HARDY MYERS
ATTORNEY GENERAL

PETER D. SHEPHERD
DEPUTY ATTORNEY GENERAL



DEPARTMENT OF JUSTICE

1162 Court Street NE
Justice Building
Salem, Oregon 97301-4096
Telephone: (503) 378-4400
TTY: (503) 378-5938

August 11, 2003

Matthew D. LaPlante
News Register
P.O. Box 727
McMinnville, OR 97128-0727

Re: *Petition for Review of Denial of Fee Waiver*:
State Court Administrator

Dear Mr. LaPlante:

This letter is the Attorney General's order on your petition for review of a denial of a fee waiver request under the Oregon Public Records Law, ORS 192.410 to 192.505. Your petition, which we received on August 4, 2003, asks the Attorney General to review the denial of your fee waiver request by Judith Baker, an employee at the records office of the Oregon Supreme Court. For the reasons that follow, we respectfully deny your petition.

The Public Records Law confers a right to inspect any public records of a public body in Oregon, subject to certain exceptions and limitations. *See* ORS 192.420. Under ORS 192.440(3), a public body may charge fees for the copies of public records it provides. ORS 192.440(4) provides that a public records custodian may furnish copies without charge or for a reduced fee if the waiver or reduction "is in the public interest because making the record available primarily benefits the general public." A person who believes that a state agency has "unreasonably denied" a fee waiver or reduction request may petition the Attorney General for review under ORS 192.440(5).

Under ORS 192.410(1)(a) and 7.110(1), the custodian of court records for purposes of the Public Records Law is "the clerk or court administrator" of the relevant court. The State Court Administrator is the clerk of the Supreme Court, *see* ORS 8.120, and maintains all the records of the court. The State Court Administrator is Kingsley W. Click. According to Bradd Swank, Special Counsel for Government Relations in the State Court Administrator's office, Ms. Baker, who works in the court's records office,

was not authorized by the State Court Administrator to determine whether your fee waiver request should be granted. Mr. Swank stated that fee waiver requests should be made in writing and directed to him. He agreed to review your request if you will submit it to him in writing, addressing specifically the criteria stated in ORS 192.440(4).

Because the agency has informed us that a person authorized to make a determination on your fee waiver request has not done so, we deny your petition as premature.

Sincerely,

PETER D. SHEPHERD
Deputy Attorney General

AGS
c: Bradd Swank, Office of the State Court Administrator