

## May 2020 State Records Committee Case Updates

### District Court Cases

**Ai Hsu v. Utah Div. of Child & Family Serv.**, 3<sup>rd</sup> Judicial District, Salt Lake County, Judge Robert Faust, Case No. 200902525, filed April 2, 2020.

**Current Disposition:** Answer filed on behalf of the Committee on April 29, 2020. Parties will probably file joint motion to consolidate cases.

**Utah Div. of Child & Family Serv. v. Jana Tibbitts**, 3<sup>rd</sup> Judicial District, Salt Lake County, Judge Kara Pettit, Case No. 200902499, filed April 1, 2020.

**Current Disposition:** Answer filed on behalf of the Committee on April 20, 2020. Case probably will be consolidated with other appeal.

**Big Game Forever v. Eric Peterson**, 3<sup>rd</sup> Judicial District, Salt Lake County, Judge Kara Pettie, Case No. 200902471, filed March 31, 2010.

**Current Disposition:** Answer to be filed on behalf of the Committee. A notice of intent to appeal was also filed by Eric Peterson. Big Game Forever filed initial disclosures on May 12, 2020.

**San Juan County v. State Records Committee**, 7<sup>th</sup> Judicial District, San Juan County, Judge Don Torgerson, Case No. 200700004, filed Jan. 31, 2020.

**Current Disposition:** Appeared at Motion Hearing on March 2, 2020, awaiting ruling by Court on issue of whether case will be heard by the trial court *de novo* or remanded back to the Committee for further proceedings. Court granted motion for Andrew Gulliford to be joined to the case at the hearing. Counsel for Gulliford allowed to withdraw based upon time commitment to other cases on April 3, 2020.\*

**Davis County v. Riley Booker**, 2<sup>nd</sup> Judicial District, Davis County, Judge Robert Dale, Case No. 200700081, filed Jan. 21, 2020.

**Current Disposition:** Answer filed on behalf of the Committee on Feb. 20, 2020. Answer filed by Ms. Booker on Feb. 27, 2020.\*

**Onysko v. State Records Committee**, 3<sup>rd</sup> Judicial District, Salt Lake County, Judge Robert Faust, Case No. 190909752, filed Dec. 15, 2019.

**Current Disposition:** Motion to Dismiss complaint filed on behalf of the Committee granted by the Court on May 7, 2020. Mr. Onysko filed a Motion to Set Aside the granting the Motion to Dismiss on May 11, 2020, arguing that the issue had not been properly submitted to the Court. Memorandum Opposing Mr. Onysko's motion will be filed shortly on behalf of the Committee.

**Beaver County Sheriff's Office v. Utah Cold Case Coalition**, 3<sup>rd</sup> Judicial District, Salt Lake County, Judge Patrick Corum, Case No. 190908404, filed Oct. 23, 2019.

**Current Disposition:** Answer and Counterclaim for attorney fees filed by Cold case Coalition. Answer on behalf of the Committee filed on Nov. 18, 2019. Question being raised is what issues can be argued by a governmental entity when it is an appeal of a continuance order based upon request by Committee to review documents *in camera*.\*

“\*” means no update since last case status update given to the Committee.

**Brigham Young University v. Miller**, 4<sup>th</sup> Judicial District, Utah County, Judge Darold McDade, Case No. 190401673, filed Oct. 23, 2019.

**Current Disposition:** Stipulated court order entered on February 12, 2020 staying all further proceedings “until further notice to allow the parties to explore potential resolution of the case.”\*

**Tooele County v. Sagers**, 3<sup>rd</sup> Judicial District, Tooele County, Judge Matthew Bates, Case No. 190301021, filed June 17, 2019.

**Current Disposition:** Show Cause hearing to be held on Apr. 20, 2020, requiring parties to appear and show cause why case should or should not be dismissed, was continued because of COVID-19 court shutdown.

**Allred v. State Records Committee**, 3<sup>rd</sup> Judicial District, Salt Lake County, Judge Andrew Stone, Case No. 190903142, filed Apr. 17, 2019.

**Current Disposition:** Appeal dismissed from Committee because appeal was not filed timely. Petition for judicial review requests that the court remand the case back to the Committee to hear the appeal. Appeal also failed to name the governmental entity that holds the records (DCFS). Answer filed on behalf of the Committee on April 30, 2019. May be filing a motion to dismiss or waiting until court dismisses the case for failure to prosecute.\*

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

**Current Disposition:** Mediation conference originally scheduled for April 20, 2020 continued due to COVID-19.

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

**Current Disposition:** Order to Show Cause hearing scheduled for March 5, 2020 was continued by the court to a date available to all parties.\*

**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:** Telephone oral argument scheduled for May 27, 2020 on motion to set aside order granting Summary Judgment.

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

**Current Disposition:** Scheduled bench trial postponed. Telephone conference on May 11, 2020 and parties agreed to meet and confer and then have another telephone conference with the court on June 1, 2020.

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

**Current Disposition:** Discover deadlines already ended and a certificate for readiness for trial should have been filed in March 2019. Sent e-mail to Ogden City’s counsel asking if they were planning on filing a motion to dismiss based upon a failure to prosecute.\*

**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:** Only activity was withdrawal of DHS counsel because AAG has left the office.\*

“\*” means no update since last case status update given to the Committee.

**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:** Evidentiary hearing set for July 2, 2020, potentially to be held by telephone regarding outstanding motions in case.

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

**Current Disposition:** Currently under consideration by the court is a motion to supply the court with a supplemental motion for attorney fees and to request the court to issue a show cause order, and a motion to continue hearing or trial.

**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:** Stipulated court order entered on February 12, 2020 staying all further proceedings “until further notice to allow the parties to explore potential resolution of the case.”\*

### **Bryner Court Cases**

**Roger Bryner v. City of Clearfield**, 3<sup>rd</sup> 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 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 to Lift Stay was granted on August 22, 2019.\*

**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, **20191033**, Utah Supreme Court Case No. 20170112.

**Current Disposition:** Time for Mr. Bryner to file response to court's sua sponte motion for summary disposition extended until May 30, 2020.

**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:** Writ of Certiorari denied by Utah Supreme Court on November 25, 2019.\*

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