

Disciplinary Rules and Procedures Committee
Meeting of April 1, 2022
Hybrid meeting

MINUTES

Chair Michael Bagley called the meeting to order at 2:04 p.m.

Attendance:

Committee members: Michael Bagley, R. Gary Spencer (virtual), Hon. J. Antonio DelCampo (virtual), Erin H. Gerstenzang (virtual), John G. Haubenreich (virtual), Patrick H. Head (virtual), William D. James (virtual), Catherine Koura (virtual), Edward B. Krugman, David N. Lefkowitz, David S. Lipscomb, Patrick E. Longan (virtual), David O’Neal (virtual), Jabu M. Sengova (virtual), Peter Werdesheim (virtual), and Hon. Paige Reese Whitaker.

Staff: Paula J. Frederick, Jenny K. Mittelman, William D. NeSmith, III, Kathya S. Jackson., and Carolyn Williams (virtual)

Guests: Supreme Court Justices Peterson, Warren, and Colvin.

Approval of Minutes:

The Committee approved the Minutes from the January 7, 2022 meeting.

Action Items:

Formal Advisory Opinion Board request:

David Lefkowitz and Patrick Longan presented the Committee with the revised drafts of Rules 1.5 and 1.8. After a thorough discussion, the Committee agreed to add additional language addressing the possibility of clients having to pay an unreasonable amount for arbitration.

David Lefkowitz will provide the Committee with revised drafts of Rules 1.5 and 1.8, which will include language from Bar Rule 6-204(j).

Rule 4-203.1

The Committee would like examples from other states on how they accomplish service of process upon lawyers living outside of their state. The Office of the General Counsel will provide the Committee with proposed narrow language regarding email service at the next meeting.

Subcommittee on In-House Counsel:

Paula Frederick requested volunteers for a subcommittee to address this matter.

Discussion Items:

Proposed changes to Part VII

The Committee agreed to have the OGC post the proposed rules changes on the SBG website and give a date to receive comments from the Bar before moving forward with the process. Justice Peterson would like the Committee to consider the constitutionality of the proposed rules.

Special General Counsel:

By unanimous vote, the Committee voted to create a Special General Counsel Rule (Rule 4-217) to address situations where the OGC has a conflict. A copy of the Rule as adopted appears at the end of these minutes.

Information Items:

Rule 8.4:

Bar Counsel will provide a draft of the proposed revisions at the next meeting.

Report:

Paula Frederick provided the Committee with a report regarding the status of previously amended rules.

The meeting adjourned at 2:59 p.m.

4-217: ~~Reserved~~ Special General Counsel

If the Office of the General Counsel has a conflict in performing duties listed in Part IV of these rules, the General Counsel must notify the Supreme Court and ask the Court to appoint Special General Counsel to perform those duties.