



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

Meeting Minutes

January 6, 2026

Via Webex

4:00 pm Mountain Time

Cory Talbot, Chair

Attendees:

Cory Talbot (Chair)
Jurhee Rice (Vice Chair)
Robert Gibbons
Alyson McAllister
Kent Davis
Robert Harrison
Ian Quiel
Adam Bondy
Lakshmi Vanderwerf
Hon. Craig Hall
Hon. Richard Pehrson
Hon. Matthew Bates
Mark Hales
Mark Nickel
Beth Kennedy (ex officio)
Christine Greenwood (ex officio)
Hon. Trent Nelson (emeritus)

Staff:

Stacy Haacke
Sonia Sweeney

Guests:

Excused:

Ashley Gregson
Lynda Viti

1. Welcome, Approval of the December 2, 2025 meeting minutes (Chair Talbot)

Chair Cory Talbot welcomed the committee members. The first order of business was the review and approval of the minutes from the December 2, 2025, meeting. Chair Talbot requested a motion to approve the minutes. Mark Hales moved to approve the minutes as presented. Jurhee Rice seconded the motion. There was no further discussion or objection. The motion passed unanimously.

2. Referral Fee Rules – Public Comments (Discussion)

Alyson McAllister led a discussion regarding the Referral Fee rules (Rules 1.0, 1.5, 5.4, and 5.8), addressing public comments, and the work of the subcommittee. Ms. McAllister began by addressing a concern regarding the definition of “Referral Fee” in Rule 1.0. She noted that the current strict ban on referral fees could be interpreted to preclude small gestures of appreciation, such as sending cookies or taking a colleague to lunch. Ms. McAllister referenced a previous version of the rule approved by the committee which defined a referral fee as an “exchange of value beyond marginal or minimal value.” Ian Quiel suggested adding language to the comments to clarify that “gifts” of marginal value are acceptable. Robert Harrison sought clarification on whether buying dinner would be prohibited, to which Ms. McAllister confirmed that such small gestures were never intended to be excluded. The committee reached a consensus to amend the Comment to Rule 1.0 to clarify that small gifts of marginal or minimal value are not considered compensation under the definition of a referral fee.

Ms. McAllister next addressed potential redundancies between Rule 1.5(a) and Rule 5.8(c). She explained that most of the factors listed in Rule 5.8(c) for determining the reasonableness of a fee share are already listed in Rule 1.5(a). She proposed retaining Rule 1.5(a) as is, but amending Rule 5.8(c) to remove duplicative factors and instead refer back to Rule 1.5, while retaining the unique factor regarding “the amount of work the lawyer anticipated to perform and the amount of work the lawyer actually performed.” Chair Talbot and the committee agreed with this approach to streamline the rules.

The discussion then moved to the substantive issue of fee sharing and the timing of referrals (Rules 5.4 and 5.8). Ms. McAllister highlighted public comments suggesting that the current prohibition on referral fees incentivizes lawyers to keep cases they are not qualified to handle, thereby harming clients, because referring the case out early would preclude the referring lawyer from sharing in the fee. She proposed reinstating language or factors allowing for fee sharing

even when a case is referred early, provided the share is reasonable relative to the work or value provided. Beth Kennedy questioned whether this proposal conflicted with the Supreme Court's explicit direction that "referral fees are prohibited." Ms. McAllister explained that clarification is needed because the term "referral fee" is used differently in common practice than in the rules, and that fee sharing should be permissible if structured correctly to avoid client harm. Chair Talbot recalled the Supreme Court's previous reasoning, noting the Court's stance was that they were looking at the overall amount of the fee that the client actually pays regarding reasonableness, and that lawyers could decide how to divide that fee among themselves.

The committee discussed the confusion surrounding the terminology of "referral fees" versus "fee sharing." Ms. McAllister suggested that the subcommittee draft language to clarify that fee sharing is permissible even for cases referred early, potentially by adding a factor regarding the time and cost incurred by the referring attorney. Additionally, Ms. McAllister pointed out a redundancy where both Rule 5.4(c) and Rule 5.8(a) state that "Referral fees are prohibited," and suggested removing the statement from Rule 5.8(a). The committee agreed that the subcommittee should meet to draft these specific changes and clarifications.

Before the next committee meeting on February 3, 2026, the Referral Fees Subcommittee (Ms. McAllister, Mr. Quiel, Mr. Gibbons, Ms. Kennedy, and Chair Talbot) will meet to draft amendments to Rule 1.0 (clarifying gifts of minimal value), Rule 5.8 (removing duplicative factors and clarifying fee sharing eligibility early in a case), and removing the redundant prohibition in Rule 5.8(a).

3. New / Old Business

Chair Talbot requested an update on the status of the memorandum to the Supreme Court regarding Rule 8.4 (discrimination and harassment). Stacy Haacke reported that Ashley Gregson, who was excused from the meeting, is currently amending the memo and will provide an updated version shortly. Judge Trent Nelson requested a specific deadline for when this matter would be presented to the Court. Ms. Haacke explained the Court's new procedure, which involves submitting materials to the Chief of Staff and awaiting placement on an agenda. Ms. Haacke committed to notifying Judge Nelson as soon as the item is scheduled.

4. Upcoming Items

The next meeting of the Committee is scheduled for February 3, 2026. The meeting adjourned.