

## **MEETING OF THE COMMITTEE ON DISCIPLINARY RULES AND REFERENDA**

October 3, 2018  
Texas Law Center, Room 102  
Austin, Texas

### **MINUTES**

#### **CALL TO ORDER**

The meeting was called to order at 10:05 a.m.

In attendance: Chairman M. Lewis Kinard; Claude Ducloux; Amy Bresnen; Rick Hagen; Timothy Belton; Hon. Dennise Garcia; W. Carl Jordan; Vincent Johnson and Jane King. Also present: Ray Cantu, Director; Michelle Jordan, Staff Attorney and Cory Squires, Staff Liaison.

#### **A. APPROVAL OF MINUTES**

The Committee reviewed the minutes from the September 4, 2018 meeting. Several changes were recommended by the Committee. Mr. Ducloux made a Motion that the Committee approve the minutes subject to the changes being made. The Motion was seconded by Mr. Hagen. The Committee voted in favor of the Motion.

#### **B. ADVERTISING RULES**

Mr. Kinard discussed the timing of the schedule for the advertising rules and asked the subcommittee for input on the schedule. Mr. Johnson suggested that a faster track be used for these rules. The Committee discussed whether to use the short or extended timeline for these rules. The Committee discussed and decided to undertake the shorter time period. The Committee discussed and decided to have a 90 day comment period. Mr. Ducloux made a Motion to publish the advertising rules December 1, 2018 with a comment period until March 1, 2019. Ms. King seconded the Motion. The Committee voted in favor of the Motion.

Mr. Johnson suggested starting the process of drafting comments to the advertising rules and volunteered to draft the comments. He recommended starting first with a draft using the ABA comments to their rules and then the subcommittee will work together to make changes that they feel are necessary.

#### **C. PROPOSED RULES 18-3 and 18-4-- INITIATED**

The Committee discussed potential vote dates for these rules.

#### **D. PROPOSED RULES 18-1, 18-2, and 18-5-- NOT INITIATED**

The Committee discussed whether to close out the dockets of these as potential rules, since the Committee has decided not to make rule changes on these, but rather to consider potential comment changes instead. Mr. Ducloux made a Motion to close out these docketed requests as suggested rule changes because the Committee will handle them as potential comments instead. Mr. Hagen seconded the Motion. The Committee voted in favor of the Motion.

## **E. CDRR REFERRAL TEMPLATE**

The Committee reviewed and discussed the template Mr. Kinard drafted for the Committee's referral of proposed comments to the Supreme Court.

## **F. PROPOSED COMMENT CHANGES- 1.05**

Mr. Ducloux and Mr. Hagan will continue to work together on comments to rule 1.05.

## **G. PROPOSED AMENDMENT TO COMMENT 8, RULE 1.01**

The Committee discussed the proposed comment change. Mr. Ducloux provided some of the background of the drafting of this comment by the Committee who drafted this proposed comment change.

The Committee decided that some type of change to the comments of 1.01 on this topic was necessary, but didn't necessarily agree with the language of this proposed comment.

Ms. King made a Motion that the Committee accept the assignment by the Supreme Court and will propose its own version of the language it would suggest to the Court. Ms. Bresnen seconded the Motion. The Committee voted in favor of the Motion.

Mr. Johnson will draft the comment language.

## **H. RULE 6.05- CONFLICTS AND PRO BONO**

Regarding the packet of information the Committee received, Ms. Jordan explained that the material was the work of the predecessor Rules Committee. She explained that the most recent substantive memo was dated December 12, 2014 and marked as Exhibit 1. Additionally the most recent draft of the proposed rule was the four column rule chart marked as Exhibit B.

The Committee decided to docket this as a potential rule change, but not to initiate at this time. Additionally, the Committee may want certain interested parties to speak at the Committee's next meeting.

## **I. AGENDA ITEMS FOR NEXT MEETING**

Mr. Squires addressed the annual report and that he would be asking the Committee members to submit their bios and pictures. He also plans to provide the Committee with an update on the website information.

## **ADJOURNMENT**

Mr. Johnson made a Motion to Adjourn. Ms. Bresnen seconded the Motion. The Committee voted in favor of the Motion and the meeting adjourned at 11:15 a.m.