

**UTAH SUPREME COURT ADVISORY COMMITTEE  
ON THE RULES OF EVIDENCE**

**MEETING MINUTES**

**Tuesday – May 16, 2017  
5:15 p.m.  
Council Room**

*Mr. John Lund, Presiding*

**MEMBERS PRESENT**

Mr. John R. Lund (Chair)  
Hon. Matthew D. Bates  
Ms. Tenielle Brown  
Ms. Deborah Bulkeley  
Mr. Matthew Hansen  
Mr. Ed Havas  
Ms. Linda Jones  
Hon. Keith A. Kelly  
Mr. Terry Rooney  
Ms. Jacey Skinner  
Ms. Teresa Welch  
Ms. Lacey Singleton

**GUESTS PRESENT**

**MEMBERS EXCUSED**

Mr. Adam Alba  
Mr. Chris Hogle  
Hon. David Mortensen  
Ms. Michalyn Steele  
Hon. Vernese Trease

**STAFF PRESENT**

Ms. Nancy Merrill  
Mr. Richard Schwermer

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**1. WELCOME AND APPROVAL OF MINUTES: (Mr. John Lund)**

Mr. Lund welcomed everyone to the meeting.

***Motion: Mr. Ed Havas moved to approve the minutes from the Evidence Advisory Committee meeting on April 18, 2017. Ms. Teresa Welch seconded the motion. The motion carried unanimously.***

**2. Rule 511 Committee Note and Final Approval: (attached) (Mr. Rick Schwermer)**

***Motion:*** Ms. Teresa Welch moved to approve the minor edits to Rule 511 and the committee note drafted by Mr. Schwermer. Mr. Ed Havas seconded the motion. The motion passed unanimously.

**3. Rule 1102: (attached action item) (Ms. Lacey Singleton and Committee)**

Ms. Singleton reported that she talked with Dr. Nancy Klein, director of Professional Affairs for the Utah Psychological Association. The information that Ms. Singleton received is that there is no significant correlation between reliability and proximity of when a statement is reported. The Committee discussed drafting a Committee Note.

***Motion:*** Mr. Matthew Hansen made a motion to recommend the proposed amendment to Rule 1102. Judge Matthew Bates seconded the motion. The motion passed.

The Committee drafted an amended committee note.

***Motion:*** Judge Matthew Bates moved to approve the revised Committee Note. Mr. Matthew Hansen seconded the motion. The motion passed.

**4. Eyewitness Identification Proposed Rule: (attached) (Ms. Linda Jones et al.)**

Ms. Jones reported the work that has been done so far by the subcommittee on the proposed rule. She noted that the subcommittee considered the input from the previous Evidence Advisory Committee meeting and drafted a new introduction. The subcommittee organized the body of the rule in set criteria to be considered for eyewitness identification. The Committee discussed the language in the subcommittee's proposed rule and about the language in the rule addressing line ups and photo arrays, and defining specific language in the rule to determine how broadly the rule will apply.

Going forward, Ms. Jones agreed to incorporate the edits that the Committee suggested today and recirculate the revisions to her subcommittee via email. The subcommittee will present the newly drafted proposed rule at the next Evidence Advisory Committee meeting.

**5. Rule 504: (attached) (Mr. John Lund)**

Mr. Lund reviewed the impetus for Rule 504. He reviewed the following proposed edits that he and his subcommittee have made:

- clean up the reference to what it means to be getting legal services
- eliminate the word "professional" in the rule every time it comes before "legal services"
- edited the term "representative of a the client" and "representative of a the lawyer" throughout the rule to read a "client's representative" and "lawyer's representative"
- section (7)(B) the last line will read "incidental to the client legal services"

- edit section (2)(B) to read “between clients or clients representatives as to matters of common interest but only if their lawyers were also present or included in the communication”

Mr. Lund agreed to make the edits and send it to the committee for review.

**6. Other Business (Mr. John Lund)**

The committee scheduled the next meeting

**Next Meeting:**

June 27 2017  
5:15 p.m.  
AOC, Council Room