



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

Meeting Minutes
November 3, 2025
Via Webex
4:00 pm Mountain Time

Cory Talbot, Chair

Attendees:

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

Staff:

Stacy Haacke
Sonia Sweeney

Guests:

Paige Nelson

Excused: Jurhee Rice (Vice Chair)

1. Welcome, Approval of the May 6, 2025 meeting minutes (Chair Talbot)

Chair Cory Talbot called the meeting to order and welcomed the attendees. The Chair requested a review of the minutes from the previous meeting. Kent Davis moved to adopt the prior month's minutes, stating they were consistent with his recollection. The motion received a second from Robert Gibbons. There being no opposition voiced, the motion passed unanimously.

2. Rules 1.0, 1.5, 5.4, and 5.8 – Return from Public Comment (Discussion)

Chair Cory Talbot introduced the discussion regarding the public comments received on the proposed amendments to Rules 1.0, 1.5, 5.4, and 5.8, noting that the majority of comments focused on Rule 5.8.

Robert Gibbons requested a historical reminder of the initiative behind Rule 5.8, particularly concerning the context of the referral fee prohibition. Chair Talbot explained that the fee sharing amendments originated in conjunction with the sandbox program, but the Court later withdrew the initial amendment upon realizing its broad application outside the sandbox context. He clarified that fee sharing with non-lawyers is currently permitted only within the sandbox, while sharing with lawyers is permitted if consistent with Rules 1.1 and 1.3, necessitated partly by the need to clarify the definition of "referral fee" due to inconsistent usage among practitioners. Beth Kennedy noted that the Court had previously made it clear that they do not want to allow bare referral fees, and that the comments primarily constitute a pushback against this established principle. Chair Talbot agreed that the Committee should raise the issue with the Court again, noting that commenting attorneys do not see a reason for the distinction prohibiting bare referral fees.

Christine Greenwood found some comments on the referral fee issue somewhat persuasive, but confirmed the Court remains pretty firmly against referral fees. She drew attention to specific comments from Alex Leeman regarding structural duplication, noting that Rule 5.8(a) prohibiting referral fees is redundant with Rule 5.4(c). Ms. Greenwood also agreed with Mr. Leeman that the term "payable" in Rule 5.8(b)(1) is confusing and suggested "earned" would be more consistent with the language used elsewhere in the Rules of Professional Conduct. Furthermore, she pointed out the overlap between the reasonableness factors listed in Rule 5.8(c) and the factors found in Rule 1.5(a). Robert Gibbons voiced a concern that the ambiguity between prohibited "referral fees" and permissible "fee sharing" might lead attorneys to merely couch referral fees as fee sharing to bypass the rule. Ashley Gregson supported this observation, raising the confusion regarding the definition of referral fees and its potential unintended consequence of prohibiting "origination credit" within large firms, a practice typically viewed as a referral fee internally, citing Scott Crooks's comment. Chair Talbot acknowledged the need to address the definition of referral fees to avoid unintended scrutiny of intra-firm compensation structures.

Lakshmi Vanderwerf suggested that while the criticisms regarding the rule are legitimate, the proposed alternative solution (referral to competent counsel) may not be a workable standard for the rules. Robert Gibbons proposed sending the issues back to the subcommittee for further consideration. Chair Talbot agreed, noting that since five months had passed since the last review, revisiting the issues would be beneficial.

The Committee decided to send Rules 1.0, 1.5, 5.4, and 5.8, along with all public comments, back to the relevant subcommittee for comprehensive review and formulation of new recommendations for the full Committee.

3. New Business

Chair Talbot addressed the presence of new committee member Hon. Richard Pehrson, who introduced himself, noting that he had a fully civil docket that would blend to half criminal/half civil in January. The Chair apologized for neglecting to initiate introductions at the beginning of the meeting, which is a Committee rule, and requested that all attendees reintroduce themselves for the benefit of Hon. Pehrson and the observers. The members and staff provided brief introductions outlining their roles and tenure on the Committee.

Chair Talbot inquired about the status of the ongoing work regarding Rule 8.4. Ashley Gregson provided an update on the Rule 8.4 subcommittee's work, stating that she is preparing a memo to summarize the options the subcommittee has discussed and to seek further instruction from the Court on how to proceed. The Chair provided a general reminder, as noted on the agenda, to ensure conformity with the style guide before rules are sent to the Supreme Court.

4. Upcoming Items

The next meeting of the Committee is scheduled for December 2, 2025. The meeting adjourned.