



Utah Supreme Court's Advisory Committee on the Rules of Professional Conduct

[Draft] Meeting Minutes

January 4, 2022

WEBEX

16:00 Mountain Time

J. Simon Cantarero, Chair

Attendees:

J. Simon Cantarero, Chair
Hon. James Gardner
Hon. Amy Oliver
Katherine Venti
Alyson McAllister
Cory Talbot
Adam Bondy
Gary Sackett (Emeritus)
Steve Johnson (Emeritus)
Jurhee Rice
Dan Brough
Billy Walker
Dane Thorley
Julie J. Nelson
Austin Riter
Robert Gibbons
Phillip Lowry
Hon. Trent Nelson (Emeritus)
M. Alex Natt, Recording Secretary

Staff:

Nancy Sylvester

Guests:

Scotti Hill
Christine Greenwood
Nick Stiles

Excused:

Angie Allen
Hon. Mike Edwards
Joni Jones

1. Welcome and approval of the December 6, 2021 meeting minutes (Chair Cantarero)

Chairman Cantarero recognized the existence of a quorum, called the meeting to order at 16:02 and since it was the first meeting of a new year he asked everyone to introduce themselves.

The Chair asked for a Motion to approve the December 6, 2021 meeting minutes.

Ms. McAllister moved and Ms. Rice seconded the Motion. The minutes were adopted unanimously with the following minor corrections:

The spelling of Ms. McAllister's name was corrected; Judge Oliver was recorded in the attendance list twice and that was corrected as well.

2. Rule 5.5 and 1.0 Amendments (Chair Cantarero)

Motion for full adoption of 5.5 and changes to 1.0 on lines 33 and 34 regarding amending certain definitions. Judge Gardner moved, seconded by Ms. McAllister. The Committee voted unanimously in favor of the motion. The rules will move on to the Supreme court for adoption.

3. Rules 14-301 and 8.4 (Ms. Sylvester)

Ms. Sylvester presented cleanup edits for consideration. Chairman Cantarero discussed the proposed amendments to Rule 8.4(h). A proposal was made to clarify "process" to "legal process" as it appears in the Rule. Judge Nelson suggested that 14-301 should be clarified and that clarification will serve to update 8.4 by implication. Judge Oliver moved to add the word "legal" to line 20 to become "legal process." Katherine Venti seconded. The Motion passed unanimously.

The Committee turned to 14-301. 14-802 was reviewed for its definition of "the practice of law." The Committee discussed various options of whether to place a reference to that rule in 14-301(3). Mr. Bondy moved to add the clarifying reference to the Rule. Mr. Riter seconded. The Motion passed by a majority vote.

Next the Committee turned to the question of where to place the clarification. Ms. McAllister moved to add it to the cross-reference to 14-802(b)(1) somewhere on line 100. Ms. Venti seconded the Motion. The Motion passed by majority vote.

4. Rules 1.0, 5.4, 5.8, 5.9 – Referral Fees (Ms. McAllister)

Ms. McAllister was asked to advise the Committee on the status of the referral fees issue.

She first turned to Rule 1.0 and discussed a small proposed change which eliminated some verbiage and moved a section to new Rule 5.8. The Committee engage in a full discussion and reviewed various proposals and discussed how to move forward.

The Committee attempted to revise Rule 5.8 but did not conclude the exercise. Chairman Cantarero suggested that the Subcommittee incorporate the changes, make any other related and necessary changes, and propose adoption of a final version of affected Rules and comments at the next meeting.

5. Adjournment

The meeting adjourned at 18:05. The next meeting is scheduled to be held on February 1, 2022.