

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

April 20, 2020

The meeting commenced at 5:05 p.m. via Zoom meeting

Committee Members Attending:

Simón Cantarero, Chair
Adam Bondy
Daniel Brough
Tim Conde
Hon. Michael Edwards
Hon. James Gardner
Steven G. Johnson (Emeritus)
Joni Jones
Philip Lowry
Alyson Carter McAllister
Vanessa Ramos
Austin Riter
Cristie Roach
Gary Sackett (Emeritus)
Cory Talbot
Billy Walker

Not Present

Hon. Trent Nelson (Emeritus)
Amy Oliver
Padma Veeru-Collings
Katherine Venti

Staff:

Nancy Sylvester

Recording Secretary:

Jurhee Rice

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

I. Welcome and Approval of Minutes

Simón Cantarero determined quorum and welcomed the committee.

Motion:

Vanessa Ramos moved to approve the minutes from the February 03, 2020 meeting with minor changes. Alyson McAllister seconded the motion. The motion passed unanimously.

II. Rules 1.5, 5.4A, 5.4B, 7.1-7.5, and Standing Order 15: Report from Simón Cantarero & Steven Johnson

Simón Cantarero reported on his meeting with the Court in March 2020.

The Court changed language in Rule 5.4(A)(c), from “employ” to “retain” based on an employment case. The Court has adopted the Rules and will make them public for a 90-day comment period. Standing Order 15 has also been approved and will be made available to the public along with Rules 5.4 and 1.5.

Simón Cantarero recommended the Rules of Professional Conduct Committee acquaint themselves with incoming website comments so such observations may be fully addressed. Simón Cantarero also recommended Committee members provide pertinent formal and informal feedback obtained outside of the formal website comment avenue to Nancy Sylvester and/or Simón Cantarero for compilation and data analysis.

III. Rule 8.4 and 14-301: Report from Subcommittee: “person” vs. “participant” in 14-301(3): discuss the use of “Rules” versus “Standards.”

Adam Bondy reported on proposals of the Rule 8.4 subcommittee. The subcommittee recommended the following proposed changes to Rule 8.4:

- a. The subcommittee proposes changing Standard 14-301 into a Rule under Rule 8.4(h), making it an extension of the Rules of Professional Conduct prohibiting discriminatory conduct.
- b. In order to reconcile the comment and rule, the subcommittee agreed and recommends to change the word “participant” to “person” under Standard 14-301(3).

Motion:

Alyson McAllister moved to approve Rule 8.4(h) based on the agenda changing the word standard to rule and moved to approve 14-301(3) under 8.4(h). Joni Jones seconded the motion. The motion to change the word standard to rules passed in the majority.

IV. Rule 6.5: Review of subcommittee proposal

Hon. Michael Edwards reported on the proposals of the Rule 6.5 subcommittee. The subcommittee recommended removal of language limiting expansion of legal services. The subcommittee’s recommendation would allow the expansion of short-

term legal services to both low-bono and pro-bono services. The subcommittee recommended the following changes to Rule 6.5:

- a. Rule 6.5 will cover one-time interactions like limited representation not covered under attorney-client
- b. Removal of the first sentence of Rule 6.5, Comment 2, as providing informed consent is presumed.
- c. Addition of Comment 6 to Rule 6.5 to clarify this rule differs from ABA Model Rule 6.5 to the extent that it changes the title, changes paragraph (a), adds new paragraph (c), modifies comments [1] and [2], and contains comment [6].

Motion:

Cristie Roach moved to approve the motion on Rule 6.5 regarding short term legal services. Hon. James Gardner seconded the motion. The motion passed unanimously.

V. LPP rule changes accompanying regulatory reform rules: 5.4, 1.5, 7.1-7.5: Report from Steve Johnson

Steven Johnson reported on the application of regulatory reform rules to LPPs
Steven Johnson recommended the following:

- a. At least one LPP be a member of the RPC committee:
- b. RPC should suggest LPP rules be changed when attorney rules are changed
- c. Court needs to decide on exact procedure for LPP rule approval.

With the adoption of Rules 8.4(h) and 5.4(b), LPPs may be able to provide more legal services through the regulatory sandbox, expanding to areas of practice above Rule 14-802.

VI. Other business

None.

VII. Scheduling of Future Meetings

May 18, 2020 at 5:00 p.m.
June 15, 2020 at 5:00 p.m.
July 20-canceled
August 17, 2020 at 5:00 p.m.

VIII. Adjournment

The meeting adjourned at 6:14 p.m.