

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

May 20, 2019

The meeting commenced at 5:01 p.m.

Committee Members Attending:

Steven G. Johnson, Chair
Daniel Brough (by telephone)
Tom Bruner
Simón Cantarero (by telephone)
Hon. James Gardner
Joni Jones
Phillip Lowry (by telephone)
Vanessa Ramos (by telephone)
Cristie Roach (by telephone)
Gary Sackett (emeritus)
Cory Talbot
Katherine Venti
Billy Walker

Guests:

Jacqueline Carlton, Office of Legislative Counsel

Members Excused:

Tim Conde
Hon. Trent Nelson (emeritus)
Amy Oliver
Padma Veeru-Collings
Hon. Darold McDade
Austin Riter

Staff:

Nancy Sylvester

Recording Secretary:

Adam Bondy

Committee Webpage: <http://www.utcourts.gov/committees/RulesPC/>

I. Welcome and Approval of Minutes

Mr. Johnson determined quorum and welcomed the committee.

Motion:

Ms. Venti moved to approve the minutes from the April 15 meeting. Ms. Jones seconded the motion. The motion passed unanimously.

II. Update: Report on Supreme Court Conference

Mr. Johnson discussed his recent report to the Supreme Court. The Supreme Court has appointed Simon Cantarero to replace Mr. Johnson after the next meeting and has asked Mr. Johnson to remain on the committee on emeritus status. The Supreme Court approved the codification of Standing Order 7 as rules 14-302, -303, and -510, with an effective date of May 15, 2019. The Supreme Court also asked the committee to review for possible elimination or reduction Rules 7.2, 7.3, cmt. 5 regarding specialists, and cmt. 6. The Supreme Court asked the committee to package any proposed amendments to those rules with a proposed revision of Rule 5.4 for consideration by the Supreme Court.

III. Update: Rule 8.4 and 14-301 comments

Rule 8.4 subcommittee, chaired by Mr. Cantarero, will review comments submitted regarding Rule 8.4 and 14-301 proposed amendments and report at the June meeting. Everyone else should read the comments to prepare for the meeting.

IV. Report: Multidisciplinary Practice Subcommittee

The subcommittee discussed the apparent lack of enforcement mechanisms against non-lawyer members of an MDP entity. The courts may retain the ability to sanction the entire entity by revoking its license to engage in any law practice. However, there is no explicit language currently, so this would have to fall under the Utah Supreme Court's general authority to regulate the practice of law. The committee discussed possible solutions and noted that it would be helpful to have concrete examples of entities interested in this area to guide the development of the governing rules and enforcement mechanisms. The MDP subcommittee, chaired by Mr. Brunner, will review Rule 1.5(e) and develop recommendations for fee-sharing entities for the next meeting.

V. Report: Multi-Jurisdiction Practice Subcommittee

The subcommittee, chaired by Ms. Roach, recommended no further action on Rule 5.5 until we have a clearer idea of the problems that a rule amendment needs to address. The committee noted that subsection (d)(2) allows the Supreme Court to create a rule or standing order for specific instances rather than amending the overall general rule. Mr. Johnson mentioned that a standing order may be in the works.

VI. New Business: Bar Journal Article & Rule 6.5

Mr. Johnson brought to the committee's attention an article in the most recent bar journal, regarding easing conflict rules for brief pro bono legal advice. The committee discussed the proposed rule changes forwarded by the Bar Commission related to Rule 6.5, proposed by the Innovation in Law Practice Committee. The committee asked the MJP subcommittee, chaired by Ms. Roach, to review the issue and report back to the committee with a recommendation and any concerns.

VII. Other Business

No other business.

VIII. Scheduling of Future Meetings

June 17, 2019 at 5:00 p.m.
August 19, 2019 at 5:00 p.m.
September 16, 2019 at 5:00 p.m.
October 21, 2019 at 5:00 p.m.
November 18, 2019 at 5:00 p.m.

IX. Adjournment

The meeting adjourned at 6:13 p.m.