

Before the Presiding Judges of the Administrative Judicial Regions

Per Curiam Rule 12 Decision

APPEAL NO.: 21-001

RESPONDENT: Unauthorized Practice of Law Committee (UPLC)

DATE: March 4, 2021

SPECIAL COMMITTEE: Judge Stephen B. Ables, Chairman; Judge Olen Underwood, Judge Sid Harle, Judge Missy Medary, Judge Dean Rucker

Petitioner requested the following records from Respondent:

1. "Names and contact information for all members of the Texas UPLC."
2. "Names and contact information for all members of the Texas UPL District 6 Subcommittee as is stood in January 2020 and May 2020."
3. "The records for all in attendance at and minutes of the January 2020 UPL District 6 Subcommittee meeting."
4. "The records for all in attendance at and minutes of the May 2020 UPL District 6 Subcommittee meeting."

Petitioner later amended the request and asked for the following additional records (in summary):

5. The original complaint filed with the UPLC regarding Petitioner and any communications regarding the suit instituted by the UPLC concerning Petitioner.
6. All records related to investigative actions, meetings, calls, reports, findings, meetings, notes, and legal research obtained by or relied upon the UPLC and the UPLC's District 6 Subcommittee (Subcommittee) in investigating the complaint filed against Petitioner.
7. Disclosure of monetary compensation or value of any kind received or provided to members of the UPLC or the Subcommittee and the names of any members of the UPLC or the Subcommittee who may have met

with any individual at a restaurant, food service establishment, event or fundraiser where Petitioner was discussed, and the dates and locations of such meals and who paid for them.

Respondent did not provide Petitioner records responsive to items 1 and 2 of Petitioner's request (names and contact information for UPLC and Subcommittee members) but did provide a link to a page on Respondent's website that contained contact information for the UPLC and Subcommittee chair and a listing of the Subcommittee members. In response to item 5 of Petitioner's request (the complaint and communications regarding the suit instituted by Respondent), Respondent provided Petitioner a copy of the complaint with the name of the complaining party redacted. Respondent denied the remainder of Petitioner's requests. Petitioner then filed this appeal requesting expedited review¹ and raising issues regarding Respondent's authority and procedures. This special committee is without authority to address issues outside the scope of Rule 12 of the Rules of Judicial Administration; therefore, this decision addresses only those matters related to the Respondent's denial of Petitioner's request for records.²

We first address Respondent's response to items 1 and 2 of Petitioner's request. Respondent denied this request asserting the information was exempt under Rule 12.5(k) (Investigations of Character or Conduct) but also directed Petitioner to the Respondent's website for contact information for the members of the UPLC and the chair of the Subcommittee. Rule 12.5(k) exempts from disclosure "any record relating to an investigation of any person's character or conduct, unless: (1) the record is requested by the person being investigated; and (2) release of the record, in the judgment of the records custodian, would not impair the investigation." Respondent has instituted suit against Petitioner but maintains that its investigation is not complete and that the release of this information would impair Respondent's investigation. Respondent also asserts that the Petitioner seeks this information to harass and possibly name the Subcommittee members in a lawsuit. From the information available to this special committee, we are unable to conclude that releasing the names and contact information of the members of the UPLC and the Subcommittee would impair the Respondent's investigation. Thus, this information is not exempt under Rule 12.5(k).³ Additionally, we acknowledge that directing records requestors to an agency's website for the information they seek is an efficient manner of handling requests. However, the form or manner in which a request is fulfilled is ultimately within the discretion of the requestor. If a requestor informs the agency that they prefer to be provided copies or allowed to inspect the records after an agency has already informed the requestor that the requested information can be accessed from its website, the agency should comply.

We next address Petitioner's request for records showing those in attendance at the Subcommittee's January 2020 and May 2020 meetings and the minutes of those meetings.

¹ Petitioner's request for expedited review was not granted.

² Petitioner also raised provisions of the Public Information Act (PIA) (Tex. Gov't Code, Chap. 552) in this appeal. Respondent, as a judicial agency, is subject to Rule 12, not the PIA. *See* Rule 12 Decision No. 99-001.

³ We note that some contact information may be exempt under Rule 12.5(d) (Home Address and Family Information) and this decision does not remove this protection.

Respondent asserts that this information is exempt under Rule 12.5(a) (Judicial Work Product and Drafts) and 12.5(f) (Internal Deliberations on Court or Judicial Administration Matters). Rule 12.5(a) exempts records related to a judicial officer's adjudicative decision-making process prepared by a judicial officer, staff, or persons acting on behalf of or at the direction a judicial officer. A prior Rule 12 special committee concluded that Respondent does not have adjudicative powers. *See* Rule 12 Decision No. 99-001. Thus, Rule 12.5(a) does not apply to these records. Though information maintained in a judicial agency's meeting minutes may contain information relating to the internal deliberations of a judicial agency's members, we do not believe a list of the names of those in attendance at a meeting or the "roll call" constitute or are related to the internal deliberations of a judicial agency. We have reviewed the responsive documents provided for our *in camera* review and conclude that the entries in the minutes reflect final votes and factual statements not matters related to the internal deliberations of the Subcommittee's members. Thus, we conclude that the minutes are not exempt from disclosure under Rule 12.5(f).

We next address items 5 and 6 of Petitioner's request. Respondent asserts these items are exempt under Rule 12.5(k) and Rule 12.5(j) (Litigation or Settlement Negotiations). Rule 12.5(j) exempts any record related to civil or criminal litigation or settlement negotiations. It is undisputed that Respondent has instituted a lawsuit that stems from its investigation of the complaint filed against Petitioner. Thus, the records responsive to both items 5 and 6 are related to the lawsuit and are exempt from disclosure under Rule 12.5(j).

Lastly, we address item 7 of Petitioner's request. Respondent states that there are no items responsive to this request, but notes that if there were any, they would be exempt under Rule 12.5(k)(2). There being no responsive records, we need not address this issue and no further action is required by Respondent regarding this item.

In summary, Petitioner should be granted access to the information responsive to items 1, 2, 3, and 4 of Petitioner's request. The records responsive to items 5 and 6 of Petitioner's request are exempt from disclosure under Rule 12.5(j). No items exist in response to item 7 of Petitioner's request and no further action is required regarding this item.