

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

**MEETING MINUTES**

**June 11th, 2024  
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 Nicole Salazar-Hall Matthew Hansen Hon. Michael Leavitt Hon. Vernice Trease Hon. Linda Jones Sarah Carlquist Hon. David Williams Ed Havas Tony Graf Rachel Sykes	Melinda Bowen David Billings Ryan McBride Hon. Richard McKelvie Dallas Young Benjamin Miller Adam Alba Teneille Brown		Jace Willard Angelica Juarez

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**1. WELCOME AND APPROVAL OF MINUTES**

Chris Hogle welcomed everyone to the meeting. After waiting for quorum to begin the meeting, Tony Graf moved for approval of the April meeting minutes. Matt Hansen seconded. The motion carried.

**2. URE Rule 106 Proposed Amendments Going Back to Supreme Court After Public Comment**

Mr. Hogle noted that at the April 11th meeting, the group discussed the public comments on URE 106 received from the Attorney General's Office. The group voted "no" on reconsidering the Rule. The Proposed Amendments to URE 106 will go to the Supreme Court on June 26th.

**3. URE Rule 615 Redlines**

Sarah Carlquist provided an update on the proposed changes to URE 615. The committee had come down on two different versions and the main concerns were how other states are enforcing this and what it looks like if someone violates the exclusionary rule. Ms. Carlquist

didn't find any other state rules that had a remedy for violating the rule. She added that usually this would be an issue that a party could raise on appeal, but it generally comes down to the court's inherent powers of contempt.

Ms. Carlquist then posed to the group that it should decide which version of the rule it likes better.

Ms. Carlquist expressed her preference for the version that doesn't track the federal rule.

Judge Leavitt asked about the need for the change. Ms. Carlquist clarified that the federal rule recently changed and that the increase in remote/online hearings may have been a driving force behind the federal rule change.

Judge Leavitt suggested adding language to state that "this order might include accessing trial testimony." Mr. Hogle added that this change might be better in the rules of judicial administration.

The group then discussed the second version of the rule. The second version tracks the federal version. Mr. Hogle expressed that our default should be to go with the version that tracks the federal rule and suggested going with the federal version unless there are compelling reasons not to.

The group then discussed final tweaks to the federal version. The group agreed that there were edits that should be made to the federal version and adopted by this group.

Ms. Carlquist moved to send this modified version of the federal rule to the Supreme Court. Judge Williams seconded the motion. The group unanimously approved.

The group then turned to the comment to the rule. The group agreed that the comment is the same in both proposed versions. Judge Leavitt moved to approve the note. Ms. Carlquist seconded. That motion carried unanimously as well.

#### **4. URE 702 Updated Memo**

Tenielle Brown was unable to attend this meeting. Ed Havas presented Professor Brown's URE 702 memorandum on behalf of the subcommittee. The subcommittee unanimously agreed that Rule 702 was significantly different from the federal rule but that there was also no good reason to change it to align with the federal rule. No one identified any issues that would merit changes.

Mr. Hogle suggested some very small changes, but largely agreed with the subcommittee.

Mr. Havas clarified that the subcommittee members had no personal experience or comments that Rule 702 was difficult to administer, etc. Mr. Havas suggested that the group could survey more practitioners to gain more insight on if any changes are warranted.

For the time being, the group agreed to send the memorandum up to the Supreme Court.

Rachel Sykes moved to approve the memorandum. Nicole Salazar-Hall seconded. The motion carried unanimously. The memorandum will go to the Utah Supreme Court.

#### **5. H.J.R. 13 and URE 1102 Committee Note**

The next item for discussion was Resolution 13 as it relates to URE 1102. Mr. Hogle refreshed the group about the discussion during the April meeting regarding the legislature's amendment to 1102, including whether they needed to put anything in the committee note about the origins of this amendment.

Jace Willard researched how we addressed these issues in the past. Mr. Willard noted that Rule 409 includes a legislative note regarding a legislative amendment but he did not find any similar committee notes mentioning legislative amendments. There is no precedent for this.

No one in the group thought otherwise. This concludes the group's exploration of Resolution 13.

#### **6. Acknowledgement and send off to Adam Alba, Matt Hansen, Ed Havas, Chris Hogle, Angelica Juarez, and Judge Trease**

Ms. Salazar-Hall bid farewell to some departing members including Adam Alba, Matt Hansen, Ed Havas, Chris Hogle, Angelica Juarez, and Judge Trease. Ms. Salazar-Hall will become Chair of the Committee. Ms. Carlquist will become Vice Chair. Mr. Hogle, a member since 2011, expressed his gratitude and appreciation toward the group. Mr. Havas, another long-time member, also expressed his appreciation toward the group.

#### **ADJOURN:**

**With no further items to discuss, Mr. Hogle adjourned the meeting. The next meeting will be October 8, at 5:15 pm, via Webex video conferencing.**

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