



Nancy Sylvester <nancyjs@utcourts.gov>

Proposed Judicial Rule Amendment Addressing Confidentiality in Property Tax Cases

Steve Young <SPYoung@hollandhart.com>

Thu, Jan 5, 2017 at 3:57 PM

To: "Brad Johnson (bcjohnson@slco.org)" <bcjohnson@slco.org>, Timothy Bodily <TBodily@slco.org>, "Thomas W. Peters (twp@psplawyers.com)" <twp@psplawyers.com>, "JMCCARREY@utah.gov" <JMCCARREY@utah.gov>, "Laron Lind (LLind@utah.gov)" <LLind@utah.gov>, "Michelle Alig Lombardi (malig@utah.gov)" <malig@utah.gov>, Mark Buchi <MKBuchi@hollandhart.com>, "kwright@slco.org" <kwright@slco.org>

Cc: Nancy Sylvester <nancyjs@utcourts.gov>

All –

Nancy Sylvester is the Associate General Counsel for the Administrative Office of the Courts (in case any of you are not familiar with her). We just talked on the phone, and she just raised a few questions with me relating to the latest draft (attached). I told her I would alert all of you so we could all be prepared to potentially discuss the questions tomorrow:

1. The court staff may not be familiar with the phrase "deny public access" in 10(b), and thus may not know what to do. We may want to consider replacing that with "classify the court record as private" or something similar. Nancy and I discussed the need to make sure specific documents are not impliedly or expressly designated perpetually as "private" until we go through the steps in 10(c). Thus, she said "deny public access" as presently drafted may be the best balance. Something to consider and discuss tomorrow.
2. Nancy thought maybe we should expressly specify in 10(b) that the denial of public access was only until the case is over, or a request is made for a specific document so it is clear to the court staff implementing the rule. Nancy and I discussed that the clause in 10(b) "except as provided in subsection (c)" addresses that issue. The question is whether that is clear enough to convey to court staff what is happening, or whether we should add something like "Unless a request is made for a specific document, or the case is over, as outlined in subsection (c), the court shall deny public access . . ." Something else to discuss.
3. Nancy wondered whether we should add a "good cause" standard so the denial of public access is not automatic. Nancy and I discussed that 10(a) functionally implements a good cause standard by adding the phrase "except as otherwise ordered by the court." Additionally, the fact that the rule only applies to cases involving "commercial information" as already defined and protected by statute adds an additional "good cause" element that must be satisfied. Something else to consider.
4. Is 4-202.09 the best place to put this? Or would 4-202.02 be better? Nancy saw the logic for either location, but wanted to consider the issue.
5. She wanted us all to be aware that it would be rare for the committee to adopt a rule without further comments and amendments, meaning there will probably be further adjustments. I let her know that we all

dealt often with similar legislative and Tax Commission rule-making issues, and thus certainly expected there would be further adjustment from the court staff who deal most often with these court rules and practices.

Thanks, and we will see you all tomorrow.

Steve

From: Steve Young
Sent: Thursday, January 05, 2017 2:25 PM
To: 'Nancy Sylvester'
Cc: Timothy Bodily; Thomas W. Peters (twp@psplawyers.com); JMCCARREY@utah.gov; Laron Lind (LLind@utah.gov); Michelle Alig Lombardi (malig@utah.gov); Mark Buchi; kwright@slco.org; Brad Johnson (bcjohnson@slco.org)
Subject: RE: Proposed Judicial Rule Amendment Addressing Confidentiality in Property Tax Cases

Yes. Thanks for catching that. A revised pdf version is attached, along with the Word version.

From: Nancy Sylvester [<mailto:nancyjs@utcourts.gov>]
Sent: Thursday, January 05, 2017 2:20 PM
To: Steve Young
Cc: Timothy Bodily; Thomas W. Peters (twp@psplawyers.com); JMCCARREY@utah.gov; Laron Lind (LLind@utah.gov); Michelle Alig Lombardi (malig@utah.gov); Mark Buchi; kwright@slco.org; Brad Johnson (bcjohnson@slco.org)
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