



## REQUEST FOR JUDICIAL ADMINISTRATIVE RECORDS

Under California Rules of Court, rule 10.500

### Request Information

**Date of Request**

**Requester Name**

**Organization**

**Street Address**

**City, State, Zip Code**

**Telephone Number**

**Email Address**

**Description of Information Requested**

*Please be as specific as possible. Attach additional sheets of paper as necessary.*

**Will the requested records be used to further your or someone else's commercial, trade, or profit interest?**

*If so, fees may be reasonably calculated to cover direct costs of duplication or production of records.*

YES ☐

NO ☐

**Have you recently requested these materials from someone at the Judicial Council of California or a court?** *This information will help us more quickly answer your request.*

YES ☐ Judicial Council ☐ Courts ☐

Name of person & Date of request:

\_\_\_\_\_

NO ☐

### SUBMIT THIS FORM

1) *By Mail:*

Public Access to Judicial Administrative Records  
Legal Services  
455 Golden Gate Avenue  
San Francisco, California 94102

2) *By E-mail:* PAJAR@jud.ca.gov

# Exhibit A

January 18, 2022

P 202 371 0910

Writer's direct dial: +1 (202) 408-7407

[CDIAONLINE.ORG](http://CDIAONLINE.ORG)

**Via electronic mail**

Public Access to Judicial Administrative Records (PAJAR)  
Legal Services | Leadership Services  
Judicial Council of California  
5th Floor, 455 Golden Gate Avenue  
San Francisco, CA 94102-3688  
Ph: 415-865-7796  
TTY: 415-865-4272  
E-mail: [PAJAR@jud.ca.gov](mailto:PAJAR@jud.ca.gov)

**Re: Exhibit A to Consumer Data Industry Association's Request for Judicial Administrative Records**

Dear Sir/Madam:

Pursuant to the California Public Records Act, Cal. Gov't Code § 6250 *et seq.* and Rule 10.500 of the California Rules of Court, we are requesting materials relating to the rulemaking efforts, and consideration of requests related to the same, by the Judicial Council of California, and any subgroup or subcommittee thereof, ("Council") relating to the public's right to access criminal records, and in particular, California Rule of Court 2.507(c) (the "Rule").

Given the importance of the public's interest in ensuring that the Council's actions are transparent, we request documents relating to the adoption and implementation of California Rule of Court 2.507(c), including but not limited to the following:<sup>1</sup>

1. All Documents relating to the Council's adoption of the Rule<sup>2</sup> setting forth information that must be excluded from court calendars, indexes, and registers of actions, including notes, hearing records, reports, memoranda, comment letters in support of or against any version of the provision, and other materials regarding the initial adoption of the Rule.
2. All Documents relating to the Council's receipt and consideration of the Professional Background Screening Association's ("PBSA") request dated July 7, 2021, a copy of which is attached hereto as **Exhibit B** (the "PBSA Request").
3. All Documents that were prepared for, or on behalf of, or provided or submitted to the Council for consideration with respect to a request by any person or organization requesting that the Council limit access to a driver's license number or a date of birth in court calendars, indexes, or registers of actions.

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<sup>1</sup> For the purposes of this request, "Document" means any written matter of every type and description, and audio and video recordings, including electronically stored information. "Document" includes any non-identical copy (such as a draft or annotated copy) of another document. "Relating to" means discussing, describing, reflecting, containing, analyzing, studying, reporting, commenting, evidencing, constituting, comprising, showing, setting forth, considering, recommending, concerning, or pertaining to, in whole or in part.

<sup>2</sup> Our request includes any rule that was a predecessor to Rule 2.507, including, but not limited to Rule of Court 2077.

4. All Documents relating to or reflecting any communications by a member of the Council, or with all or a subgroup or subcommittee of the Council, with any third party, including but not limited to, governmental and non-governmental entities, non-profits, etc. relating to a request by any person or organization requesting that the Council limit access to a driver's license number or a date of birth in court calendars, indexes, or registers of actions.

We request that you provide us with accurate copies or a complete and accurate account of the information requested. This is a commercial request. We agree to pay reasonable search and reproduction costs; however, if these costs exceed \$1,000.00, we request that you notify us before reproducing the documents.

We prefer electronic copies of the documents, but if courier or overnight delivery is necessary, please contact us for delivery or pickup information.

Please send the materials to:

Eric J. Ellman  
Consumer Data Industry Association  
1090 Vermont Ave., NW, Suite 200  
Washington, D.C. 20005-4905

Thank you for your assistance. If you have any questions, please call me at +1 (202) 408-7407 or email me at: [eellman@cdiaonline.org](mailto:eellman@cdiaonline.org).

Sincerely,

A handwritten signature in blue ink, appearing to read 'E. Ellman', with a long horizontal flourish extending to the right.

Eric J. Ellman  
Senior Vice President, Public Policy & Legal Affairs

# Exhibit B



July 7, 2021

Chief Justice Tani Cantil Sakauye  
Chair  
Judicial Council of California  
455 Golden Gate Ave.  
San Francisco, CA 94102-3688

**RE: ALL OF US OR NONE – RIVERSIDE CHAPTER VS W. SAMUEL HAMRICK, CLERK AND CHANGING RULE 2.507 OF THE CALIFORNIA RULES OF COURT**

Dear Chief Justice Cantil-Sakauye,

On behalf of the national Professional Background Screening Association (PBSA), whose members include California residents and businesses, we write to you with comments on the decision in *All of Us or None – Riverside Chapter vs. Samuel Hamrick, Clerk* and requesting a change to Rule 2.507 of the California Rules of Court

As a nonprofit organization consisting of over 900 small and large companies engaged in the background screening profession, PBSA has been dedicated to providing the public with safe places to live and work since 2003. The PBSA member companies conduct millions of employment-related background checks each year, helping employers, staffing agencies, and nonprofit organizations make more informed decisions regarding the suitability of potential employees, contractors and volunteers.

**Disagreeing with All of Us or None – Riverside Chapter vs. Samuel Hamrick, Clerk.** To start, we disagree with the Fourth Appellate District Court of Appeal's decision in *All of Us or None – Riverside Chapter vs. Samuel Hamrick, Clerk*. We do not think that Rule 2.507 prohibits the Riverside Superior Court from allowing searches of its electronic criminal index by use of an individual's date of birth (DOB) or driver's license number. We support Clerk Hamrick's claim that the rule does not prohibit the clerk from either limiting a search of records to criminal defendants with a specific combination of name and date of birth or from confirming whether the date of birth of a criminal defendant is a specific date of birth. In each of these cases, the public can ascertain a particular individual's DOB only by already knowing the date of birth. This is common practice in our industry as job candidates voluntarily provide us with their DOB so we can perform a requisite background check on them.

We also support Clerk Hamrick's assertion that the Riverside Superior Court and other California Superior courts can keep such records indices as they will ensure ready reference to any action or

proceeding filed in the court. And, the only information disclosed by the database is the individual's arrest or conviction, which is public record anyway. This is not a master record or summary of the individual's criminal history.

**Requesting a Change to Rule 2.507.** We have seen a number of California Superior courts take their electronic indexes down, some temporarily and some permanently, in the wake of *All of Us or None* decision. This is causing us a great deal of concern as the lack of personal identifiers—like full DOBs -- in court indices makes it extremely difficult, if not impossible, for PBSA members to provide complete, accurate, and thorough background screens for employers, landlords, and nonprofit organizations. This negatively impacts prospective employees, tenants, and volunteers.

Because of this, we are requesting a change in Rule 2.507 of the California Rules of Court to add a new subsection (d) to read as set out below. If the California Judicial Council takes this action, this will stop further litigation on this matter, affirm that the rule does not require clerks to change their long-standing practices, and give clarity to the ability to conduct background searches in the state of California.

(d) Permitted confirmation of criminal defendants' dates of birth

This rule does not prohibit a court from:

- (1) using a specific criminal defendant's date of birth to determine whether it matches a date of birth provided by a member of the public;
- (2) confirming to a member of the public whether a specific criminal defendant's date of birth matches a date of birth provided by that member of the public; or
- (3) permitting members of the public to search for information about criminal proceedings by the combination of name and date of birth of the criminal defendant.

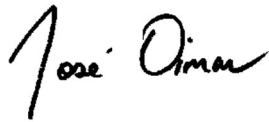
Millions of background screening reports are requested in California each year. Our members are hired to verify the education, employment, financial, and criminal histories of applicants. The main reason for these background checks is to protect the people that our clients serve – from customers of commercial organizations, to tenants in assisted living facilities, to vulnerable populations served by volunteers, to youths in sports leagues and other activities. Additional reasons include: (i) avoiding legal exposure for negligent hiring; (ii) ensuring a safe working environment by reducing the likelihood of workplace violence; (iii) reducing employee theft; (iv) reducing the hiring of individuals based on fraudulent credentials; (v) improving productivity and profits by making better hiring decisions; and (vi) meeting state law requirements designed to protect vulnerable populations like the elderly, disabled, and children.

While PBSA strongly supports efforts to protect consumers from identity theft and other privacy concerns, we believe that such measures must be balanced with the legitimate need of employers, landlords, and others to verify applicants' backgrounds. In weighing privacy concerns in that balance, DOB has significantly less weight than being able to perform background checks because DOB is much less private and less susceptible to abuse than information like social security number. Of the 48 states that have passed laws requiring notices to individuals affected by data breaches, 47 do not include date of birth in its listing of data that would require notice if breached. That is because of a simple fact: date

of birth is not a gateway to identity theft, and most people do not treat their date of birth as confidential. For example, many public figures have their dates of birth published on the Wikipedia pages about them. Finally, we are happy to share examples of state and local records portals that provide us name and confirm DOB that protect individual privacy.

PBSA and its members are available and prepared to discuss any questions regarding our industry or our aforementioned concerns. Thank you for taking the time to consider our comments and we look forward to working with you to improve job opportunities for the residents of California. Please feel free to contact me directly at 202-603-8950 or [jose.dimas@thepbsa.org](mailto:jose.dimas@thepbsa.org).

Sincerely,



Jose Dimas  
Government Relations Director  
of Public Records Access



cc: Members of the California Judicial Council  
Martin Hoshino, Administrative Director