

Disciplinary Rules and Procedures Committee
Meeting of January 13, 2023
Atlanta, Georgia

MINUTES

Chair Michael Bagley called the meeting to order at 2:05 p.m.

Attendance:

Committee members: Michael Bagley, Judge J. Antonio DelCampo, Erin Gerstenzang, Mazie Lynn Guertin, John G. Haubenreich (virtual), Patrick H. Head, R. Javoyne Hicks, Seth D. Kirschenbaum (virtual), Edward B. Krugman (virtual), David N. Lefkowitz (virtual), Patrick E. Longan, J. Maria Waters (virtual), and Judge Paige Whitaker.

Executive Committee Liaison: David S. Lipscomb

Staff: Paula J. Frederick, Jenny K. Mittelman, William D. NeSmith, III, and Kathya S. Jackson.

Guests: Supreme Court Justices Bethel, Colvin, Peterson and Warren. Cannabis and Hemp Law Section Secretary, Olia Wall. State Disciplinary Review Board Chair John Long and State Disciplinary Review Board member Joshua Bell. Attorneys Patricia Harris, Keyunna Harris (virtual) and Amy Fouts (virtual).

Approval of Minutes:

The Committee approved the Minutes from the September 29, 2022 meeting.

Action Items:

Cannabis and Hemp Law Section request

By unanimous vote, the Committee voted to reintroduce an amendment to Rule 1.2 regarding advising clients on cannabis production in Georgia. The Committee would like examples from other states regarding this issue. The Committee commissioned a subcommittee to draft an amendment to Rule 1.2. The subcommittee members are David Lipscomb, Pat Longan, Erin Gerstenzang, Paula Frederick, and Cannabis and Hemp Law Section Secretary, Olia Wall.

Rule 1.8(h)

The Committee discussed Jeffrey Smith's request and agreed to change "by counsel" to "by a lawyer." On January 14, 2023, Bar Counsel will provide the BOG, during its meeting, with a verbal update regarding the Committee's decision.

The Committee would like a comprehensive list of the rules that include "counsel" to decide if they need to be changed to "lawyer" at its next meeting.

Rule 4-214/Jack Long's request

By unanimous vote, the Committee voted to create a mechanism allowing the State Disciplinary Review Board, Special Master, or other designee to grant extensions of filing deadlines. A draft of the proposed rule will be provided at the next meeting.

Discussion Items:

Fagan subcommittee:

David Lipscomb withdrew his request for the committee to address this issue.

ABA Opinion 502

The Formal Advisory Opinion Board has a subcommittee drafting an Opinion regarding communication with a represented party by a pro se lawyer.

The Committee discussed the possibility of amending Rule 4.2 to address the ABA Opinion. Patrick Longan agreed to draft 2 versions of proposed Rule 4.2 for the Committee to discuss at its next meeting.

Uniform Service Rule

The Committee discussed the possibility of updating Rule 4-203.1. The Committee commissioned a subcommittee to update the rule and address how to perfect service for an attorney living out of the country. The subcommittee members are Patrick Head, Judge Whitaker, and David Lipscomb. Jack Long volunteered to be of service if needed.

The meeting adjourned at 3:51 p.m.