

**STATE RECORDS COMMITTEE  
PUBLIC NOTICE**

The State Records Committee will hold a meeting on **Thursday, November 13, 2014**. The meeting will be held in the Courtyard Meeting Room, State Archives Building, 346 South Rio Grande Street, Salt Lake City, Utah, beginning at 9:00 a.m. This is a public meeting, and anyone can attend. Committee business and two hearings scheduled.

**AGENDA**

**Hearing: Scott Gollaher vs. Morgan County Sheriff's Office.** Mr. Gollaher requested records from the Salt Lake Police Department, Weber County Sheriff's Office and Morgan County Sheriff's Office. The first two governmental entities do not hold the requested records. He was referred to the Morgan County Attorney General's Office for the records. Morgan County has not responded.

**THIS HEARING CANCELED**

**Hearing: Dan Harrie/Salt Lake Tribune vs. City of West Jordan.** Mr. Harrie is appealing the decision of the City of W. Jordan to deny information of an individual and some language concerning a settlement agreement between the city administration and Justice Court Judge Ronald Kunz. The city is claiming attorney-client privilege on redacted sentences of the Settlement Agreement document and information requested.

**Hearing: Laura Smith/Truth in Advertising, Inc. vs Department of Commerce: Division of Consumer Protection.** *Truth in Advertising, Org* (TINA) requests copies of any and all complaints the State of Utah Department of Commerce: Division of Consumer Protection has received relating to Wake Up Now, a Utah company. TINA is requesting personal identifying information of the complainant(s) be redacted. DCP denied access due to the records series is classified Private and Protected pursuant under 63G-3-302(2)(d) and 63G-2-305(10). The DCP stated no disciplinary actions have been taken against Wake Up Now.

**THIS HEARING CANCELED**

**Hearing: Jordanelle Special Service District (JSSD) vs. Office of the Utah State Auditor.** JSSD is appealing the decision of the Utah State Auditor decision to deny records that relate to a "Standstill Agreement." The Utah State Auditor denied the request based in part of an ongoing audit by the Office of Utah State Auditor, and the records are classified "Protected."

**THIS HEARING CANCELED**

**Hearing: Chad Lambourne vs. Utah Department of Health, Forensic Toxicology Lab.** Mr. Lambourne is appealing the denial of a GRAMA request made to the Department of Health-Forensic Toxicology Lab. The Bureau of Forensic Toxicology maintains their records are classified as private (U.C.A. 26-3-7 and 63G-2-101 to 1001) and since classified records are not public there is no person assigned to respond to GRAMA requests.

## **BUSINESS**

**Approval of October 9, 2014, SRC Minutes, action item**

**Retention Schedules, action item**

**SRC appeals received**

**Cases in District Court**

**Other Business**

**Next meeting will be held December 11, 2014.**

**ADA:** In compliance with the Americans with Disabilities Act, individuals needing special accommodations (including auxiliary communicative aids and services) during this meeting should notify Nova Dubovik at the Utah State Archives and Records Service, 346 S. Rio Grande, Salt Lake City, Utah 84101, or call (801)531-3834, at least three days prior to the meeting.

**Electronic Participation:** One or more members of the State Records Committee may participate electronically or telephonically pursuant to Utah Code 52-4-207(2) and Administrative Rule 35-1-2. Please direct any questions or comments to: State Records Committee, Utah State Archives, 346 S. Rio Grande, Salt Lake City, Utah 84101 (801) 531-3834.

**STATE RECORDS COMMITTEE MEETING**  
**Thursday November 13, 2014**  
**9:00 a.m.**

**Utah State Archives Building**  
**346 S. Rio Grande St.**  
**Salt Lake City, UT 84101**

**AGENDA**

**HEARINGS**

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**This Hearing Canceled**

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**Hearing: Laura Smith/Truth in Advertising, Inc. vs. Department of Commerce: Division of Consumer Protection.** Truth in Advertising. Org (TINA) requests copies of any and all complaints the State of Utah Department of Commerce: Division of Consumer Protection has received relating to Wake Up Now, a Utah company. TINA is requesting personal identifying information of the complainant(s) be redacted. DCP denied access due to the records series is classified Private and Protected pursuant under 63G-3-302(2)(d) and 63G-2-305(10). The DCP stated no disciplinary actions have been taken against Wake Up Now.

**This Hearing Canceled**

**Hearing: Jordanelle Special Service District (JSSD) vs. Office of the Utah State Auditor.** JSSD is appealing the decision of the Utah State Auditor decision to deny records that relate to a "Standstill Agreement." The Utah State Auditor denied the request based in part of an ongoing audit by the Office of Utah State Auditor, and the records are classified "Protected."

**SRC Appeals Received  
November 2014**

**Pending Documentation/Other:**

- 1 14-70 John Montour vs. UDC/ Clinical Services (Appealed 12 Nov).** Mr. Montour is appealing the denial of a Mental Health Evaluation performed by Clinical Services on approximately May 2014. Clinical Services denied the records request based on the classification of the requested records as "protected" pursuant to 63G-2-204 and 304. Pending executive secretary review of documents.

**Hearing Denial/Incomplete Appeals:**

- 2 14-55 Nate Carlisle/Salt Lake Tribune vs. Hildale, UT (Appealed 19 Sep).** Mr. Carlisle is appealing the denial of the financial settlement amount *Cooke v. Colorado City, et al.*, Civil No. 3:10-cv-08105. The CAO, Mr. Hamilton, has denied access to the requested records due in part, the Settlement Agreement contains confidentiality provision that prohibits disclosure to all but a very limited group of individuals. Release of the Settlement Agreement would be a breach of Agreement. Incomplete appeals process and documentation. Submitted CAO denial on 12 Nov.
- 3 14-59 Brett McCammon vs. Central Utah Correction Facility (UDC) (Appealed 8 Oct).** Mr. McCammon is requesting an appeal to correct his Utah State Department of Corrections Division of Institutional Operations Offender Assessment/ Re-assessment Form completed by B. Rogers dated April 1, 2014. In addition to the amendment he is seeking transcripts of his sentence in 1998 Case No. 981908325. Incomplete appeals process and documentation. U.C. 63G-2-603(2)(a). Second portion of request referred to State Archives for response. On 22 Oct. Mr. McCammon sent more material supporting his appeal. After reviewing the material it has been determined the State Records Committee does not hear appeals concerning the denial of requests to amend records-pursuant to Utah Codes 63G-2-603(7) and by Title 63G, Chapter 4, Administrative Procedures Act.
- 4 14-60 Robert Baker vs. UDC (Appealed 8 Oct).** Mr. Baker is appealing the denial of receiving copies of Policy and Procedures at Utah State Prison, a litigation. The Records Officer's response is that material is found in the Inmate Reference Library and available for viewing. U.C. 63G-2-201(8)(a)(v)(A). Mr. Baker did not complete the appeals process to the Chief Administrative Officer. Incomplete appeals process and documentation.
- 5 14-61 Terry Marble vs. Department of Corrections. Medical Services (Appealed 8 Oct).** Mr. Marble is requesting a copy of his mental health psych testing results from August 8, 2014. He states the Bureau of Clinical Services referred him to the SRC. He did not provide copies of an initial request, appeal, or denial with the appeal. Called UDC records officer and verified it is an incomplete appeals process and documentation.
- 6 14-64 Steven Holloway vs. UDC (Appealed 22 Oct).** Mr. Holloway is appealing the denial of records in regards to policy of 63G-2-201(8)(a)(iv). He requested addresses of specific places his checks were sent, where funds came from and by whom. It is unclear who the governmental entity is that denied the records request. Incomplete appeals process and documentation.

**Hearings Scheduled for November:**

- 6 14-50 Scott Gollaher vs. Morgan County Sheriff's Office (Appealed 4 Aug).** Mr. Gollaher requested records from the Salt Lake Police Department, Weber County Sheriff's Office and Morgan County Sheriff's Office. The first two governmental entities do not hold the requested records. He was referred to the Morgan County Attorney's Office for the records. Morgan County has not responded. Hearing is scheduled for November and will be telephonic.
- 7 14-56 Dan Harrie/Salt Lake Tribune vs. City of West Jordan (Appealed 23 Sep).** Mr. Harrie is appealing the decision of the City of W. Jordan to deny information of an individual and some language concerning a settlement agreement between the city administration and Justice Court Judge Ronald Kunz. The city is claiming attorney-client privilege on redacted sentences of the Settlement Agreement document and information requested. Hearing canceled for November. Resolved through mediation.
- 8 14-57 Laura Smith/Truth in Advertising, Inc. vs. Department of Commerce: Division of Consumer Protection (Appealed 23 Sep).** Truth in Advertising, Org (TINA) requests copies of any and all complaints the State of Utah Department of Commerce: Division of Consumer Protection has received relating to Wake Up Now, a Utah company. TINA is requesting personal identifying information of the complainant(s) be redacted. DCP denied access due to the records series is classified Private and Protected pursuant under 63G-3-302(2)(d) and 63G-2-305(10). The DCP stated no disciplinary actions have been taken against Wake Up Now. Hearing is scheduled for November will be telephonic.
- 9 14-58 Jordanelle Special Service District (JSSD) vs. Office of the Utah State Auditor (Appealed 7 Oct).** JSSD is appealing the decision of the Utah State Auditor decision to deny records that relate to a "Standstill Agreement." The Utah State Auditor denied the request based in part of an ongoing audit by the Office of Utah State Auditor, and the records are classified "Protected." Hearing is rescheduled for December.
- 10 14-62 Chad Lambourne vs. Utah Department of Health, Forensic Toxicology Lab (Appealed 16 Oct).** Mr. Lambourne is appealing the denial of a GRAMA request made to the Department of Health-Forensic Toxicology Lab. The Bureau of Forensic Toxicology maintains their records are classified as private (U.C.A. 26-3-7 and 63G-2-101 to 1001) and since classified records are not public there is no person assigned to respond to GRAMA requests. Hearing canceled for November. Resolved through mediation.

**Hearing Scheduled for December:**

- 11 14-63 P. Robert Augason vs. University of Utah (Appealed 21 Oct).** Mr. Augason is appealing the denial of records relating to the property, income, and trademark rights associated with various block "U" trademarks. Hearing is scheduled for December.
- 12 14-65 R. Shane Johnson vs. Salt Lake City Parking Enforcement (Appealed 23 Oct).** Mr. Johnson is appealing the partial denial of records by the Salt Lake City Parking Enforcement based on the records are classified as private under Utah Code sections 63G-2-305(17)(18) and (23). Hearing is scheduled for December.
- 13 14-66 Schatz/Anderson & Associates vs. Roosevelt Police Department (Appealed 29 Oct).** Schatz/Anderson & Associates law firm is appealing the denial of their GRAMA requests by the Roosevelt City's Chief Administrative Officer. The law firm is representing Jordan Benson and requested a copy of video and audio for a Reckless Driving Violation. The law firm is also representing Rory Curry and requested a copy of video and audio for an Open Container Violation. Both GRAMA requests were denied due to no response from the records officer or CAO of Roosevelt Police Department. Hearing is scheduled for December.
- 14 14-67 Daniel Rivera Jr. vs Department of Human Services; Division of Child and Family Services (Appealed 6 Nov).** Mr. Rivera is appealing the denial of records from DCFS. Mr. Rivera claims DCFS used the police raid at his house as a basis to file the petition to terminate his parental rights. DCFS basis for denying the records request is the agency does not currently possess any records that are responsive to the request and recommended him to appeal the decision to the State Records Committee or District Court. Hearing is scheduled for December will be telephonic.
- 15 14-68 Karl Losee vs Utah Department of Corrections (Appealed 6 Nov).** Mr. Losee is appealing the denial of photos from UDC. UDC denied the records request based on the classification of the requested photos as "protected" pursuant to 63G-2-305(10). Hearing is scheduled for December will be telephonic.
- 16 14-69 Laura Smith/Truth in Advertising, Inc. vs. Department of Commerce: Division of Consumer Protection (Appealed 23 Oct).** *Truth in Advertising. Org* (TINA) requests copies of any and all complaints the State of Utah Department of Commerce, Division of Consumer Protection has received relating to Vapex LLC, Sinless Vapor LLC, and OZN Web LLC, a Utah companies. *TINA* is requesting personal identifying information of the complainant(s) be redacted. DCP denied access due to the records series is classified Private and Protected pursuant under 63G-3-302(2)(d) and 63G-2-305(10). Hearing is scheduled for December will be telephonic.

## November 2014 State Records Committee Case Updates

### District Court Cases

**Utah Dept. of Correction v. Campbell**, 3<sup>rd</sup> District, Salt Lake County, Case No. 140906834, Judge Parker, filed October 1, 2014.

**Current Disposition:** Complaint filed with Court, still needs to be served upon Committee and Campbell (Buzzfeed). Answer for the Committee already drafted, ready to file once we are served.

**Morgan Fife v. Orem City**, 4<sup>th</sup> Judicial District, Utah County, Case No. 140400007, Judge McVey, filed January 2, 2014.

**Current Disposition:** Prior to holding a hearing for oral argument on November 10, 2014 regarding Fife's and Orem City's cross motions for summary judgment, Judge McVey issued a written opinion on October 22, 2014. The Court held that Fife's petition was timely filed, even though it was filed more than 30 days after the decision by the Committee, finding that the original petition was timely filed and the Court allowed the original petition to be amended to allow Fife to be substituted as the party. Regarding the merits of the case, the Court found that three of the four companies asserted a claim of confidentiality, which the Court upheld under GRAMA. The fourth company asserted a claim of confidentiality, only after the GRAMA request was filed with the City of Orem, a circumstance that the Court characterized as "fishy." The Court relied upon the language found in Utah Code § 63G-2-305(1) & (2) that the person who believes the record should be protected "shall provide with the record" a written claim of business confidentiality. Fife has filed a motion for attorney fees without specifying if the request was for Orem City and/or the Committee, so the AG's office will be filing a memorandum contra to the motion.

**Salt Lake City v. Jordan River Restoration Network**, 3<sup>rd</sup> Judicial District, Salt Lake County, Case No. 100910873, Judge Stone, filed June 18, 2010.

**Current Disposition:** Hearing set for January 8, 2015 on cross motions for summary judgment.

### Appellate Court Cases

**Attorney General Office. v. Schroeder**, Utah Supreme Court, Appeal No. 20121057.

**Current Disposition:** Case has been transferred and certified to the Utah Supreme Court as of January 31, 2014. Appellee (Attorney General Office) appellate brief filed on February 19, 2014, reply brief filed on April 22, 2014. Waiting for hearing date to be scheduled.

**Salt Lake City Corp. v. Mark Haik**, Court of Appeals Case No. 20130383.

**Current Disposition:** Decision rendered by Court of Appeals on August 14, 2014 (2014 UT 193). Haik filed a discretionary appeal with the Utah Supreme Court, which was circulated to the justices on October 17, 2014.