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July 10, 2024

VIA E-MAIL ONLY: forgottenvictim@outlook.com

Jeahara Schalk
PO Box 66122
Portland, OR 97290

Re: Petition for Public Interest Fee Waiver
Oregon State Bar
DOJ File No.: 993001-GA0066-24

Dear Ms. Schalk:

This letter is the Attorney General's response to your petition under the Oregon Public Records Law, ORS 192.311 to 192.478. Your petition asks the Attorney General to order the Oregon State Bar (the "Bar") to waive its fees for processing a public records request. For the following reasons, we respectfully deny your petition.

The Public Records Law confers a right to inspect any public record of a public body in Oregon, subject to certain exemptions and limitations. ORS 192.314(1). Agencies may establish fees reasonably calculated to recover their actual costs for making public records available, but "may furnish copies without charge or at a substantially reduced fee if the custodian determines that the waiver or reduction of fees is in the public interest because making the record available primarily benefits the general public." ORS 192.324(4)–(5). The furnishing of public records primarily benefits the general public when its greatest utility is to the community or society as a whole. *See In Defense of Animals*, 199 Or App 160, 189 (2005). And regardless of how interested the public may be in a particular matter, if the requester fails to demonstrate the ability to meaningfully disseminate the requested information, disclosure will not primarily benefit the general public. *See Attorney General's Public Records and Meetings Manual* at 24 (2019). Any person who believes there has been an unreasonable denial of a fee waiver or reduction by a state agency may petition the Attorney General for review. ORS 192.324(6).

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Your petition relates to a request to the Bar for all correspondence between former attorney Lori Deveny and the staff attorney assigned to investigate a Client Security Fund (CSF)[1] claim filed by you in the amount of $197.96. You also requested a waiver of any fees, noting that the Bar recently denied your CSF claim and asserting that "the public would like to know what convicted/incarcerated felon Deveny said" to the investigator that led to the denial of your claim. In response, the Bar provided a fee estimate of $26.70 and denied your request for a fee waiver after it determined that disclosing the correspondence to you would not primarily benefit the general public. Your petition followed and it expresses your belief that the correspondence "will likely show collaboration between the Oregon State Bar and convicted former attorney Lori Deveny to deprive me of my right to equal treatment, and deny me restitution through the Bar's Client Security Fund."

In response to your petition, we contacted Nik Chourey, the Bar's deputy general counsel. He explained that because your request relates to the denial of your CSF claim, the Bar believes you seek this material primarily for personal reasons rather than to inform a matter of public interest. He also disputed your assertion that the correspondence will likely show improper collusion with Ms. Deveny regarding your CSF claim. In this regard, Mr. Chourey noted that subsequent to your appeal, you received a copy the investigator's report which provides a general summary of the investigator's communications with Ms. Deveny and details the reasons why he recommended your claim be denied. According to Mr. Chourey, the report demonstrates that the CSF denied your claim after careful consideration the claim, the relevant documentation and other evidence, and the investigator's recommendation. Finally, he explained the Bar's position that neither your initial request nor your petition demonstrates that you have the intent or ability to meaningfully disseminate this material to the general public. For these reasons, he explained, the Bar determined that you did not qualify for a public interest fee waiver because disclosing this material to you would not primarily benefit the general public.

Under the circumstances, we cannot conclude that the Bar unreasonably denied your request for a fee waiver. We are not aware of any general or heightened interest in your CSF claim among the general public, and the context of your request suggests to us that your primary interest in these materials is personal to you. Such a personal interest is generally not sufficient to satisfy the standard for a public interest fee waiver. Moreover, after reviewing the investigative report furnished to you, nothing suggests to us that the correspondence you seek will reveal improper collaboration with Ms. Deveny or any other improprieties regarding the processing of your CSF claim. Finally, your petition does not demonstrate any ability to meaningfully disseminate this information to the general public, which is a necessary condition to be eligible for a public interest fee waiver.

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[1] The CSF was created to help reimburse clients who lose money or property as a result of dishonest conduct by their lawyer. *See* https://www.osbar.org/csf. Neither the Bar nor the CSF are responsible for the acts of individual lawyers, and awards from the CSF are discretionary. *CSF Rules*, Rules 3.3 and 4.11 (January 1, 2022).

For the foregoing reasons, we respectfully deny your petition for a public interest fee waiver because we conclude that disclosure to you will not primarily benefit the general public in this instance.

Sincerely,

LISA M. UDLAND
Deputy Attorney General

ACF:pjn
c via e-mail only: Nik Chourey (OSB)