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June 9, 1998

Bradley Scheminske
Scheminske, Lyons & Bussman, LLP
Kruse Woods One, Suite 181
5285 SW Meadows Road
Lake Oswego, OR 97035-3227

Re: *Petition for Public Records Disclosure Order: Workers' Compensation Records*

Dear Mr. Scheminske:

This letter is the Attorney General's order on your May 29, 1998, petition for disclosure of records under the Oregon Public Records Law, ORS 192.410 to 192.505. We received your petition on June 2, 1998. This petition asks the Attorney General to direct the Workers' Compensation Board (Board) to make available public records that contain information "which identifies all active workers' compensation cases now pending at the Board, including the Board's Hearings Division, and identifying such cases by name of claimant, name of employer, name of insurer, if any, and the identity of attorneys, if any, who have appeared in each case as a matter or record."

This petition requests different records than your earlier petition, dated May 14, 1998, which sought "printouts" that the Board had been voluntarily creating for you. We are informed by Joan Fraser, Administrator, Workers' Compensation Board, that your request to the Board for the above-referenced information was received on June 5 and that the Board has not yet had an opportunity to respond to that records request. Absent a denial of a public records request by a state agency, the Attorney General has no jurisdiction to over an agency to disclose records. *See* ORS 192.450(1); *see also Morse Bros. v. ODED*, 103 Or App 619,798 P2d 719 (1990) ("Public Records Law clearly contemplates that agencies have

the opportunity to review the requested records and to act on the request before the Attorney General or the courts can review the matter."). We therefore respectfully deny your petition as premature.

Sincerely,

DAVID SCHUMAN
Deputy Attorney General

JAA02BED
c: Joan Fraser, WCB Administrator