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IN THE CIRCUIT COURT FOR THE STATE OF OREGON
FOR THE COUNTY OF MARION

GREGORY A. CHAIMOV,
Plaintiff,

v.
STATE OF OREGON, by and through the
Oregon department of Administrative Services,
Defendant.

Case No. 18CV39159
**ORDER (PROPOSED) ON CROSS
MOTIONS FOR SUMMARY
JUDGMENT**

This matter having come before the court on October 24, 2018, concerning parties’ cross-Motions for Summary Judgment, and the court having reviewed the pleadings, memoranda, declarations and files herein, and following oral argument, being fully advised in the matter,

The court concludes that unless state law explicitly provides otherwise, only the Attorney General may represent state executive agencies, and Legislative Counsel may only act as attorney for the legislative assembly. For the reasons noted in the transcript, the Court cannot find that the Department of Administrative Services (“DAS”) could have expected that it maintained an attorney-client relationship with Legislative Counsel. The statutory language in ORS 173.130(2) and (5) is not sufficient to establish a lawyer-client relationship between the Office of Legislative Counsel and Defendant. Although Legislative Counsel must keep confidential all documents provided to it or members of its office, that outcome is a product of statute, not of the attorney-client privilege.

Accordingly, the State has failed to carry its burden of showing why the public records at issue here should be exempt and not be subject to disclosure.

1 IT IS HEREBY ORDERED that plaintiff's Motion for Summary Judgment is
2 GRANTED; defendant's Motion for Summary Judgment is DENIED; defendant's oral motion
3 for Stay of Judgment Pending Appeal pursuant to ORS 19.350, made before this court on
4 October 24, 2018, is DENIED.

5 IT IS FURTHER ORDERED that Defendant be enjoined from withholding the records
6 described in the amended complaint.

7 IT IS FURTHER ORDERED that Defendant produce the records to Plaintiff's counsel on
8 or before 5:00 p.m., Friday, October 26, 2018.

Signed: 10/25/2018 11:20 AM

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Circuit Court Judge Audrey J. Broyles

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15 Submitted by:

16 John A. DiLorenzo, OSB #802040
17 DAVIS WRIGHT TREMAINE LLP
18 E-mail: johndilorenzo@dwt.com
Of Attorneys for Plaintiff

CERTIFICATE OF READINESS – UTCR 5.100

(check all that apply):

This proposed order or judgment is ready for judicial signature because:

1. Each party affected by this order or judgment has stipulated to the order or judgment, as shown by each party's signature on the document being submitted.
 2. Each party affected by this order or judgment has approved the order or judgment, as shown by each party's signature on the document being submitted or by written confirmation of approval sent to me.
 3. I have served a copy of this order or judgment on each party entitled to service and:
 - a. No objection has been served on me.
 - b. I received objections that I could not resolve with a party despite reasonable efforts to do so. I have filed a copy of the objections I received and indicated which objections remain unresolved.
 - c. After conferring about objections, [role and name of objecting party] agreed to independently file any remaining objection.
 4. Service is not required pursuant to subsection (3) of this rule, or by statute, rule or otherwise.
 5. This is a proposed judgment that includes an award of punitive damages and notice has been served on the Director of the Crime Victims' Assistance Section as required by subsection (5) of this rule.
- Other:

CERTIFICATE OF SERVICE

I hereby certify that I served a copy of the foregoing **ORDER (PROPOSED) ON PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT** on:

Ms. Sarah Kay Weston
Ms. Carla Scott
DOJ Trial Division
100 SW Market St
Portland, OR 97201
Telephone: (971) 673-1880
Facsimile: (971) 673-5000
Email: sarah.weston@doj.state.or.us
Email: carla.a.scott@doj.state.or.us

Of Attorneys for Defendant

by mailing a copy thereof in a sealed, first-class postage prepaid envelope, addressed to said attorney's last-known address and deposited in the U.S. mail at Portland, Oregon on the date set forth below;

by causing a copy thereof to be hand-delivered to said attorney's address as shown above on the date set forth below;

by sending a copy thereof via overnight courier in a sealed, prepaid envelope, addressed to said attorney's last-known address on the date set forth below;

by faxing a copy thereof to said attorney at his/her last-known facsimile number on the date set forth below; or

by emailing a copy thereof to said attorney at his/her last-known email address as set forth above.

by using electronic transmission of a notice of filing by the electronic filing system provided by the Oregon Judicial Department, Odyssey File and Serve.

Dated this 25th day of October 2018.

DAVIS WRIGHT TREMAINE LLP

By: s/ John A. DiLorenzo, Jr.

John A. DiLorenzo, Jr. OSB #802040

E-mail: johndilorenzo@dwt.com

Attorneys for Plaintiff