



Utah Supreme Court's Advisory Committee on the Rules of Professional Conduct

Meeting Minutes

May 7, 2024

Utah Law and Justice Center & Webex

4:00 pm Mountain Time

Cory Talbot, Chair

Attendees:

Jurhee Rice (Co-Chair)
Corey Talbot (Chair)
Ashley Gregson
Adam Bondy
Ian Quiel
Alyson McAllister
Robert Gibbons
Hon. James Gardner
Mark Hales
Lynda Viti
Hon. Trent Nelson
Christine Greenwood
Sheradee Fleming (ex officio)
Beth Kennedy (ex officio)

Excused: Hon. Amy Oliver, Dane
Thorley, Hon. Craig Hall, Mark Nickel,
Gary Sackett (emeritus), Hon. M. Alex
Natt (Recording Secretary)

Staff:

Stacy Haacke

Guests:

1. Welcome, Approval of the April 2, 2024 meeting minutes (Chair Talbot)

Chair Talbot recognized the existence of a quorum and called the meeting to order at 4:05 p.m.

Chair Talbot asked for a Motion to approve the April 2, 2024 meeting minutes. Mark Hales moved for approval. Adam Bondy seconded. The Motion passed unanimously.

2. Rule 5.5 (Mr. Bondy)

Mr. Bondy provided an overview of the discussion from the last meeting. The subcommittee recommends no comment be added to Rule 5.5 as this rule relates to the unauthorized practice of law and is aimed at those who are not licensed in the state of Utah. Also, a comment here could contradict rules regarding the unauthorized practice of law in other states. Utah rules do not require an office in Utah, but other states might not allow an law office in their state while practicing law in another state. Utah attorneys should look to the rules of the state where they reside or have an office if it is not in Utah.

There were no comments or questions from Committee members. No further action will be taken on this topic.

3. Referral Fees in Rules 1.0, 1.5, 5.4 and 5.8 (Ms. Kennedy)

The Committee met with the Supreme Court Justices regarding amendments to the rules for referral fees. The Justices requested the Committee work on defining referral fees when there is no work involved, and wanted fee sharing to be defined broadly using the ABA rules as a guide where appropriate. The subcommittee had already proposed a new rule 5.8, and drafted definitions. Rule 1.5 points the reader to rule 5.8 now and there are a few changes to rule 5.4.

The Committee reviewed amendments to each rule and the new rule 5.8. The previous amendments did not define fee sharing because it was included in referral fees. A substantive request from the Supreme Court was to separate out fee sharing, which is now defined in rule 1.0(d). Comment 7 to the ABA model rule includes similar language for fee sharing.

The Committee discussed the definition of referral fee in rule 1.0, specifically the language “for the sole purpose of.” Some firms pay for lead marketing generation services through companies and this would not be prohibited. Discussion of the definition for referral or a comment that general marketing is not included within the definition of referral.

Motion from Ms. McAllister to approve the four rules to go to the Supreme Court for approval and out for public comment. Also, that the example in the comment

in rule 5.8 regarding when fee sharing agreements may be appropriate be flagged for review by the Supreme Court. Unanimous approval by the Committee.

4. Standards of Professionalism and Civility (Mr. Gibbons)

Mr. Gibbons provided an overview of this topic for the Committee as the subcommittee reviewed all of the Standards of Professionalism and Civility for possible incorporation into the any rules. The subcommittee noticed that Standard #16 had some attention in the case law. Judge Garner motions that the Committee recommend to the Supreme Court Advisory Committee on the Utah Rules of Civil Procedure a review of Standard #16 to determine whether it should be incorporated into the rules of civil procedure. Unanimous approval by the Committee.

The next meeting of the Committee is June 4, 2024.

The meeting adjourned at 6:00 p.m.