



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

Meeting Minutes May 3, 2022

Utah Law and Justice Center & Zoom
16:00 Mountain Time

J. Simon Cantarero, Chair

Attendees:

J. Simon Cantarero, Chair

Katherine Venti
Alyson McAllister
Cory Talbot
Adam Bondy
Gary Sackett (Emeritus)
Steve Johnson (Emeritus)
Jurhee Rice
Billy Walker
Dane Thorley
Julie J. Nelson
Austin Riter
Robert Gibbons
Hon. Amy Oliver
Hon. Mike Edwards
Hon. Trent Nelson (Emeritus)
Hon. James Gardner
Joni Jones

M. Alex Natt, Recording Secretary

Absent –Angie Allen, Dan Brough,
Phillip Lowry,

Staff:

Nancy Sylvester

Guests:

Scotti Hill
Christine Greenwood
Jonathan Puente, Nick Stiles, Jacqueline Carlton,
Douglas Thompson, Stacey Haacke

1. Welcome and approval of the April 5, 2022 meeting minutes (Chair Cantarero)

Chair Cantarero recognized the existence of a quorum, called the meeting to order at 16:06 and asked the attendees to introduce themselves as this is the first time the committee has met in person for quite a while.

Ms. Jones moved to adopt the April 5, 2022 minutes. Ms. Rice noted that she was marked as present but was not actually present. The minutes were corrected. With that correction, Ms. Rice seconded the Motion. The Motion passed by acclamation.

2. Rules 1.2 and 1.16 (Mr. Thorley)

Subcommittee Chair Thorley asked guest Douglas Thompson to remind the Committee of the issue that the Committee has been asked to consider.

Professor Thorley discussed the work of the subcommittee, which it has styled as 1.16(e) rather than an amendment to 1.2 as initially presented. He recognized the alterations to the suggested verbiage presented by Chair Cantarero and on behalf of the subcommittee indicated that he had no objection to those largely grammatical changes.

A suggestion was made that the rule should specifically reference criminal defendants rather than the broader word "client" as the matter is intended to protect the rights of the accused after conviction or plea. The Committee discussed as there is some thought that the responsibility should be on both the prosecution and the defense.

Further, the Committee discussed the level of investigation that should be imposed on counsel to meet the ethical obligation of the proposed Rule.

The matter was referred to the subcommittee for further consideration as to the level of investigation and consultation required.

3. Rules 8.4 and 14-301 (Mr. Bondy)

The Committee thanked Ms. Sylvester and Ms. Hill for their efforts compiling the history of Rules 8.4 and 14-301 and the next steps to be taken regarding moving this matter forward. The Committee recommended that further efforts focus principally on 8.4(g).

Mr. Puente reported that a new Judicial Council Standing Committee on Fairness and Accountability is available and happy to help this committee sort out the policy side of Rule 8.4(g). He noted that the committee is comprised of current and former judicial officers. The committee determined that the Judicial Council's committee will discuss this issue and return to the Rules of

Professional Conduct with a recommendation on the policy, preferably by August.

4. Adjournment.

Chair Cantarero discussed items in the Committee's "pipeline" and upcoming meetings. The meeting adjourned at 17:33. The next meeting will be held on June 7, 2022.