

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

MEETING MINUTES

**October 8th, 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>
Nicole Salazar-Hall Sarah Carlquist Tony Graf Clint Heiner Hon. Linda Jones Hon. Michael Leavitt Scott Lythgoe Benjamin Miller Andres Morelli Rachel Sykes	David Billings Teneille Brown Ryan McBride Hon. Richard McKelvie Hon. David Williams Dallas Young	Jacqueline Carlton	Jace Willard

1. WELCOME, NEW LEADERSHIP, INTRODUCTIONS TO NEW MEMBERS, AND APPROVAL OF MINUTES

New Committee Chair Nicole Salazar-Hall welcomed everyone to the meeting. Sarah Carlquist is the new Committee Vice-Chair. Ms. Salazar-Hall welcomed new members Clint Heiner, Scott Lythgoe, and Andy Morelli to the Committee and invited them and all Committee members present to introduce themselves. Following introductions, and corrections to the draft June meeting minutes, Ms. Carlquist moved for approval of the June meeting minutes. Rachel Sykes seconded. The motion carried.

2. New URE Rule 106 Subcommittee to Address Supreme Court Concerns

Ms. Salazar-Hall relayed the Supreme Court’s feedback in response to the Committee’s recommendation to adopt the URE 106 draft revisions that went out for public comment. The Attorney General’s Office left a comment expressing concern about the effect of the draft. The language of the draft does not clearly explain the meaning of the phrase “that in fairness ought to be considered” Because the URE 106 draft is based on the recent revisions to FRE 106,

the FRE 106 committee notes are helpful to understand how the revised rule should work. Ms. Carlquist added that the minutes from the FRE 106 committee meeting are now available and further explain how the rule is intended to operate. Based on her prior work on URE 106, Ms. Carlquist moved to form a new subcommittee, which she will chair, to research and draft a memo addressing the concerns expressed. Judge Leavitt seconded the motion. The motion carried. Dallas Young, Clint Heiner, and Judge Jones will also serve on the subcommittee.

3. URE Rule 615 Redlines

Draft URE 615 amendments are back from public comment. The single comment received was generally supportive of the proposed changes, but expressed concern that counsel should be able to discuss new information or unexpected testimony with potential rebuttal or expert witnesses. Ms. Carlquist noted that this concern is addressed in the proposed Committee Note. She moved that the draft amendments be returned to the Supreme Court for final approval. Judge Leavitt seconded the motion. The motion carried.

4. H.J.R. 13 and URE 1102 Committee Note

Ms. Salazar-Hall reminded the group about the Legislature's amendment of URE 1102 earlier this year via H.J.R. 13 and raised the question of whether a note should be added to identify the source of the change. Mr. Willard noted that URE 417 as published on the courts' website includes a note indicating the creation of that rule by the Legislature. Judge Jones added that URE 409 also includes a note regarding a legislative amendment. Tony Graf moved to recommend the addition of a note similar to the one in URE 417. Scott Lythgoe seconded. The motion carried.

5. Legislative Rapid Response Team

Ms. Salazar-Hall observed that the next legislative session will be coming up soon and that Ms. Carlquist will be leading the Rapid Response Team to assist with any proposed changes the Legislature would like to have implemented. She invited the new committee members to consider joining. The composition of this year's team will likely be decided at the next meeting.

6. Future Meetings to Be Held by WebEx Webinar

Mr. Willard advised that the Supreme Court has directed that all virtual committee meetings now be held via WebEx Webinar rather than WebEx meetings. Webinars have heightened security and will require everyone to register with their name and email address in advance of the meeting. Mr. Willard will include this information in an email to the Committee.

ADJOURN:

With no further items to discuss, Ms. Salazar-Hall adjourned the meeting. The next meeting will be November 12, at 5:15 pm, via Webex Webinar video conferencing.