

Before the Presiding Judges of the Administrative Judicial Regions
Per Curiam Rule 12 Decision

APPEAL NO.: 22-001

RESPONDENT: Office of Court Administration

DATE: April 11, 2022

SPECIAL COMMITTEE: Judge Stephen B. Ables, Chairman; Judge Olen Underwood;
Judge Ray Wheless; Judge Sid Harle; Judge Susan Brown

Petitioner requested from Respondent information, including letters, memos, emails, and texts, related to certain named individuals and the estate, guardianship and probate of one of the named individuals. Respondent provided Petitioner with responsive information but withheld one document asserting that it is protected under the attorney-client privilege provided by Rule 503 of the Rules of Evidence and therefore exempt from disclosure under Rule 12.5(i) (*Information Confidential Under Other Law*). Respondent also asserted the document is exempt from disclosure under Rule 12.5(f) (*Internal Deliberations on Court or Judicial Administration Matters*). Petitioner then filed this appeal for access to the withheld record.¹ Respondent has provided the responsive document for our *in camera* review.

We first address the question of whether the submitted document is a privileged attorney-client communication under Texas Rule of Evidence 503. Rule 12.3(a)(1)(c) of the Rules of Judicial Administration provides that Rule 12 does not apply to records that are subject to a rule of evidence. Thus, attorney-client communications that are privileged under Rule 503 of the Rules of Evidence are not subject to Rule 12. *See* Rule 12 Decision No. [08-006](#).

The attorney-client privilege protects confidential communications between or among clients, client representatives, lawyers, and lawyer representatives that are made to further the rendition of professional legal services. Tex. R. Evid. 503(b)(1). A communication is considered confidential if it was not intended to be disclosed to third persons other than persons to whom the disclosure was made to further the rendition of legal services to the client or reasonably necessary to transmit the communication. Tex. R. Evid. 503(a)(5).

We have reviewed the record submitted by Respondent for our *in camera* review and conclude that it is an attorney-client communication and is privileged under Texas Rule of Evidence 503(b)(1). As stated above, Rule 12 does not apply to records that are subject to a rule of evidence. Accordingly, we can neither grant the appeal from the denial of the responsive record nor sustain the denial of access to it and we need not address whether the exceptions raised by Respondent apply.

¹ Petitioner also requested six other categories of records and Respondent informed Petitioner that the request was overly broad. In Respondent's final correspondence to Petitioner (submitted with the petition) regarding the additional requested records, Respondent informed Petitioner that no action would be taken on the remaining items until they receive clarification from Petitioner. The request for these additional records is not at issue in this appeal.