



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

Meeting Minutes

October 3, 2023

Utah Law and Justice Center & Zoom

4:00 pm Mountain Time

Cory Talbot, Chair

Attendees:

Cory Talbot, Chair
Jurhee Rice
Ian Quiel
Eric Weeks
Alyson McAllister
Robert Gibbons
Mark Hales
Hon. Amy Oliver
Hon. Craig Hall
Julie J. Nelson
Mark Nickel
Gary Sackett
Prof. Dane Thorley
Christine Greenwood (ex officio)
Billy Walker (ex officio)
Hon. M. Alex Natt, Recording
Secretary

Staff:

Beth Kennedy

Guests:

Excused: Ashley Gregson, Adam
Bondy, Hon. Trent Nelson, Hon. James
Gardner, Jacqueline Carlton, Austin
Riter.

1. Welcome, Approval of the September 5, 2023 meeting minutes (Chair Talbot)

Chair Talbot recognized the existence of a quorum and called the meeting to order at 4:07. The Chair asked for a Motion to approve the September 5, 2023 meeting minutes. Mr. Sackett noted that he had not been marked as “excused” for that last meeting. With that correction Mr. Hales moved for approval. Mr. Gibbons seconded. The Motion passed unanimously. The Chair welcomed new member Judge Craig Hall and each member was asked to introduce themselves.

2. Update on Supreme Court Discussions

The Chair updated the Committee about his discussions with the Supreme Court regarding Rules 1.0 (terminology); 5.4 (professional independence of a lawyer); 5.8 (referral fees) and 1.15 (safekeeping of property). After some questions from the Court, the Committee was asked to provide some background information on the referral fees issue.

3. Rule 1.2 Review of Comments (Chair Talbot)

The Committee reviewed the public comments to Rule 1.2. Mr. Sackett suggests changing “date of drafting” to “at the time of this comment’s adoption” in comment 12a. Ms. McAllister made a motion. Mr. Gibbons seconded and the Motion was adopted unanimously.

4. Rule 7.1 Review of Comments (Mr. Gibbons)

Mr. Gibbons who lead the subcommittee on this issue reviewed the public comments for the Committee at large. The Committee discussed a comment from ACLU regarding pecuniary vs. non-pecuniary representations of clients. The Committee did not believe the *In Re Primus* case requires a distinction be made to the proposed Rule as the pecuniary/non-pecuniary issue does not cure the issue in its entirety and the thirty-day window is shorter. Mr. Sackett noted that no comments were appended to the proposed Rule which he noted was unusual. Mr. Gibbons noted that the Committee had voted not to adopt a proposed comment. Mr. Sackett noted that Rule 7.3 dealing with solicitation could have been amended to deal with this issue. The history of Rule 7.3 was discussed.

5. Rule 8.4 Review of Comments (Chair Talbot)

Judge Oliver who was a subcommittee member presented the comments. The comments received objected to the Rule in its entirety. The Committee felt that insofar as the Committee had decided to have such a Rule, that the choice was binary whether to have it or not. The Committee did not feel the need to change course.

6. Rule 1.0 (Mr. Sackett)

This agenda item was tabled until the next meeting.

The Chair updated the Committee on matters in the pipeline. Mr. Walker asked if there is an 8.4(g) and Ms. Kennedy will research status as will Judge Oliver.

The next meeting of the Committee is November 7, 2023.

The meeting adjourned at 4:50 pm.