

**MINUTES OF THE SUPREME COURT'S
ADVISORY COMMITTEE ON THE RULES OF PROFESSIONAL CONDUCT**

August 28, 2017

The meeting commenced at 5 p.m.

Committee Members Attending:

Steven G. Johnson (chair)
Thomas B. Bruner
Daniel Brough (phone)
J. Simòn Cantarero
Timothy Conde (recording secretary)
Joni Jones
Hon. Trent Nelson (phone)
Gary G. Sackett
Billy L. Walker (phone)
Phillip Lowry, Jr. (phone)

Guest:

John H. Bogart

Absent:

Vanessa Ramos, Padma Veeru-Collings, Tm Merrill, Hon. Darold McDade, Cristie Roach, Donald Winder

Staff:

Nancy Sylvester

Welcome and Approval of Minutes

No quorum was present. Approval of the minutes will be sought at the next meeting.

Announcements

Chairman Steven Johnson reminded members of the terms that apply to members who serve on the committee. Mr. Johnson read the rule that was adopted in 2015 and highlighted the provision that provides that members of this committee are limited to two four-year terms. Mr. Johnson also informed the committee that he plans to meet with the Utah Supreme Court soon to discuss filling two spots.

Mr. Johnson informed the committee that the Utah Supreme Court approved this committee's recommendations that no changes be made to Rule 7.1 in response to Chairman Goodlatte's letter regarding the American Medical Association's resolution on attorney advertising.

Mr. Johnson previewed an issue that may be upcoming concerning whether a licensed paralegal practitioner may be an owner of a law firm. The committee may consider this issue at a later date. He also raised concerns he learned regarding how ADA lawsuits are brought and the potential for abuse by the attorneys bringing them. The Court's legislative liaison is currently reviewing the issue, but this committee may elect to consider it before the next legislative session since it is likely that there will be legislation proposed on it.

Military Attorney Admissions Rule 14-804

Paul Burke, an attorney with Ray Quinney & Nebeker, reported on Utah's need for changes to its military attorney admissions rules ("MAAR"). According to Mr. Burke, most states have an MAAR. Many also have a military spouse attorney admission rule ("MSAAR"). The MAAR allows an attorney who is transferred to Utah to practice law in a limited way. An MSAAR allows a non-military spouse to practice law in the transferred state, without limitations, during the course of their spouse's military service in that state. Twenty-six states have adopted some version of an MSAAR. Mr. Burke has been advocating for the passage of an MSAAR in Utah. The rule he has proposed, in his opinion, attempts to balance the interests of military lawyers and non-military spouses of military personnel and the Bar's interest of maintaining high standards among the profession. Mr. Johnson asked Phil Lowry, an armed forces member, to chair a subcommittee to consider the issue and make recommendations. Tim Conde volunteered to serve on the subcommittee. Mr. Burke will also be involved.

Rule 8.4(g) Comments and Objections

Mr. Johnson discussed the many comments the committee received regarding Rule 8.4(g). He noted that most were negative and that they generally fell into the following categories: **Vagueness/Due Process/Overbreadth, Freedom of Speech/Conscience, Freedom of Religion, Freedom of Association, and the 6th Amendment.** Mr. Johnson suggested forming subcommittees for each constitutional concern. He proposed that each subcommittee would research and analyze the constitutional issues and provide recommendations regarding the constitutional objections that have been made by the public. The committee also discussed whether, in light of the imbalance of positive and negative comments, it would be best to withdraw the proposal and observe how other states' rules are enforced and litigated. The subcommittee suggested that, before forming the proposed subcommittees, that Mr. Johnson get further direction from the Utah Supreme Court regarding what it expects from the committee. Mr. Johnson agreed to do so and will provide the committee with further direction at the next meeting.

Next Meeting and Adjournment

The next meeting will be held on September 25, 2017 @ 5 p.m. in the Judicial Council Room of the Matheson Courthouse. The meeting adjourned at 6:20 p.m.