Bar dues for anything that is not germane to the purposes of the Bar or the Bar's activities related to regulating the profession. She stated we are not allowed to spend Bar dues on anything that is political or ideological, which she acknowledged is difficult to define now. General Counsel Frederick said that Executive Committee members will be contacted by the public regarding discipline matters. Because the disciplinary process is confidential, the Executive Committee should not respond but rather forward those matters to her to handle.

Director of Governmental Affairs Christine Butcher Hayes discussed the Bar's Legislative Program, which is governed by Standing Board Policy 100 (Legislative Policy and Procedure). She explained that all proposals must go through the Advisory Committee on Legislation to move forward in the process. There is a special process in place for the Executive Committee to approve support of or opposition to legislation if the timing of an ACL meeting is not possible. Director of Governmental Affairs Hayes reviewed the following advice for Executive Committee members: 1) Know the rules before you start the process; 2) Be respectful of all players, regardless of position or party; 3) Use social media judiciously, as leaders of the Bar, many are watching; 4) Be smart enough to know what you don't know, no answer is better than the wrong answer and you should always be prepared; 5) When working within the government, substance is expected and a sophisticated work product is vital; 6) You can never get in trouble by saying nothing; 7) You can never have a statewide view if you forget the view from your hometown; 8) Never lie, trustworthiness is the only currency you have with government officials; 9) Help the Bar speak as one non-partisan voice, always let Christine know if you are going to be at the Capitol and in what capacity; and 10) Positive relationships influence people, it's important to build relationships.

Future Meetings Schedule

President Elizabeth L. Fite reviewed the Future Meetings Schedule. She announced that the January and February Executive Committee Meetings will be switched, January will be on Zoom and February will be in person in Tifton, realizing everything is subject to change in respect to COVID restrictions, etc.

Director of Meetings Michelle Garner reported on the current landscape of the hotel industry. With almost all hotels either being closed or having limited staff during the pandemic, the shareholders are looking to recoup their earnings. Director of Meetings Garner said the costs are increasing exponentially, and it will be difficult to negotiate good rates for meetings going forward. Many properties are turning down groups of our size and increasing the rates. We always hear feedback about keeping Bar meetings in the state, but that is then countered by feedback of those who want to go to a beach location. The Executive Committee then discussed current pricing and other obstacles and scenarios to keep in mind when planning future meetings. Treasurer Tony DelCampo suggested appointing a small group to further look into these ideas and issues and discuss them further: hotel costs, subsidizing costs, being more economical in order to be more inclusive so more can attend, virtual costs, etc.

Executive Committee Minutes

Secretary Ivy Cadle presented for approval the minutes of the July 9, 2021, Executive Committee meeting. By unanimous voice vote, after revision, the Executive Committee approved the revised minutes of July 9, 2021.

Members Requesting Resignation

Pursuant to State Bar Rule 1-208, the Executive Committee approved the following resignation requests by unanimous voice vote: Martine A. De Proost Ford-000990, Alixe Elisabeth Steinmetz-612460, Judith Inge Harris-382990, Denise Lynn Savage-630720, Joshua Reed Drexler-751684, Emilien Omer Loiselle Jr.-456305, Melissa Leigh Gross-313563, Latanya Mapp Frett-468998, Diana Lynn Myers-533078, Robert Edward Dudley Jr.-231760, Richard C. Murphy-513047, Michael John Woodworth-006580, Louis Hugh Pugh-589524, Stephen Andrew Sacks-622000, Carol Russell Geiger-288882, Melissa Pignatelli O'Brien-496416, S. Richard Gard Jr.-283928, Helen Adrian Cooper-005459, Gary A. Rosen-614411, Kimberlye F. Cornelson-188470, Mark Edward Harman-327160, Mathilde L. Genovese-289750, Shauna Lyn Turnbull-718810, Susan His-Yung Raimo-452858, Kenneth Paul Hyle-381746, Daniel Ethan Zytneck-550151, Penny L. Bellinger-049710, Angela O. Pesnell-102932, Barry S. Mittenthal-513850, Jacqueline F. Stein-677840, Todd W. Ponder-583492, Kara Deanne Ford-756273, Katherine A. Moss-234637, Tracy Lynn Hurt-380108, David Jay Tigges-712146, Victor Ming-Chun Lai-431113, Margaret Cadigan-101637, Gerald K. Stephens Jr.-678870, Meredith Leigh Silliman-392433, Daniel John Greenberg-342780, Nancy Rosenberg Johnson-986336, Lissa Gill Newman-004770, Robert Weller McCarthy-482267, Michael Robert McCarthy-006090, Musa L. Eubanks-143177, Traci Cerise Belmore-532741, Lance Casey-787933, Laurel Catherine Schmitt-629543, Lindsay Marie Hodgson-142491, Ann Claire Phillips-359608, Tamara Denise Rorie-615155, Betty Carolyn Strom-688660, Lorna Marie Rhoades-940669.

Disability Status

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

Member Status Appeals

The Executive Committee, by unanimous voice vote, approved the staff recommendation for James “Burton” Vance to waive his late fees and reinstatement fees to acknowledge the problems caused by the pandemic but the Executive Committee did not approve the staff recommendation to require fitness be completed to emphasize his personal responsibility related to his State Bar of Georgia license; by unanimous voice vote, approved the staff recommendation for Lindsay Tatum to grant a military waiver request for active dues plus professionalism fee; and by unanimous voice vote, agreed to waive the late fee for Arathi Venkatesh.

Fee Arbitration Rules

Deputy General Counsel Bill NeSmith briefly explained how the Fee Arbitration Program currently operates. If the Fee Arbitration Committee accepts a case, the respondent has a choice of being bound or not bound. In a joint meeting with the Supreme Court of Georgia in March 2019, the Court expressed their preference that the Bar’s Fee Arbitration Program be like other arbitration programs, that if you choose to participate, then you’re bound by the ruling. The Fee Arbitration Committee has worked to amend the rules to reflect that. These revisions are referred to as “the Florida model.”

If the rules are amended, the program would be a consent-only program where both the petitioner and respondent must agree to be bound by the arbitration award. The proposed amendments would also allow the Fee Arbitration Committee to refer a petition to the Office of the General Counsel for a disciplinary investigation should a lawyer refuse to be bound by the arbitration proceeding. Another revision is to limit

the petition and response to 50 pages and change the threshold from \$750 to \$1,000.

The Executive Committee, by majority voice vote, with one abstention by David Lipscomb, voted to refer the revised rules to the Board of Governors for their consideration.

Rule 1-501(d). License Fees

Deputy General Counsel Bill NeSmith reported that the Membership Department would like to change the rule to allow for first-class mail rather than certified mail prior to suspension. The Executive Committee, by majority voice vote, rejected the change on line 50 (changing “certified mail” to “First-Class U.S. Mail, postage paid”), but then accepted the remainder of the housekeeping changes in Rule 1-501(d) License Fees, to recommend to the Board of Governors for their consideration.

New Judicial Circuit/Augusta Board of Governors Posts

As of July 1, Senate Bill 9 created the new Columbia Judicial Circuit comprised of Columbia County. Per Bar Rule 1-701, “whenever a new judicial circuit is created, the Executive Committee shall determine, under the provisions of Bar Rule 1-302 (b) and the bylaws, the number of members of the Board of Governors the new circuit is entitled to elect...” Per Article III Section 8. New Positions Unfilled Positions, Vacancies, and Lost Positions, “if any new position is created as a result of legislation establishing a new judicial circuit, the President shall appoint an active member of the State Bar in such circuit to hold office for the remaining term.”

The Executive Committee, by unanimous voice vote, approved the creation of one post for the Columbia Circuit and determined the Augusta Circuit would continue to have four posts. President Elizabeth L. Fite will appoint Danny Durham, who currently holds an Augusta post, to the new Columbia Circuit, and she will appoint a new member to the Augusta Circuit.

Committee Updates

The following committee updates were provided:

- President Elizabeth L. Fite reported the Office of the General Counsel Oversight Committee met to discuss succession planning and review the 2020-2021 OGC report.
- Shiriki Jones reported the Editorial Board met last week for the first meeting of the year and had robust discussions regarding the articles submitted for possible publication in the *Georgia Bar Journal*.
- David Lipscomb reported that the Fee Arbitration Committee has not yet met this Bar year; the Professional Liability Committee has now made a recommendation to the Executive Committee and will likely no longer meet; and the Judicial Procedures Committee only meets as needed.
- Immediate Past President Dawn Jones reported that the Seeking Equal Justice Committee will meet next on Sept. 10.
- Javoyné Hicks reported the Lawyer Assistance Program met in July and the #UseYour6 campaign is still working well. So well, in fact, that CorpCare Inc., who administers the LAP program, will likely increase their costs in the next contract, because of the large increase in usage.
- Bill Gentry said there are no updates on the Children and the Courts Committee or the Attorney-Client Solicitation Committee, but that Avarita Hanson is working on a cognitive impairment program for the Senior Lawyers Committee.

ACL/Legislative Report

Director of Governmental Affairs Christine Butcher Hayes notified the Executive Committee of the upcoming Advisory Committee on Legislation Committee dates: September 14, November 30, and February 5 (reserved if needed). Kyle Williams is chairing the ACL this year. Director of Governmental

Affairs Hayes stressed the importance of building relationships with individual legislators, and that she's available to help coordinate meetings or lunches. She also asked Executive Committee members to let her know of any established relationships.

An outing with the Executive Committee and the Governor's Office is scheduled for October 1. Director of Governmental Affairs Hayes said that it is a good opportunity to get to know the Governor's staff.

Director of Governmental Affairs Hayes reported that a Special Legislative Session will likely be held in mid-October or early November. The Governor sets the date in an executive order. It is unlikely to involve anything regarding any of our legislation, but will focus on redistricting. She said she receives many calls and emails regarding the Remote Online Notary Bill, especially outside of Atlanta. It is a unique bill that touches on UPL and the Rules of Professional Conduct, and it involves the Bar a fair amount. The Executive Committee had a discussion regarding if this issue is a business issue or a regulation/practice of law issue. After their discussion, it was advised that should the Real Property Section's position have changed on the Remote Online Notary Bill, then the section should ask ACL to make a recommendation to the Executive Committee and the Board of Governors.

Executive Director's Report

Executive Director Damon Elmore reported on the Member Benefits Committee recommendation regarding the Member Benefits Inc. request to add a MEWA (Multiple Employer Welfare Arrangement) insurance option on the Private Insurance Exchange for Bar members. He spoke with Committee Vice Chairperson Ron Lowry who said the committee vote was unanimous, but some had reservations, and there was a possible economic impact of about \$100,000 to the Bar. This will be reviewed and discussed further. Executive Director Elmore also reported that the Elections Committee will have a plan in place to notify Bar members of the change to the election method of opting in to paper ballots rather than opting out.

Executive Director Elmore additionally reported that Director of the Military Legal Assistance Program Christopher Pitts will be resigning his position to accept a job with the United States Court of Appeals for the Armed Forces. MLAP is a joint program of the State Bar of Georgia and the Georgia Legal Services Program.

Executive Director Elmore updated the Executive Committee on the state of the Bar staff. He said that masks are mandatory in the Bar buildings, and staffing will remain at 2-3 days per week in the office and 2-3 days working from home. The Conference Center is open and available for small meetings, and everyone is proceeding with caution following COVID safety protocols. He said the staff seems comfortable with the current COVID-19 protocols, and everyone remains focused on salaries and what that means for the next budget year.

Treasurer's Report

Treasurer Tony DelCampo reported on the Bar's finances and the Executive Committee reviewed the budget variances. The Coastal Georgia Office is slightly over budget by \$2,000-\$3,000 because of the increase in rent. The current report is through May 31, 2021, and Chief Financial Officer Ron Turner said that June 30, 2021, will be closed in the next couple of weeks.

Office of the General Counsel's Report

Following a motion, second, and unanimous voice vote, the Executive Committee met in Executive Session to discuss the litigation report. Thereafter, by unanimous voice vote, the Executive Committee emerged from Executive Session.

Additionally, General Counsel Paula Frederick provided a copy of Standing Executive Committee Policy

100 (*Amicus* Brief Policy). She said that per the policy, “in determining whether to file an *Amicus* brief the Executive Committee should, among other considerations, determine that: 1) the outcome of the litigation will effect persons other than the litigants, and; 2) the outcome of the litigation will be of general interest to the members of the State Bar of Georgia.” General Counsel Frederick reported that she has had a request regarding a possible *Amicus* brief, and that she will provide further information if and when she is contacted about it again. There is time for the Executive Committee to consider it at their September meeting or for the Board of Governors to consider it at the Fall Meeting.

YLD Report

YLD President Elissa Haynes reported that the YLD had a successful Officer and Director’s meeting the previous weekend, and she said many expressed their appreciation of President Elizabeth L. Fite attending and said it showed a proactive effort in encouraging the big Bar to get involved with what the YLD is doing. YLD President Haynes said she appointed a subcommittee to look more into technology and producing a podcast. She is bringing back the YLD Signature Fundraiser, and the beneficiary this year will be Kate’s Club, an organization that empowers children and teens facing life after the death of a parent, sibling or caregiver. She reported that the 2022 YLD Leadership Academy is currently being planned and a scholarship will be offered to encourage participation by those who may not be able to afford it. She also let the Executive Committee know that she is starting a “Bring a Buddy to a Meeting” program, where individuals or firms can sponsor young lawyers in order for them to attend meetings, and those sponsors will be recognized at the Annual Meeting. President Fite asked YLD President Haynes to send the sponsorship information to the Executive Committee when it is available.

Sunsetting Committees

President Elizabeth L. Fite reported on sunseting committees and highlighted the process for those coming up through the officer ranks. Per Bar rules: 1) special committees may be sunset at the President Elect’s discretion during the committee appointment process; and 2) standing committees may be abolished by the Board of Governors. She asked that the officers, along with the Executive Committee, stay abreast of all Bar committees and what they are doing, what they are needed for, and to make sure they are still working within their purpose.

Rule 1-501(d). License Fees (appeals process)

Deputy General Counsel Bill NeSmith explained the appeals process related to licensing fees. He said that in thirty years, it had been used once, unsuccessfully. He suggested instead of the current lengthy process that involves a member appealing to the Executive Committee, if the committee wishes to keep the appeal process in place, a special master could be used instead. Executive Committee David Lispcomb suggested using a small subcommittee of the Executive Committee in order to avoid the costs of a special master. Deputy General Counsel NeSmith said that the purpose of using a special master would be to have a disinterested third party hearing the appeals rather than the Executive Committee. President Elizabeth L. Fite asked the Office of the General Counsel to draft the revision for consideration at a future Executive Committee meeting.

Uniform Rule for Juvenile Courts

Uniform Rules require that any proposals/rules changes be sent to the State Bar of Georgia for comment by Bar members. Anne M. Kirkhope, Staff Attorney for the Council of Juvenile Court Judges, sent three proposed rules changes to the Uniform Rules for the Juvenile Courts. She asked for feedback from the Executive Committee to the Council and the Supreme Court concerning the changes. The Executive Committee has commented and has declined to comment on these types of rules changes in the past.

The proposed changes include one amended and two new uniform rules adopted by the Council of Juvenile Court Judges at its spring business meeting. The two new rules were drafted in compliance with recently

enacted legislation. The proposed amendment is sought to make permanent a change made by the Declaration of Statewide Judicial Emergency concerning the use of remote video conferences to conduct certain types of juvenile court proceedings. All three proposed rules changes have been submitted to the Supreme Court for approval. The Executive Committee had no comments on the proposed rules changes and Deputy General Counsel Bill NeSmith will convey that to Ms. Kirkhope.

Clients' Security Fund

Secretary Ivy Cadle reported on the Clients' Security Fund and the proposed rules changes in order to make the fund self-sustaining per the Supreme Court of Georgia's request. He provided the Executive Committee with a draft of preliminary information that was created in order to answer the outstanding questions gathered at the June Board of Governors meeting. He asked the Executive Committee to review the data and let him know what other questions they have in anticipation of creating a more comprehensive memo for the Board of Governors well in advance of the Fall Meeting Board Book in order for all members to have time to ask additional information. After a lengthy discussion and additional feedback by the Executive Committee, Secretary Cadle said he would write the comprehensive memo and provide it to Bar staff to send to the Board of Governors prior to the mailing of the Board Book.

Virtual Meeting Participation and Electronic Voting

President Elizabeth L. Fite reported on virtual meeting participation and electronic voting. Questions that need to be addressed are: what does virtual participation mean; balancing the cost of virtual participation and how many utilize the feature; and should we shift to livestreaming for a more economical option. The current Executive Committee meeting AV costs for virtual participation is \$2,000, but it was \$65,000 for the Annual Meeting board meetings with two rooms connected to each other and Zoom participants. Hotels either will not allow you to bring in your own AV equipment or they will charge you to bring in your own AV. Bar staff is reviewing and researching different platforms for electronic voting because a livestream of the meeting and allowing the BOG to vote electronically is likely the most economical option. More information will be provided at the September Executive Committee meeting.

Lawyer Competency Task Force

Following a motion, second, and unanimous voice vote, the Executive Committee met in Executive Session to discuss the Lawyer Competency Task Force. Thereafter, by unanimous voice vote, the Executive Committee emerged from Executive Session.

ICLE Report

Following a motion, second, and unanimous voice vote, the Executive Committee met in Executive Session to discuss the Institute of Continuing Legal Education of the State Bar of Georgia. Thereafter, by unanimous voice vote, the Executive Committee emerged from Executive Session.

Professional Liability Insurance Update

President Elizabeth L. Fite outlined the report and options provided by the Professional Liability Insurance Committee. The committee has done its due diligence and vetted all possible options, with the process lasting a few years. Their goal was to give a final recommendation to the Executive Committee and Board of Governors, but no option received a majority vote. Executive Committee Member David Lipscomb provided a summary and vote count of each option. President Elizabeth L. Fite noted that she did not remove or appoint any members to the committee during her committee appointments in order to continue status quo. The Executive Committee discussed how to present the information to the Board of Governors at the Fall Meeting in order to make a final vote. All the options will be provided with an executive summary prior to the Fall Meeting Board Book being mailed, in order for the Board of Governors to have adequate time to review the information.

Officer and Executive Committee Expense and Reimbursement Policy
Tabled for the next meeting.

Strategic Plan
Tabled for the next meeting.

President's Report

President Elizabeth L. Fite reported that the COVID-19 Task Force appeared to be winding down, but with the variants and increase in cases, the task force will continue for the foreseeable future. She said without a Judicial Emergency Order, protocols are up to the individual circuits. The Administrative Office of the Court's website is the repository for the work of the Task Force and any orders entered by the individual circuits. President Fite is working with Director of Communications Jennifer Mason to reorder and review the COVID-19 resource page on the Bar's website in order to bring the most important information to the forefront. President Fite has also been involved with helping to plan a Lunch & Learn for judges and their staffs to help courts learn and adopt additional technology in order to operate most efficiently during the pandemic.

Board of Governors Minutes

The Executive Committee received a draft version of the minutes from the June 11 and June 12, 2021, Board of Governors meetings.

Old Business

There was no old business.

New Business


YLD Immediate Past President Bert Hummel reported that the YLD received an award this year from the ABA YLD for the best single project of any affiliate for the YLD's Pollworker Program. He also said he attended a recent Cobb County Bar Association meeting where chief judges updated those in attendance on how their courts are running and what they are seeing, and it was super informative. He encouraged Executive Committee members who are members of their local bars to do the same – that it promotes good camaraderie with the bench and bridges the gap of information.

Adjournment

There being no further business, the two-day meeting was adjourned.


Ivy N. Cadle, Secretary

Approved:


Elizabeth L. Fite, President