

MEETING OF THE COMMITTEE ON DISCIPLINARY RULES AND REFERENDA

June 6, 2019
Texas Law Center, Room 101
Austin, Texas
And by Teleconference

MINUTES

CALL TO ORDER

The meeting was called to order at 10:32 a.m.

Members Present: Chairman M. Lewis Kinard; Timothy Belton; Amy Bresnen; Claude Ducloux; Dean Vincent Johnson; Karen Nicholson.

Members Not Present: Hon. Dennise Garcia; Rick Hagen; W. Carl Jordan.

State Bar of Texas Staff Present: Trey Apffel, Executive Director; Seana Willing, Chief Disciplinary Counsel; KaLyn Laney, Deputy Executive Director; Ray Cantu, Deputy Executive Director; Brad Johnson, Disciplinary Rules and Referenda Attorney; Cory Squires, Staff Liaison; Gene Major, Attorney Compliance Division Director.

A. COMMENTS FROM THE CHAIR

Mr. Kinard addressed the Committee regarding the meeting and asked those persons planning to speak during the public hearings to sign in.

B. PUBLIC HEARING ON PROPOSED RULE 6.05. CONFLICT OF INTEREST EXCEPTIONS FOR NONPROFIT AND LIMITED PRO BONO LEGAL SERVICES, TEXAS DISCIPLINARY RULES OF PROFESSIONAL CONDUCT (TDRPC)

Mr. Kinard called to order the public hearing on proposed Rule 6.05 (Conflict of Interest Exceptions for Nonprofit and Limited Pro Bono Legal Services), TDRPC. No speakers signed up to comment on proposed Rule 6.05.

C. PUBLIC HEARING ON REVISED PROPOSAL ON LAWYER ADVERTISING RULES (PART VII. INFORMATION ABOUT LEGAL SERVICES, TDRPC)

Mr. Kinard called to order the public hearing on the revised proposal on lawyer advertising rules (Part VII. Information about Legal Services, TDRPC). One speaker addressed the Committee regarding the proposal. The Committee responded with questions and comments.

Ms. Bresnen noted that Professor Vincent Johnson was recently appointed Interim Dean of St. Mary's University School of Law.

D. ROLL CALL FOR QUARTERLY MEETING

Mr. Squires called the roll and a quorum was present.

E. APPROVAL OF THE MINUTES OF THE LAST MEETING

Mr. Kinard addressed the Committee on this agenda item. Mr. Ducloux made a motion that the Committee approve the minutes from the May 8, 2019, meeting. Ms. Bresnen seconded the motion. The Committee voted in favor of the motion.

F. DISCUSSION: SUBMISSION OF PROPOSED RULE 1.01. COMPETENT AND DILIGENT REPRESENTATION, TDRPC, TO BOARD OF DIRECTORS

Brad Johnson briefed the Committee on the status and timeline of proposed changes to Rule 1.01 (Competent and Diligent Representation), TDRPC, including submission of the proposal to the Board of Directors at a future date. Mr. Kinard responded with comments.

G. DISCUSSION: PROPOSED RULE 6.05. CONFLICT OF INTEREST EXCEPTIONS FOR NONPROFIT AND LIMITED PRO BONO LEGAL SERVICES, TDRPC

Mr. Kinard addressed the Committee on proposed Rule 6.05 (Conflict of Interest Exceptions for Nonprofit and Limited Pro Bono Legal Services), TDRPC. Brad Johnson addressed the Committee on the timeline for possible future action by the Committee on the proposed rule. Mr. Kinard expressed appreciation for the public comments received and Mr. Ducloux complimented the quality of the public comments received. The Committee will continue to accept public comments on the proposed rule through July 1, 2019.

H. DISCUSSION: REVISED PROPOSAL ON LAWYER ADVERTISING RULES (PART VII. INFORMATION ABOUT LEGAL SERVICES, TDRPC)

Ms. Bresnen addressed the Committee regarding a recent letter to the Advertising Review Department, State Bar of Texas, regarding trade names. The Committee discussed the current prohibition on lawyer trade names and the revised proposal on lawyer advertising rules. Mr. Ducloux addressed public feedback on the issue of trade names. The Committee further discussed the issue of trade names. Ms. Bresnen addressed the Committee regarding a legislative bill relating to lawyer advertising and the Committee responded with comments. The Committee further discussed the revised proposal on lawyer advertising rules, including public comments received.

I. PROPOSED RULE TIMELINES

Brad Johnson addressed the Committee regarding proposed rule timelines. The Committee will continue to accept public comments on proposed Rule 6.05 (through July 1, 2019) and on the revised advertising rules proposal (through August 6, 2019), and will hold a second public hearing on the revised advertising rules proposal on July 23, 2019. Mr. Kinard addressed the Committee on the public comment periods and encouraged additional public review and feedback.

J. AGENDA ITEMS FOR NEXT MEETINGS AND FUTURE MEETING DATES

Mr. Kinard addressed the Committee regarding the schedule for future meetings, including the July 23, 2019, public hearing on the revised advertising rules proposal. Mr. Kinard addressed a recent letter from the Supreme Court of Texas requesting that the Committee initiate the rule proposal process on Rule 3.02, Texas Rules of Disciplinary Procedure (TRDP), and draft comment language pertaining to Rule 3.06, TDRPC. The requests will be on the July 23, 2019, Committee meeting agenda. Mr. Kinard discussed the assignment of members to a subcommittee on each request. Mr. Ducloux and Mr. Hagen will serve on the subcommittee on Rule 3.02, TRDP, and Ms. Bresnen and Mr. Belton will serve on the subcommittee on Rule 3.06, TDRPC.

Ms. Bresnen addressed the Committee regarding recent legislation amending Chapter 27, Texas Civil Practice and Remedies Code, and the Committee responded with comments.

K. COMMUNICATION TO THE COMMITTEE FROM THE PUBLIC

There was no additional communication to the Committee from the public. Mr. Kinard expressed appreciation for the public comments received and encouraged continued public feedback in the rule proposal process.

ADJOURNMENT

Mr. Ducloux made a motion to adjourn. Ms. Bresnen seconded the motion. The Committee voted in favor of the motion and the meeting adjourned at 11:33 a.m.