

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

**MEETING MINUTES  
January 10th, 2023  
5:15 p.m.-7:00 p.m.  
Via Webex**

<u>MEMBERS PRESENT</u>	<u>MEMBERS EXCUSED</u>	<u>GUESTS</u>	<u>STAFF</u>
Chris Hogle Sarah Carlquist Ed Havas Tony Graf Dallas Young Hon. Michael Leavitt Hon. Vernice Trease Teneille Brown Jennifer Parrish Ryan McBride Melinda Bowen Deborah Bulkeley Matthew Hansen Nicole Salazar-Hall	Minhvan Brimhall Hon. Teresa Welch Adam Crayk Sam Knight Hon. Richard McKelvie Hon. Linda Jones Jacqueline Carlton Hon. David Williams Adam Alba		Bryson King Angelica Juarez

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**1. WELCOME AND APPROVAL OF MINUTES**

Chris Hogle welcomed everyone to the meeting. After making one change to the December minutes, reflecting that Judge Linda Jones was present at the December meeting, Sarah Carlquist moved to approve the minutes. Ryan McBride seconded. The motion carried.

**2. UPDATE ON RULE 506**

Ms. Carlquist provided the update. The Court liked the changes this committee made for the most part.

In response to comments from Justices Peterson and Pearce, Subsection f(2) was changed to make clear that whatever communications get released under the exceptions can still be protected via protective order. Justice Pohlman had some minor edits. Justices Hagan and Petersen expressed concern that the constitutional catch-all in section d(4) was too broad. Justices Petersen and Hagan suggested narrowing d(2) to say something to the effect of “is necessary to provide impeachment or exculpatory evidence.” The Court did not say whether the draft should be changed before issuance for public comment. However, Mr. Hogle asked

the group whether this committee should narrow the language in d(2)(d) and then issue it for public comment after the change, or if the group should issue it for public comment as is.

There was a lively discussion on this issue, including a conversation about whether d(2)(d), was even necessary at all. Mr. McBride raised strong concerns about the current language being overbroad. Mr. McBride volunteered to draft new, narrower language and present his draft to the group at the next meeting.

Dallas Young moved to send the rule out for comment with d(2)(d) as is. Melinda Bowen seconded.

Matthew Hansen counter-moved to allow Mr. McBride to draft changes to the rule and present his draft at the next meeting. Mr. Young withdrew his motion. Judge Leavitt seconded Mr. Hansen's counter-motion. There were no objections to Mr. Hansen's counter-motion, and the motion carried.

### **3. JUVENILE AMENDMENTS, RULES 101, 1101, 412, AND 615**

Judge Leavitt led the discussion.

Rule 412 was amended to include juvenile court proceedings. At the December meeting, the committee decided to take a closer look at the above-referenced rules. The group discussed what the next steps should be with regard to these rules and to what degree the rules of evidence apply in the Juvenile context.

Judge Leavitt stressed that the Juvenile Rules Committee is likely in a better position to address some of these issues.

Ms. Carlquist motioned to send this group's current findings to the Supreme Court. Nicole Salazar-Hall seconded the motion. Hearing no objections, the motion carried.

The Juvenile Rules Subcommittee (Judge Leavitt) will put together a memo to the Supreme Court laying out the issues at play and their implications.

### **ADJOURN:**

Mr. Hogle noted that we are entering the legislative session.

Mr. Young moved to adjourn. Teneille Brown seconded.

With no further items to discuss, Mr. Hogle adjourned the meeting. The next meeting will be February 21, 2023, at 5:15 pm, via Webex video conferencing.