

# MINUTES

FOR THE

## ATTORNEY REGULATION ADVISORY COMMITTEE

Wednesday, December 12, 2018

9:30 a.m. – 11:30 a.m.

State Courts Building, 1501 West Washington Street, Phoenix, Arizona  
Conference Room 109

### **Present**

Justice Ann A. Scott Timmer  
Hon. William J. O'Neil  
Hon. Lawrence Winthrop  
Hon. Margaret Downie  
Maret Vessella  
George Riemer  
Elaine Sweet  
Lisa Panahi  
Edward Novak

### **Telephonically Present**

Maria Hubbard  
Whitney Cunningham

### **Absent**

Bennie Click  
James Belanger  
J. Scott Rhodes  
David Lunn

### **Staff**

Mark Wilson  
Kathy Curry  
Michelle Martinez  
Kate Novak  
Brianna Farmer  
Ashleigh Hansen

## Regular Business

9:31 a.m. Call to Order

*Justice Ann A. Scott Timmer, Chair*

### Business Items and Potential Action Items

No. 1 Review and Approve September 26, 2018 Committee minutes

**Motion:** Approve September 26, 2018 Minutes with edits from Kathy Curry

**Moved by:** Hon. William J. O’Neil

**Second:** George Riemer

**Carried:** None Opposed

No. 2 Update and possible action on Supreme Court Rule Amendments and Administrative Orders

o Rule 42.1 Establishment of Attorney Ethics Advisory Committee

Mark Wilson presented.

First meeting of newly developed Attorney Ethics Advisory Committee is planned for January 30, 2019 with the idea to meet quarterly, though final schedule has yet to be determined.

o Administrative Order No. 2018-111 Establishment of the Task Force on Delivery of Legal Services

Mark Wilson presented.

Justice Timmer to be chairing new Task Force that is scheduled to meet January 17, 2019. This will provide a look into provisions of legal services by non-lawyers.

No. 3 Updates and possible action on Proposed Rule Amendments

o Rule 34 and Rule 39 Admission on Motion – Active Practice Determination and Application Process

Edward Novak presented. A brief explanation of the rule changes were highlighted.

The committee discussed cases in which applicants may challenge “primarily engaged”. Mark Wilson, Maret Vessella, and Hon. William J. O’Neil provided additional discussion.

Justice Ann A. Scott Timmer suggested Edward Novak continue to work on Rule 34(f)3.

Justice Ann A. Scott Timmer requested Rule 39 proposed rule amendment be added with agenda item Rule 38, 39 and 40 Admission Issues.

**Motion:** Approve proposed changes to existing rules: Rule 34(h)(1)A and Rule 34(f)(1)A

**Moved by:** Hon. William J. O’Neil

**Second:** Elaine Sweet

**Carried:** None Opposed

o Rule 35 Examination Requirements – Permission to Write and Accommodation Requests

Postponed to next meeting.

o Rule 38, 39 and 40 Admission Issues

Kathy Curry presented.

Kathy Curry proposed a “Practice Pending Approval” for Clinical Professors, who have a requirement that they be able to practice law, to eliminate the number of instances where employment opportunities are missed due to pro-longed Character and Fitness investigations and the certification process.

The subcommittee provided the September draft of the proposed changes to all legal services organizations, Arizona law schools, and in-house counsel organizations.

Hon. Lawrence Winthrop discussed concerns that were raised by legal services organizations. Justice Ann A. Scott Timmer, Hon. William J. O’Neil, and Elaine Sweet provided additional discussion.

Edward Novak raised issue, seeking clarification about language pertaining to Rule 39 that one must have practiced for three of the last five licensed years.

The committee discussed concerns that may arise with current language.

**Motion:** Kathy Curry prepare rule petition with amendments as stated and approved.

**Moved by:** Hon. William J. O’Neil

**Second:** Edward Novak

**Carried:** None Opposed

o Proactive Management Based Regulation

Postponed to next meeting.

o Amendments to Rules 7.1-7.5 of the ABA Model Rules of Professional

Mark Wilson presented.

The ABA requested the state to review the proposed changes to decide and/or consider adopting the proposed changes, regarding legal solicitations, letterheads and communications

Justice Ann A. Scott Timmer proposed a subcommittee assemble to discuss the proposed changes and draft a comment. Hon. William J. O’Neil, Maret Vessella and Lisa Panahi volunteered.

No. 4 New Business

o Arizona Summit Law School/ABA Decision

Mark Wilson presented.

ABA and Arizona Summit Law School reached agreement on a Teach Out Plan for students.

o Preparation of the 2018 ARC report.

Mark Wilson presented.

The committee discussed the ARC report assignments and deadlines. Kathy Curry suggested staff schedule an additional meeting in April.

No. 5 Call to Public

None.

**Next Meeting: March 13, 2019**

**Adjourned: 11: 07 a.m.**