



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

Meeting Minutes January 2, 2024

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

Cory Talbot, Chair

Attendees:

Cory Talbot, Chair
Adam Bondy
Hon. James Gardner
Robert Gibbons
Mark Hales
Alyson McAllister
Hon. Trent Nelson
Mark Nickel
Hon. Amy Oliver
Jurhee Rice
Gary Sackett
Dane Thorley

Staff:

Beth Kennedy

Guests:

Eric Weeks

Excused:

Ashley Gregson; Christine Greenwood;
Hon. Craig Hall; Hon. M. Alex Natt; Ian
Quiel; Austin Riter; Billy Walker

1. Welcome, approval of the November 2023 meeting minutes (Chair Talbot)

Chair Talbot recognized the existence of a quorum and called the meeting to order at 4:05. Chair Talbot asked for a Motion to approve the November 7, 2023 meeting minutes. Mr. Gibbons moved for approval. Judge Oliver seconded. The Motion passed unanimously.

2. Discussion of the Judicial Council's Committee on Fairness and Equity and Rules 8.4 and 14-301 (Ms. Kennedy)

The Chair asked Ms. Kennedy to update the Committee on her conversations with the Judicial Council's Committee on Fairness & Equity concerning proposed changes to Rules 8.4 and 14-301. Ms. Kennedy reported that the Council offered to review any rule changes proposed by the Committee but could not propose any changes as the Council is not a rulemaking body.

The Committee discussed the history of the proposed changes. The Committee recounted that the Committee had presented proposed rule changes to the Supreme Court, but the Supreme Court wanted input from the Council. The Committee discussed how to obtain the Council's input and decided that the Council should provide its feedback directly to the Supreme Court.

The Committee decided to resubmit the rules to the Supreme Court. The Committee will simultaneously provide the rules to the Council so that it may provide input to the Court if it wishes.

3. Discussion of the ACLU's concerns with Rule 7.1

Chair Talbot then turned the Committee's attention to the recent Supreme Court conference concerning Rule 7.1. The Court invited an ACLU representative to the conference to discuss the ACLU's public comment and concerns regarding the prohibition on contacting potential clients.

Chair Talbot reported that, after the conference, the Supreme Court asked this committee to consider limiting the prohibition to contacts intended for "pecuniary gain."

The Committee discussed the history of the rule change and considered whether additional changes should be made. The Committee decided to reconvene the subcommittee on this issue and invite the ACLU representative to attend so the subcommittee can better understand the concern.

4. Discussion of the Supreme Court conference on the proposed referral fee rules

Chair Talbot then recounted the Supreme Court's discussion of the Committee's proposed changes on the referral fee rules. The Court has asked the Committee to revise the rules to redefine "referral fees" and "fee sharing" to be more

consistent with the ABA's Model Rules. Chair Talbot noted that the referral fee subcommittee was scheduled to meet to begin the revisions.

February 6, 2024, is the next meeting of the Committee.

The meeting adjourned at 4:44 pm.