

1987

Janice Faye Carter, et al. v. Utah Power and Light Co., et al.; Society of Professional Journalists, KUTV Inc., Kearns-Tribune Co., The Standard Corp., Bonneville International Inc., and United Television Inc. : Unknown

Utah Supreme Court

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BRIEF

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* ADMITTED IN COLORADO & TEXAS

April 3, 1989.

HAND DELIVERY

Geoffrey J. Butler, Clerk
Utah Supreme Court
332 State Capitol Building
Salt Lake City, Utah 84114

Re: Carter v. UP&L, Case No. 870340; Citation of
Supplemental Authorities.

Dear Mr. Butler:

Pursuant to Utah S. Ct. R. 24(j), Appellant Utah Power & Light Co. ["UP&L"] submits the following supplemental authorities that are referenced to the indicated sections of Appellant's Brier. The authorities are cited because they represent significant new support for the indicated sections of the Brief. In one case, the authority is not recent, but only recently came to the attention of counsel for UP&L.

Section A.3.: The Practice of Keeping Unpublished Depositions Out of Court Files Implies That They Are Not a Part of the Judicial Record of a Case. Appellant's Brief at 18.

Supplemental Authorities:

Rule 4-501(6), Utah Code of Judicial Administration
(depositions to be filed two working days before used in motion).

Rule 4-502(4), Utah Code of Judicial Administration
(depositions not to be filed with clerk of court except on court order).

Geoffrey J. Butler, Clerk
April 3, 1989
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Section B.1.: Pretrial Depositions Not Used to Adjudicate an
Action Should Be Private to the Parties.
Appellant's Brief at 20.

Supplemental Authorities:

Littlejohn v. BIC Corp., 851 F.2d 673, 679-80 & nn.13-14
(3rd Cir. 1988) (denying press access to documents not
admitted into evidence at trial, while allowing access to
documents used in adjudication).
Ball Memorial Hospital, Inc. v. Mutual Hospital
Insurance, Inc., 784 F.2d 1325, 1346 n.2 (7th Cir. 1986)
("The data were not introduced into evidence, and
therefore the presumption that evidentiary matters will
be available to the public does not apply.").


Section B.3.: The Public Has No First Amendment Right of Access to
Unpublished Depositions. Appellant's Brief at 24.

Supplemental Authority:

Littlejohn v. BIC Corp., 851 F.2d 673, 680 n.14 (3rd Cir.
1988) ("[T]he first amendment does not require us to hold
that a document never specifically referred to at trial
or admitted into evidence became a part of the public
record subject to presumptive public access.")

Very truly yours,

RAY, QUINNEY & NEBEKER


Keith A. Kelly

CERTIFICATE OF SERVICE

I hereby certify that on the 3rd day of April, 1989, the
foregoing letter was hand-delivered to the following:

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