

## December 2018 State Records Committee Case Updates

### District Court Cases

**Kane Cty. Water Conservancy Dist. v. Utah Rivers Council**, 6<sup>th</sup> Judicial District, Kanab County, Judge Bagley, Case No. 180600081, filed September 18, 2018.

**Current Disposition:** Motion to Dismiss or Transfer case hearing scheduled for December 13, 2018. Motion filed by Utah Rivers claiming that the case should either be dismissed or transferred to Salt Lake County because the action that is the basis for the appeal was the issuance of the order by the Committee. Potential long term effect if motion is granted because would set precedent that all Committee appeals to district court would have to be filed in Salt Lake County 2<sup>nd</sup> District Court.

**Platt v. Utah Attorney General's Office**, 3<sup>rd</sup> District, Salt Lake County, Judge Keith Kelly, Case No. 180906128, filed August 22, 2018.

**Current Disposition:** Hearing scheduled concerning Motions to Dismiss on December 12, 2018.

**BYU v. KUTV News**, 4<sup>th</sup> District, Utah County, Judge Kraig Powell, Case No. 180401367, filed August 21, 2018.

**Current Disposition:** On September 28, 2018, the court granted a stipulated motion to consolidate the *Volluz* and *Truth and Transparency Foundation* cases into this case and stay the proceedings until a decision is rendered by the Utah Supreme Court in the *Salt Lake Tribune v. State Records Committee* case.

**ACLU v. Davis County**, 3<sup>rd</sup> District, Salt Lake County, Judge Connors, Case No. 180700511, filed May 21, 2018.

**Current Disposition:** November 30, 2018 first set of discovery has been answered by Davis County.

**John Tilleman v. Ogden City**, 3<sup>rd</sup> District, Salt Lake County, Judge Kelly, Case No. 180901915, filed March 19, 2018.

**Current Disposition:** Answers filed by Ogden City and the Committee on April 9, 2018.

**Lance Rolph v. Utah Dept. of Human Services**, 3<sup>rd</sup> District, Salt Lake County, Judge Hansen, Case No. 170905372, filed August 23, 2017.

**Current Disposition:** Initial disclosures filed by DHS on January 17, 2018.

**Paul Amann v. Utah Attorney General's Office**, 3<sup>rd</sup> District, Salt Lake City, Judge Skanchy, Case No. 170903997, filed June 21, 2017.

**Current Disposition:** On October 25, 2018, the court issued Notice of Intent to Dismiss Case based upon inactivity in case. Mr. Amann filed on November 9, 2018, a Response to Notice of Intent to Dismiss Case in which he argued that the case should go forward and the reason why nothing had happened was because the AG's Office has been uncooperative. Mr. Amann also served at the same time a request for admissions. On December 10, 2018, Mr. Amann filed a notice with the court that the AG's Office had failed to respond within 28 days to his request for admissions, and requested that the court deem each of his requests for admission to be considered admitted because of the failure to respond to the request.

**Utah County v. Salt Lake Tribune**, 4<sup>th</sup> District, Utah County, Judge Powell, Case No. 170300010, filed Jan. 18, 2017.

**Current Disposition:** A proposed order was filed with the Court on November 8, 2017, proposing that Utah County release some of the documents subject to redaction to the Tribune. The Tribune after reviewing the documents can then request that the Court review the redactions *in camera* to verify that the redactions were properly done. The Court signed the order on November 9, 2017.

**Heber City v. David Larsen**, 4<sup>th</sup> District, Wasatch County, Judge Brown, Case No. 170500006, filed Jan. 17, 2017.

**Current Disposition:** Judgment granted in favor of Mr. Larsen by the Court on October 1, 2018. Court found that the letter of reprimand was considered disciplinary action and should be disclosed to Mr. Larsen. On October 10, 2018, Mr. Larsen filed a Motion for an Amended Judgment requesting payment for time he spent on the case at \$150 per hour for 250 to 300 hours of work. Heber City has opposed the motion.

**Matthew Piper v. State Records Committee (BYUPD Case)**, 3<sup>rd</sup> District, Salt Lake County, Judge Scott, Case No. 160904365, filed July 12, 2016.

**Current Disposition:** Interlocutory appeal currently being considered by the Utah Supreme Court.

**Swen Heimberg v. Utah Dept. of Public Safety**, 3<sup>rd</sup> District, Salt Lake County, Case No. 150904273, Judge Bates, filed June 24, 2015.

**Current Disposition:** Proposed protective order for disclosure of documents filed with the Court. Nothing has been filed in the case since March 3, 2017.

**William Sherratt v. Utah Dept. of Corrections**, 6<sup>th</sup> District, Sanpete County, Case No. 140600023, filed April 23, 2014.

**Current Disposition:** January 3, 2016, Court granted Corrections' second Motion to Quash Service. Committee answer was filed on July 20, 2016. Waiting to see if anything will be filed by Sherratt.

### **Appellate Court Cases**

**Matthew Piper v. State Records Committee (BYUPD Case)**, Utah Supreme Court Case No. 20180601.

**Current Disposition:** Transcript from trial court proceedings has been filed with the Utah Supreme Court.

**Utah Legal Clinic v. Salt Lake City Corp.**, Utah Court of Appeals, Case No 20170362.

**Current Disposition:** Oral argument held on October 25, 2018. Case now submitted to the court awaiting a decision from the court.

**Salt Lake City v. Jordan River Restoration Network**, Utah Supreme Court Case No. 20160098.

**Current Disposition:** Oral arguments held before the Utah Supreme Court on March 14, 2018. Case now submitted to the court awaiting a decision from the court.

## Bryner Court Cases

**Roger Bryner v. City of Clearfield**, 3rd District, Salt Lake County, Judge Gardner, Case No. 160907299, filed Nov. 25, 2016; Utah Supreme Court Case No. 20170729.

**Current Disposition:** Certiorari denied by Utah Supreme Court on February 5, 2018. Stay in case in effect until decision on vexatious order.

**Roger Bryner v. Utah Attorney General's Office, et. al.**, 3<sup>rd</sup> District, Salt Lake County, Judge Laura Scott, Case No. 160906562, filed October 20, 2016. Utah Court of Appeals Case No. 20170235.

**Current Disposition:** An Order of Affirmance issued by the Court of Appeals on August 13, 2018. The Court held that the district court's finding that e-mails between counsel for the State Records Committee and the City of Clearfield were properly classified as protected records pursuant to Utah Code § 63G-2-305(17). The Committee and Clearfield were co-defendants in a lawsuit and therefore shared a common interest and protected under the attorney-client privilege. Mr. Bryner filed a petition for a rehearing of the case and it was denied by the Court of Appeals on September 4, 2018.

**Roger Bryner v. Utah State Records Committee**, 3<sup>rd</sup> District, Salt Lake County, Judge Faust, Case No. 160903793, filed June 15, 2016. Utah Court of Appeals Case No. 20160870, Utah Supreme Court Case No. 20170112.

**Current Disposition:** May 24, 2017, Utah Supreme Court denied request for *writ of certiorari*. Case dismissed by the trial court on May 30, 2017.

**Roger Bryner v. Utah Dept. of Health et. al.**, 3<sup>rd</sup> District, Salt Lake County, Judge Gardner, Case No. 160903244, filed May 23, 2016.

**Current Disposition:** Motion filed on November 20, 2018 to extend the stay on the case until vexatious order appeal has been completed (original stay expired October 1, 2018). If no opposition filed with the court, will file notice to submit.

**Roger Bryner v. City of Clearfield**, 2<sup>nd</sup> District, Davis County, Judge Morris, Case No. 150701062, filed October 20, 2015; Utah Court of Appeals Case Nos. 20160863, 20161089, **20170477**, & 20171016; United States Supreme Court Case No. 17-7806.

**Current Disposition:** Only case that is still active is Appellate Case No. 20170477. Appellee's brief was filed on November 8, 2018. Mr. Bryner's reply brief is due on January 14, 2019.