

# ATTORNEY REGULATION ADVISORY COMMITTEE MINUTES

Wednesday, March 1, 2017  
9:30 a.m. – 11:30 a.m.

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

## **Present**

Hon. Lawrence Winthrop  
Hon. William J. O'Neil  
Whitney Cunningham  
Elaine Sweet  
Edward Novak  
Lisa Panahi  
George Riemer  
Patricia Sallen  
David Lunn  
Scott Rhodes  
Justice Ann Timmer

## **Telephonically Present**

Ben Click  
Emily Johnston

## **Absent**

Ronald R. Watson  
Pamela Treadwill-Rubin  
Maret Vessella

## **Staff**

Kathleen Curry  
Mark Wilson  
Brianna Farmer  
Marisa McNally

## **Regular Business**

9:32 a.m. Call to Order and Introduction

Hon. Lawrence F. Winthrop

## **Business Items and Potential Action Items**

*No. 1* Review and Approve December 2016 ARC minutes

**Motion:** Approve December minutes with edits from Kathleen Curry and George Riemer.

**Moved by:** Hon. William J. O'Neil

**Second:** Edward Novak

**Carried:** None opposed.

No. 2 Review, Discussion and Possible Action from Supreme Court's Rules Forum

- *R-16-0042 Online JD exam eligibility* David Lunn /Work Group

David Lunn presented to the committee a report the work group prepared regarding R-16-0042. This petition, if adopted, would allow graduates from a non-ABA law school to sit for the Arizona bar examination without first completing three of five years of active practice. The work group reached the conclusion that there does not seem to be a reason, at this moment, to allow a non-accredited law school graduates to sit for the bar exam. The work group noted there is currently a rule that allows non-accredited law school graduates to sit for the bar exam after being a practicing lawyer for three to five years.

Judge Winthrop and Patricia Sallen provided additional comments.

**Motion:** Approve and file proposed comment provided in the report.

**Moved by:** J. Scott Rhodes

**Second:** Whitney Cunningham

**Carried:** None opposed.

- *R-16-0045 Rule 42, ER 6.4* Mark Wilson

Mark Wilson provided a report regarding R-16-0045. The proposed change would require the lawyer, associated with an organization that is lobbying for a change in law to disclose if the lawyer would benefit from that change. Mark recommended the committee not submit a comment regarding this rule petition.

J. Scotts Rhodes presented additional information regarding the underlying ethical rules and their application.

- *R-16-0047 Rule 38 Approved Legal Service Organizations* Patricia Sallen

Patricia Sallen provided a report regarding R-16-0047. This petition addresses the steps a registered in-house counsel must take to provide legal advice on a pro bono basis through a pre-approved legal services organization.

Justice Timmer, Judge Winthrop and Scott Rhodes provided additional information and comments regarding the rule petition.

**Motion:** File comment in support of this petition.

**Moved by:** The Honorable William J. O'Neil

**Second:** J. Scott Rhodes

**Carried:** None opposed.

- *R-17-0005 Rule 50 ADPCC membership*

Mark Wilson

Mark Wilson provided a report regarding R-17-0005. This petition would remove term limits for members of the Probable Cause Committee.

The following individuals made comments with some in favor and some opposed to the petition: Justice Timmer, Judge Winthrop, Judge O'Neil, J. Scott Rhodes, Whitney Cunningham and Elaine Sweet.

**Motion:** File a comment discussing the pros and cons of the petition and the various options discussed by the committee.

**Moved by:** Hon. William J. O'Neil

**Second:** Whitney Cunningham

Motion Withdrawn

**Motion:** File a comment that the ARC opposes the proposed rule change as written, and recommends a modification of it that leaves the two-term limit in place and includes a statement clarifying that in exigent circumstances, the court has discretion to modify term limits if needed.

**Moved by:** J. Scott Rhodes

**Second:** Elaine Sweet

**Carried:** None opposed.

- *R-17-0008 Rule 39 Pro Hac Vice Admission*

Lisa Panahi

Lisa Panahi provided a report regarding R-17-0008. This petition would allow the State Bar resource center to accept Pro Hac Vice applications electronically.

**Motion:** Offer a short comment in support in the rule change.

**Moved by:** Scott J. Rhodes

**Second:** Patricia Sallen

**Carried:** None opposed.

Lisa Panahi Recused

- *R-17-0011 Rule 38 In-House Counsel Registration*

Lisa Panahi

Lisa Panahi provided a report regarding R-17-0011. The first section of the petition, would correct Rule 38 regarding oversights. The second section clarifies the amount an attorney practicing pending admission must pay into the client protection fund. The third proposal clarifies that in-house counsel registration applies to one employer. The last section clarifies that in-house counsel must have a physical office in Arizona.

**Motion:** Offer a short comment in support of the petition and include a brief recommendation that the capitalized word “state” in the comment be changed in an appropriate way to be clear that it is referring to Arizona.

**Moved by:** Scott J. Rhodes

**Second:** Patricia Sallen

**Carried:** None opposed

- *R-17-0022 Rule 32 Bar membership*

Mark Wilson

Mark Wilson provided a report regarding R-17-0022. The petition requests that the State Bar’s functions be separated between mandatory and voluntary functions. The Committee had discussion concerning the value of a mandatory bar and the appropriateness of providing comments at this time.

**Motion:** File a comment opposing the petition

**Moved by:** Whitney Cunningham

**Second:** Ed Novak

Motion withdrawn after discussion

**Motion:** Committee should solicit information the nature, extent and purpose of current Rules and proposed petition.

**Moved by:** Whitney Cunningham

**Second:** Elaine Sweet

Motion withdrawn after discussion.

**Motion:** To have this Committee wait for direction from the Supreme Court regarding this petition.

**Moved by:** George Riemer

**Second:** Scott J. Rhodes

**Carried:** None opposed.

*No. 3* Review and Discussion on Pending Legislation

Mark Wilson

a. HB 2295

b. HB 2300

Discussed with R-17-0022.

*No. 4* ARC Annual Report Assignments and Deadlines

Justice Timmer

Judge Winthrop discussed the ARC Report and the adaptations that have been made over the years. Justice Timmer mentioned the only thing missing from the ARC Report data are the potential issues for ARC in 2017. She asked that if any suggestions are present to email her with them. April 1<sup>st</sup> is when suggestions are due in order to give adequate time to review and approve at the next meeting.

*No. 5* Admissions Statistics Update

Mark Wilson

Mark Wilson discussed the chart provided to the Committee regarding first time testers only. The Committee would also like to see this information broken down by law school.

No. 6 Supreme Court Task Force Update:  
Ethics and Professionalism and the Unauthorized Practice of Law

George Riemer  
Mark Wilson

George Riemer updated the Committee that a report will be available in the next few months. The task force discussed combining the UPL Committee and the Ethics Committee into one appointed by the Supreme Court to issues opinions.

No. 7 Call to Public

**Next meeting date: Wednesday, April 12, 2017**

***Any agenda item, including the call to the public, may be considered at a time other than what is indicated on this agenda.***

The Committee may meet in executive session as permitted by A.C.J.A. §1-202.

DRAFT