

January 16, 2009

**SENT VIA ELECTRONIC MAIL & REGULAR MAIL**

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DCBS/Insurance Division  
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Re: Letter dated January 8, 2009

Dear Mr. Ringo and Ms. Miller:

On January 9, 2009, we received the attached letter from Mr. Ringo, dated January 8, 2009 and addressed to former Deputy Attorney General Pete Shepherd. Mr. Ringo's letter relates to a Public Records Order we issued to his client, Karen Kirsch, on December 17, 2008. In that Public Records Order, we denied Ms. Kirsch's petition seeking an Order directing the Insurance Division to disclose certain records that she requested on November 18, 2008. Because we were aware that Mr. Ringo had represented Ms. Kirsch in this matter, we sent the Order to her, in care of Mr. Ringo's office.

In denying Ms. Kirsch's petition, our Order made statements that Mr. Ringo's January 8 letter disputes. In brief, Mr. Ringo "do[es] not believe anyone at the Insurance Division" could have held a good-faith belief that the pace of its response to his November 5, 2008 records request on behalf of Ms. Kirsch was acceptable to Mr. Ringo, "since there has been no response." Mr. Ringo concludes by "demand[ing] an immediate response to the public records requests" filed by Ms. Kirsch and Mr. Ringo on her behalf. We treat Mr. Ringo's letter as a petition for a Public Records Order under ORS 192.450(1). For the reasons that follow, we grant Mr. Ringo's petition and order the Insurance Division to provide Mr. Ringo with the records

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responsive to his request, subject to any exemption allowed under the Public Records Law, ORS 192.410 to 192.505.

Based on further inquiries, we now understand that, apart from initially acknowledging Mr. Ringo's request, the Insurance Division has not responded directly to the request for records. We are further informed that Assistant Attorney General Judith Anderson, the contact attorney for the Insurance division, exchanged e-mails with Mr. Ringo on December 4, 2008 and informed Mr. Ringo that the Insurance Division was working on the request. We also understand that, while there are disagreements as to the frequency of Mr. Ringo's requests for the pertinent records, there is no dispute that Mr. Ringo has repeatedly sought a copy of a proposed settlement agreement between the Insurance Division and an insurer. Finally, we are advised that the Insurance Division provided over 700 pages of documents to Mr. Ringo in October pursuant to a discovery request; those pages likely contain many of the documents responsive to Mr. Ringo's request, but they probably do not contain all responsive documents. Any October 2008 production of discovery documents would have pre-dated Mr. Ringo's and Ms. Kirsch's November 2008 requests for records.

Under the Public Records Law, custodians of public records are required to "furnish proper and reasonable opportunities for inspection and examination" of records in their custody. ORS 192.430(1). On this record, and given this lapse of time, we cannot conclude that the Insurance Division is in compliance with that requirement. As a result, the Insurance Division is hereby ordered to provide Mr. Ringo with copies of all non-exempt documents responsive to his public records request within seven days. ORS 192.450(1) and (2).

As noted, a settlement between the division and Regence regarding the confidentiality of its rate filing is one of the documents that Mr. Ringo has sought. We are informed that Mr. Ringo apparently has been told "that he could not have the settlement document until it was signed by both parties because it was confidential until executed." We note that any decision to withhold disclosure of the document must be based on an exemption from disclosure stated in ORS 192.501 or ORS 192.502. If Mr. Ringo is unsatisfied with any decision by the Insurance Division to withhold records from disclosure based upon an exemption, he may petition the Attorney General to review such decisions.

Sincerely,

MARY H. WILLIAMS  
Deputy Attorney General

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