

Foster, Denise

From: michael-kaiser@kaiser-legalgroup.com
Sent: Monday, September 10, 2012 8:05 PM
To: Foster, Denise
Subject: Comment regarding Proposed General Rule 31.1

Greetings:

I wish for the following to be included in the comments section regarding proposed General Rule 31.1

The proposed rule is unconstitutional, as it vastly exceeds the powers delegated to the Judiciary. A "judicial agency" is, by definition, an "agency" of the state, and thus is governed by the Public Records Act. The Koenig decision merely stated, based primarily upon the Court's determination regarding the *language* of the Public Records Act, that the judiciary itself is not a state "agency," not that any entity the judiciary calls a "judicial agency," or reaches out and grabs or creates, is shielded from the Public Records Act.

Furthermore, if there is disagreement with whether this proposed rule is not only unconstitutional, but also unconstitutional on its face, the matter deserves to be determined by full, formal legal proceedings, not a determination based upon closed-door meetings and perhaps a few interested commentators.

In addition, why are citizens denied access to judicial records only given 30 days to challenge the decision externally, while those denied records by the Executive and Legislative branch have a full year? This smacks of the same dismissive arrogance, masquerading as strict adherence to the text of the Public Records Act, that many people perceived at the root of the Koenig decision. And I will not even comment on the level of due process afforded under this proposed rule for internal reviews. At the least then, there must be much stronger protections and procedures afforded those who wish to appeal externally.

Regardless, as indicated above, there is such a strong argument that this rule is unconstitutional that the matters at issue cannot be ethically resolved by the simple court rule process.

Michael Kaiser, JD

President

Kaiser Legal Group