

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

**MEETING MINUTES
January 11, 2021
5:15 p.m.-7:15 p.m.
Via Webex**

<u>MEMBERS PRESENT</u>	<u>MEMBERS EXCUSED</u>	<u>GUESTS</u>	<u>STAFF</u>
Chris Hogle Sarah Carlquist Tony Graf Ed Havas Hon. Linda Jones Jennifer Parrish Nicole Salazar-Hall Hon. Vernice Trease Hon. Teresa Welch Hon. David Williams Melinda Bowen Hon. Richard McKelvie John Nielsen Dallas Young Deborah Bulkeley Teneille Brown	Adam Alba Matthew Hansen		Keisa Williams Angelica Juarez

1. WELCOME AND APPROVAL OF MINUTES:

Chris Hogle welcomed everyone to the meeting. ***Dallas Young moved to approve the November 9, 2021 minutes. Judge David Williams seconded the motion and it passed unanimously.***

2. URE 404 Update

Mr. Hogle updated the committee on the URE 404 meetings with the Supreme Court on December 14th and December 15th. The Supreme Court approved Rules 512 and 1101 as final with a May 1, 2022 effective date. Rules 106 and 504 need modifications.

Mr. Hogle updated the committee on House Joint Resolution 2 (HJR002) amending rule 404. Mr. Hogle asked if any of the rule 404 subcommittee members are available to participate in the January 19th Supreme Court conference to discuss HJR002. Ms. Carlquist and Mr. Young volunteered to participate.

3. RULE 504 UPDATE

Mr. Hogle updated the committee on the Supreme Court's comments to the Rule 504 draft. Overall, the Court expressed preference for one category of legal professionals.

The Rule 504 Subcommittee commented on the changes to the updated Rule 504.

Ms. Parrish updated the committee on Rule 504. Prior to the November 9th meeting, two approaches have been considered, one that distinguishes between lawyers and non-lawyer legal service providers (based on public comment critical of combining them) and another that grouped them together, and during the November 9th meeting it was decided to recommend the former approach. The Supreme Court rejected that approach.

A new version was sent to the Committee members on January 7th, 2022, using the term "legal professional." This version defines "lawyer" and other legal professionals. The rule also includes an Advisory Committee Note clarifying that licensed paralegal practitioners and those approved in the sandbox are considered legal professionals under this rule.

Mr. Hogle raised the issue of whether people will know who those approved in "Utah's regulatory sandbox" includes. Ms. Parrish expressed that anyone looking at the rule would know what that means. Mr. Hogle suggested linking to a website that includes a definition.

Ms. Williams suggested the following comment language: "approved to provide legal services by the Utah Supreme Court's Office of Legal Innovation." Ms. Parrish and Judge Williams expressed their approval of this language.

Mr. Hogle suggested looking at this note again at next meeting.

Ms. Carlquist asked whether it is constitutional for the legislature to propose a new rule rather than modify an existing rule. Mr. Hogle expressed that this is a recurring issue on which the Committee has had much discussion, and it resurfaced as part of the Supreme Court's approval of Rule 512. Mr. Hogle clarified that the Supreme Court adopted its own version of the rule, therefore there is no constitutional argument that the legislature intruded on Supreme Court authority with respect to the Supreme Court's version of Rule 512. The Supreme Court's adopted rule supersedes the legislative rule.

Adjourn:

With no further items for discussion, Mr. Hogle moved to adjourn the meeting. The next meeting will be February 8, 2022 at 5:15 pm, via Webex video conferencing.