

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

September 16, 2019

The meeting commenced at 5:03 p.m.

**Committee Members Attending:**

Daniel Brough (via telephone)  
Simón Cantarero, Chair  
Tim Conde (via telephone)  
Hon. James Gardner  
Steven G. Johnson (emeritus)  
Joni Jones  
Hon. Trent Nelson (emeritus) (via telephone)  
Amy Oliver  
Vanessa Ramos  
Austin Riter  
Cristie Roach  
Gary Sackett (emeritus)  
Cory Talbot  
Katherine Venti  
Billy Walker  
Hon. Mike Edwards

**Guests:**

Chief Justice Durrant

**Members Excused:**

Adam Bondy  
Phillip Lowry  
Allison McAllister  
Padma Veeru-Collings

**Staff:**

Nancy Sylvester

**Recording Secretary:**

Jurhee Rice

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

## **I. Welcome and Approval of Minutes**

Mr. Cantarero determined quorum and welcomed the committee.

### **Motion:**

*Ms. Roach moved to approve the minutes from the August 17 meeting. Ms. Jones seconded the motion. The motion passed unanimously.*

## **II. Welcome, Discussion of recently approved Report on Regulatory Reform, and expectations for the advisory committee**

Chief Justice Durrant thanked the committee for their efforts and time and welcomed the new members. He then addressed the Report on Regulatory Reform. Chief Justice Durrant said the Supreme Court has adopted the recommendations of the study committee and they are in the process of forming a task force that will make further recommendations.

The timeframe for the regulatory task force recommendations and the impact on this committee was discussed. Mr. Johnson stated that it may be a year or more before any task force gives any recommendations. It is believed that the task force may have an incidental impact on the committee. Committee chair, Mr. Cantarero, discussed the potential expansion of the scope of LPPs beyond the current plan. Chief Justice Durrant stated that the Court will take that up when there is a recommendation from the LPP Committee.

## **III. Rule 6.5: Review of Bar Commission recommendations and Subcommittee Proposal**

Rule 6.5 subcommittee, chaired by Ms. Roach, provided a brief backdrop of Rule 6.5. The subcommittee discussed the proposed changes and said it agrees that the proposed change to Rule 6.5 as presented by the Utah State Bar Innovation in Law Rules Committee is appropriate. The subcommittee reviewed the RPC consistency and Public Record Checklist to make sure that the proposed changes are consistent and recommended adding a comment regarding how this rule is different than the ABA model rule. The subcommittee will discuss paragraph (a) and come up with alternative wording regarding short term limited legal services and consent.

## **IV. Rule 8.4 and 14-301: Report from Subcommittee**

The subcommittee discussed the split on which standards from Rule 14-301 should be included in Rule 8.4. The committee discussed the problem with excluding particular rules while discounting others. The subcommittee recommends that court personnel and venue be added but with specificity (such as a listing of services and/or places) so that “venue” is defined and limited to those places where legal services are being provided with a specific purpose. The committee recommended that all standards be included in the rule. Mr. Sackett recommended that the Standards be called the Rules of Professionalism and Civility if they are truly no longer aspirational. Following a unanimous vote to recommend the rules to the Court, committee chair, Mr. Cantarero, said he will take the committee’s recommendations to the Court’s next meeting.

**V. Rule 5.4 (informed consent versus disclosure)**

The Rule 5.4 subcommittee discussed the topic of informed consent versus disclosure in instances of a non-lawyer owning a law firm. The subcommittee recommended written notice. The members thought informed consent went too far and was unnecessary. The committee then discussed timing of the rule and how it relates to regulatory reform. Mr. Johnson stated the rule requires public comment so implementation would not be for a minimum of three months. The committee expressed concern about having these rules in effect without guardrails separate from the regulatory sandbox. The Rule 5.4 subcommittee, chaired by Cory Talbot, will review 1.0 and the definition of the practice of law. Committee chair, Mr. Cantarero, said he will present these concerns to the Court pending the subcommittee's review and revised report.

**VI. Other business**

No other business

**VII. Scheduling of Future Meetings**

October 21, 2019 at 5:00 p.m.  
November 18, 2019 at 5:00 p.m.

**VIII. Adjournment**

The meeting adjourned at 7:03 p.m.