

April 2019 State Records Committee Case Updates

District Court Cases

Clara v. Salt Lake City, 3rd Judicial District, Salt Lake County, Judge Robert Faust, Case No. 190902861, filed Apr. 8, 2019.

Current Disposition: Committee served on Apr. 10, 2019. No hearing was scheduled because there were no documents responsive to the records request.

Clara v. State Records Committee, 3rd Judicial District, Salt Lake County, Judge Amber M. Mettler, Case No. 190902358, filed March 21, 2019.

Current Disposition: Committee served on Mar. 22, 2019. Mr. Clara had requested copies of privilege logs from UTA that were provided at the appeal with UTA. The request was denied on the basis that the Committee does not keep those records. Answer will be filed on or before Apr. 12, 2019.

Highland City v. Wahnschaffe, 4th Judicial District, Utah County, Judge Christine Johnson, Case No. 190400262, filed Feb. 14, 2019.

Current Disposition: Answer filed on behalf of the Committee on March 4, 2019. Ms. Wahnschaffe filed her answer also on March 4, 2019. Highland City argues in its complaint that a settlement agreement was entered into by Ms. Wahnschaffe during mediation negotiations with the Government Records Ombudsman Ms. Cundiff, and that it should be enforced by the Court. Committee Answer includes a defense that the Committee cannot provide evidence regarding mediation proceedings because of the Utah Uniform Mediations Act.

Clara v. Utah Transit Auth., 3rd Judicial District, Salt Lake County, Judge Patrick Corum, Case No. 190900339, filed January 13, 2019.

Current Disposition: UTA filed a Rule 12(e) Motion for More Definite Statement arguing that Mr. Clara should be required to file an Amended Petition fee of errors. The Court granted the motion on Feb. 20, 2019 and Mr. Clara filed his Amended Petition on March 6, 2019. UTA filed a Motion to Dismiss on March 20, 2019. No memorandum opposing motion was filed by Mr. Clara with 14 days, so Request to Submit filed by UTA on Apr. 8, 2019.

David v. Wasatch County, 4th Judicial District, Wasatch County, Judge Jennifer A. Brown, Case No. 180500177, filed December 19, 2018.

Current Disposition: Complaint filed by Mr. Lynn on Dec. 19, 2018. Answer filed by the Committee on February 8, 2019. Answer filed by Wasatch County on March 12, 2019.

Univ. of Utah v. Jeremy Beckham, 3rd Judicial District, Salt Lake County, Judge Gardner, Case No. 180909564, filed December 19, 2018.

Current Disposition: Complaint filed by University of Utah on Dec. 19, 2018. Answer filed on behalf of the Committee on January 7, 2019. Answer for other parties filed on January 31, 2019. Initial disclosures filed by Univ. of Utah on Feb. 28, 2019.

Gollaher v. Morgan County, 3rd Judicial District, Salt Lake County, Judge Andrew H. Stone, Case No. 180909188, filed Dec. 6, 2018.

Current Disposition: Appeal filed for decision from Committee dated Oct. 26, 2018. Committee served with copy of the complaint on March 18, 2019. Since complaint was filed more than 30 days after date of decision, Committee filed a Motion to Dismiss on Apr. 9, 2019.

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

Current Disposition: Proposed Order signed by the Court on December 31, 2018, denying AG's Office's motion to dismiss, finding that Mr. Platt's petition does specify the type and extent of relief requested and therefore is not a basis for dismissal.

BYU v. KUTV News, 4th 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, 3rd District, Salt Lake County, Judge Connors, Case No. 180700511, filed May 21, 2018.

Current Disposition: Deposition held on January 17, 2019 by ACLU deposing witness from Davis County.

John Tilleman v. Ogden City, 3rd 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, 3rd 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, 3rd District, Salt Lake City, Judge Skanchy, Case No. 170903997, filed June 21, 2017.

Current Disposition: Apr. 9, 2019 the Court issued an order denying the AG's Office Motion to Dismiss, and reserved Mr. Amann's motion for summary judgment and motion for Rule 11 Sanctions "for a later time." The Court also required the AG's Office and Mr. Amann to hold an attorney's planning conference by Apr. 25, 2019, and scheduled a hearing for June 18, 2019 to address any unsolved records issues.

Utah County v. Salt Lake Tribune, 4th 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, 4th 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), 3rd 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, 3rd 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, 6th 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: Appellant's brief is due on April 22, 2019. SB 197 "Law Enforcement Agency Amendments" signed into law, adding to the definition of "Governmental Entity" under GRAMA to include a law enforcement agency as defined in Utah Code § 52-1-102, which was also amended to include "a private institution of higher education, if the entity or division has been certified by the commissioner."

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

Current Disposition: Decision rendered on Apr. 11, 2019. Court affirmed decision of the district court, finding that the public interest was "weak" in comparison with the City's interest in keeping attorney client work product non-public.

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., 3rd 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, 3rd 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., 3rd District, Salt Lake County, Judge Gardner, Case No. 160903244, filed May 23, 2016.

Current Disposition: After motion filed by the Committee to extend the time for the stay of the case, the court extended the stay of the case until December 31, 2020 or when the vexatious litigant appeal has been completed, whichever comes first.

Roger Bryner v. City of Clearfield, 2nd 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 Apr. 18, 2019.