

**STATE BAR OF GEORGIA
EXECUTIVE COMMITTEE
MINUTES**

**Wednesday, November 7, 2018/11:00 a.m.
Merry Acres/Albany, GA**

Members Participating:

Kenneth B. Hodges, III, President; Darrell L. Sutton, President-elect; Buck Rogers, Immediate Past President; Elizabeth Louise Fite; Secretary; Dawn M. Jones, Treasurer (by phone); Rizza O'Connor, YLD President; William T. Davis, YLD President-elect (by phone); Nicole C. Leet, YLD Immediate Past President; Sally B. Akins (by phone); Tony DelCampo; Amy V. Howell; David S. Lipscomb; Frank Strickland (by phone); and Nicki Vaughan.

Guests Present:

Alfred N. (Al) Corriere from the Dougherty Judicial Circuit.

Staff Participating:

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

Call to Order

President Ken Hodges called the meeting to order at 11:05 a.m. Members of the Executive Committee in attendance are indicated above.

Future Meetings

President Ken Hodges reviewed the Future Meetings Schedule.

Executive Committee Minutes

By unanimous voice vote, the Executive Committee approved the meeting minutes of September 21-22, 2018.

Members Requesting Resignation

Pursuant to State Bar Rule 1-208, the Executive Committee approved the following resignation requests by unanimous voice vote: Robert J. Everhart Jr-253085, Basil Waine Kong-428119, Joseph Heimovics-343540, C. David Johnston-396150, Kirk Stiles-682110, Kayla Dye May-479098, Carolyn Soloway-274610, Joshua Hess-200834, Joseph Asher-024655, James Power-586578, Aimee Kirby-139310, Angela Barber-379579, Gary T. Johnson -393523, Kaylee Niemasik-214330, Jack Park Jr-561450.

Members Requesting Disabled Status

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

Treasurer and Secretary Stipend Adjustment

This item was tabled.

Fee Arbitration Rules

As directed by the Executive Committee, Executive Director Jeff Davis presented proposed new rules for a consent fee arbitration program, based on The Florida Bar's model, wherein the program would only arbitrate cases where both the lawyer and the client agree to be bound. He also reported that David Lipscomb sent out yesterday proposed rules from the Fee Arbitration Committee for a mandatory fee arbitration program. Since the Executive Committee has not had time to review those rules, no action will be taken on the rules at this meeting.

David Lipscomb reported that the Fee Arbitration Committee has prepared rules for a mandatory program that take into account issues that have arisen in the past in administering the program, and when the Executive Committee has asked for a review. In the rules, lawyers could not opt out of a fee arbitration once it was filed. David further reported that about 10-15% of lawyers refuse to be bound; 35-40% involve hearings were lawyers do agree to be bound; and 60-70% percent of the awards will actually be paid. He said that the remaining cases are sent to a contract lawyer for enforcement and so far this year the contract lawyer has received nine cases. He further stated that most lawyers who never pay the award end up being disbarred. A second recommendation by the Fee Arbitration Committee is that under the proposed mandatory program, if a lawyer fails to pay the award within 30 days he/she would receive an administrative suspension.

Jeff reported that there is a significant difference in the caseload between the two proposed programs. He said it takes a year to have an arbitration scheduled after a petition is filed; sometimes two years when it is difficult to serve the attorney or the attorney fails to cooperate. YLD President Nicole Leet asked if the mandatory program could be streamlined to make the process faster. David said at a minimum it generally takes 8-9 months to schedule a hearing. He said raising the threshold from \$750 to \$1,000 or \$1,500 may help in that regard. Regardless whether we choose consent or mandatory arbitration, it was the consensus of the Executive Committee that the process needs to be streamlined. President Ken Hodges asked that we have a framework and recommendation at the February Executive Committee meeting.

Mandatory Malpractice Insurance

President Ken Hodges announced that instead of sending the issue of mandatory malpractice insurance to the Disciplinary Rules and Procedures Committee, he will be appointing a special committee to look at the matter and make a recommendation.

Proposed Amendments to Part VII Lawyer Assistance Program

Following a report by Deputy General Counsel Bill NeSmith, the Executive Committee, by unanimous voice vote, approved recommending to the Board of Governors proposed amendments, as revised, to Part VII Lawyer Assistance Program (Exhibit A).

Approval of LLC Documents Related to ICLE

Following a report by Deputy General Counsel Bill NeSmith, the Executive Committee, by unanimous voice vote, approved proposed LLC Indemnity Agreement (Exhibit B), which includes the following documents: LLC Indemnity Agreement, Asset Transfer Agreement, Assignment and Assumption Agreement, State Bar of Georgia Guaranty, Closing Memorandum, Domain Assignments, Bill of Transfers, Transferee's Certificate, Transferor's Certificate, Articles of Organization of ICLE of the State Bar of Georgia, Operating Agreement for ICLE of the State Bar of Georgia, Service Agreement.

Proposed Rule on Registration of In-House Counsel

The item was tabled until the next EC meeting.

Policy Concerning Use of the Conference Center by Non-Profits

Executive Director Jeff Davis reported on the heavy usage of the Bar's Conference Center facilities. He is proposing that the Conference Center be available for only the following entities without charge as space may be available: 1) local and affinity bar associations; 2) legal services organizations, and 3) government entities providing legal education seminars or other law-related events. Following a motion and second to approve the proposed policy, a motion to table the issue until the next Executive Committee meeting was unanimously approved, causing the main motion to fail. The Executive Committee asked that a redlined version of the Bar-related Entity Reservation/Pricing Form for reserving space at the Conference Center be submitted in advance of the next Executive Committee meeting for its review.

Request for Corporate Credit Card Limit Increase for ICLE Director

Following a report by Executive Director Jeff Davis, the Executive Committee, by unanimous voice vote, approved increasing the corporate credit card limit for the ICLE Director position from \$10,000 to \$25,000.

President's Report

President Ken Hodges announced that his report to the Board of Governors on November 2 covered everything he would have discussed today.

Treasurer's Report

Treasurer Dawn Jones reported on the Bar's finances.

The Executive Committee received copies of the Consolidated (Operational and Bar Center) Revenues and Expenditures Report as of August 31, 2018; Income Statement

YTD for the Two Months Ended August 31, 2018; Bar Center Revenues and Expenditures Report for the Two Months Ended August 31, 2018; Summary of Dues and Voluntary Contributions at August 31, 2018; Legislative Fund and Cornerstones of Freedom Fund Activity Reports through August 31, 2018; and an Investment Performance Comparison 2005-2018.

YLD Report

YLD President Rizza O'Connor reported on the activities of the YLD. She said she was looking forward to the YLD Fall meeting at Lake Oconee on November 9-11, 2018. It will feature a CLE on insights, advice and tips on practicing in rural Georgia, and a kickball wellness activity. She reported that this past weekend there was an opportunity to volunteer for the Atlanta Volunteer Lawyers Foundation Saturday Lawyers Program, and a recent community service event that raised money to buy and serve food to families at Ronald McDonald House. The YLD continues its outreach to around the state at Georgia's law schools. The Corporate Counsel Committee has been busy offering creative, fun events. The Women in the Profession Committee held a kickboxing event, and on November 8 it is hosting a *Beer + CLE: Changes to Georgia's Malt Beverage Laws* at New Realm Brewing Company in Atlanta. The Labor and Employment Committee has a program this evening for in-house counsel on government law. The YLD is joining with the Pro Bono Service Awards to highlight the Public Interest Internship Program recipients. Lastly, Rizza reported that there will be a Wills Clinic at Mercer School of Law during the Midyear Meeting, and a Legal Food Frenzy golf tournament on April 15, 2019.

Executive Director's Report

Executive Director Jeff Davis reported that we are in discussions with the State Properties Commission representing the Public Defenders Council that wants to consolidate their operations on the 5th floor of the State Bar Building, and the Prosecuting Attorneys Council is considering space at the Bar Center. He is hoping we can get the 5th floor renovated and fully occupied with 10-year leases. The Executive Committee asked the Bar to look at the possibility of obtaining additional parking facilities to accommodate new tenants and increased Conference Center usage by members.

ACL/Legislative Report

Director of Governmental Affairs Christine Butcher Hayes reported on the losses and gains of lawyers in the Georgia General Assembly. She stated that three Board of Governors members are members of the Senate – John Kennedy, Jennifer Jordan, and Zahra Karinshak. Christine reported that Amendment 2 establishing state-wide business courts passed so we could be involved in helping draft accompanying legislation. Lastly, she reported that the U.S. Supreme Court has still not made a decision on the petition for cert in the Fleck case.

Office of General Counsel Report

Deputy General Counsel Bill NeSmith reported that the receivership rules are near completion. He also reported that the Client's Security Fund Board of Trustees created a committee to study funding issues. Lastly, he reported that the Bar sponsored an active shooter training for all Bar staff.

Offer of Settlement Insurance

President Ken Hodges discussed offer-of-settlement insurance that is designed to protect plaintiffs who decline an Offer of Settlement and have the potential of suffering financial loss due to a ruling adverse to their case. It has been offered in Florida since 2012 and is now available in Georgia. The coverage is not regulated by Georgia's insurance commissioner, but it has to be sold by an authorized insurance carrier. Ken reported that he plans to appoint a committee to look into the issue and make a recommendation.

Bar Organizational Review

Executive Director Jeff Davis reported on Pathfinder Executive Consulting that can conduct an organizational study of the Bar. President Ken Hodges will be meeting with John Phelps, owner and founder of Pathfinder, at the ABA Midyear Meeting to discuss the idea further and have a better understanding as to the consulting services he could provide to the Bar.

Bench & Bar Committee 18th Annual Chief Justice Thomas O. Marshall Professionalism Awards

The Executive Committee received a copy of the Call for Nominations for the Bench & Bar Committee 18th Annual Chief Justice Thomas O. Marshall Professionalism Awards.

Recent UPL Standing Committee Action

Jeff Davis reported on the UPL Standing Committee's recommendation that the Supreme Court of Georgia consider revising some Bar rules governing the composition of the UPL committees and add an additional non-lawyer than lawyer to the UPL Standing Committee to further ensure that the Standing Committee is in compliance with antitrust laws governed by the Federal Trade Commission.

Old Business

There was no old business.

New Business

Tony DelCampo reported that the Bar currently does not collect demographic information, but if the Bar is trying to do a better job of diversifying the profession, it needs to collect some demographic data. Executive Director Jeff Davis reported that General Counsel Paula Frederick was going to check to see whether other mandatory bars collect this information and report back her findings. A motion to table the issue until the next Executive Committee was approved by unanimous voice vote. Tony DelCampo was


asked to work with Paula in this effort.

Adjournment

There being no further business the meeting was adjourned at 1:20 p.m.



Elizabeth D. Fite, Secretary

Approved:


Kenneth B. Hodges, III, President