



Utah Supreme Court's Rules of Professional Conduct Committee

Meeting Minutes

August 31, 2020

Via WebEx

The Meeting commenced at 5:05 p.m.

Simón Cantarero, Chair

Attendees:

Simón Cantarero, Chair
Angie Allen
Adam Bondy
Daniel Brough
Hon. Michael Edwards
Hon. James Gardner
Steven G. Johnson (Emeritus)
Joni Jones
Philip Lowry
Alyson Carter McAllister
Amy Oliver
Vanessa Ramos
Jurhee Rice
Gary Sackett (Emeritus)
Cory Talbot
Dane Thorley
Katherine Venti
Billy Walker

Not Present

Tim Conde
Austin Riter

Staff:

Nancy Sylvester
(Vacant) Recording Secretary

Guests:

Chris Williams, Office of Legislative Research
Elizabeth Wright, Utah State Bar

Welcome and approval of the August 03, 2020 meeting date's minutes: Simón Cantarero, Chair

Simón Cantarero welcomed everyone to the meeting and asked for approval of the minutes.

Vanessa Ramos moved to approve the August 03, 2020 minutes. Alyson McAllister seconded the motion, and it passed unanimously.

Welcome of new members, Angie Allen, LPP, and Dane Thorley, Ph.D., J.D.

1. Discussion-Combining the LPP Rules of Professional Conduct with the Attorney Rules of Professional Conduct: Elizabeth Wright, Steven Johnson

The Committee has requested the following be reviewed and/or added to the combined rules prior to submission to the Supreme Court:

- a. Elizabeth Wright and Steven Johnson will add comment(s) showing how the merged rule(s) deviates from the ABA model rule and URCP 86 and the definitions of LPP, lawyer and attorney.
- b. Define lawyer using RPC definition under Rule 14-506: anything deemed the practice of law.
- c. Under section 14-802 (c), the Committee recommends revision and uniform use of the term lawyer within the document.
- d. Under URCP 86: A lawyer includes LPPs. Must define when the scope of practice exceeds that of the LPP.

It is anticipated that the Court will rescind the current LPP rules in favor of the combined rules.

2. Discussion: Review of Comments to Rules 8.4(g) and (h) and 14-301 (comment period closed August 1, 2020) and suggested changes: Adam Bondy, Alyson McAllister, Judge Edwards, Steve Johnson, Dan Brough, Simón Cantarero

The subcommittee met and made the following changes to propose to the committee as a whole.

Rule 6.51 - Modify (c)(2) to read "receives no fees directly from those matters."

Rule 8.4 - Modify (g) to read "engage in any conduct that is listed as a discriminatory or prohibited employment practice under 42 USC Sec 2000e-2, as amended, or under Section 34A-5-106 of the Utah Antidiscrimination Act, as amended, or pursuant to applicable court cases, notwithstanding the number of employees in the lawyer's firm;"

Rule 8.4 - Comment [3]: eliminate the sentence regarding peremptory challenges

Rule 8.4 - Ask the committee as a whole to consider whether (h) should be held in committee until the standards in 14-301 have been reviewed for aspirational/mandatory language.

With the above-proposed changes, Rule 8.4 (g) will read as follows:

(g) engage in any conduct that is listed as a discriminatory or prohibited employment practice under 42 U.S.C. Sec. 2000e-2, as amended, or under Section 34A-5-106 of the Utah Antidiscrimination Act, as amended, or pursuant to applicable court cases, notwithstanding the number of employees in the lawyer's firm

8.4 (h) will be held in committee as requested by the subcommittee. This will allow further review of the 8.4(h) comments and constitutionality concerns. Rule 8.4(h) comments, constitutionality, and any recommended improvements to both 8.4(h) and standard 14-303 will be discussed at the October 5, 2020 meeting.

Motion

Joni Jones moved to separate Rule 8.4(g) from 8.4(h) with the recommended changes to 8.4(g). Adam Bondy seconded the motion. The motion passed by simple majority with 10 in favor and 3 against.

Simón Cantarero will present the motion to the Court.

Motion

Katherine Venti moved to approve amended rule 6.5 with addition of phrase "direct." Vanessa Ramos seconded the motion. The Motion passed unanimously.

3. Other business/Next meeting

October 05, 2020 at 5:00 p.m.

November 02, 2020 at 5:00 p.m.

December 07, 2020 at 5:00 p.m. (tentative)

The meeting adjourned at 6:59 p.m. The next meeting will be held on October 05, 2020 at 5:00 p.m. via WebEx.