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FREEDOM OF INFORMATION



Connecticut Freedom of Information Commission • 18-20 Trinity Street, Suite 100 • Hartford, CT 06106
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Priscilla Dickman,
Complainant(s)
against

Notice of Meeting

Docket #FIC 2012-526

Attorney General, State of Connecticut, Office
of the Attorney General; and State of
Connecticut, Office of the Attorney General,
Respondent(s)

May 29, 2013

Transmittal of Proposed Final Decision

In accordance with Section 4-179 of the Connecticut General Statutes, the Freedom of Information Commission hereby transmits to you the proposed finding and decision prepared by the hearing officer in the above-captioned matter.

This will notify you that the Commission will consider this matter for disposition at its meeting which will be held in the Freedom of Information Commission Hearing Room, 18-20 Trinity Street, 1st floor, Hartford, Connecticut, at **2 p.m. on Wednesday, June 26, 2013**. At that time and place you will be allowed to offer oral argument concerning this proposed finding and order. Oral argument shall be limited to ten (10) minutes. For good cause shown, however, the Commission may increase the period of time for argument. A request for additional time must be made in writing and should be filed with the Commission **ON OR BEFORE June 14, 2013**. Such request **MUST BE (1) copied to all parties, or if the parties are represented, to such representatives, and (2) include a notation indicating such notice to all parties or their representatives.**

Although a brief or memorandum of law is not required, if you decide to submit such a document, the Commission requests that an **original and fourteen (14) copies** be filed **ON OR BEFORE June 14, 2013**. **PLEASE NOTE: Any correspondence, brief or memorandum directed to the Commissioners by any party or representative of any party MUST BE (1) copied to all parties, or if the parties are represented, to such representatives, (2) include a notation indicating such notice to all parties or their representatives and (3) be limited to argument. NO NEW EVIDENCE MAY BE SUBMITTED.**

If you have already filed a brief or memorandum with the hearing officer and wish to have that document distributed to each member of the Commission, it is requested that **fourteen (14) copies** be filed **ON OR BEFORE June 14, 2013**, and that **notice be given to all parties or if the parties are represented, to their representatives, that such previously filed document is being submitted to the Commissioners for review.**

By Order of the Freedom of
Information Commission

W. Paradis
Acting Clerk of the Commission

Notice to: Priscilla Dickman
Lawrence G. Lidel, AAG

5/29/13/FIC# 2012-526/Trans/wrbp/LFS/TCB

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

Report of Hearing Officer

Priscilla Dickman,

Complainant

against

Docket #FIC 2012-526

Attorney General, State of Connecticut,
Office of the Attorney General; and State
of Connecticut, Office of the Attorney
General,

Respondents

May 29, 2013

The above-captioned matter was heard as a contested case on April 1, 2013, at which time the complainant and the respondents appeared, stipulated to certain facts and presented testimony, exhibits and argument on the complaint.

After consideration of the entire record, the following facts are found and conclusions of law are reached:

1. The respondents are public agencies within the meaning of §1-200(1), G.S.
2. It is found that on September 8, 2012, the complainant requested copies of records pertaining to herself, her claimed injuries, or the words "jewelry, travel or investigation."
3. By letter filed September 27, 2012, the complainant appealed to this Commission, alleging that the respondents violated the Freedom of Information ("FOI") Act by failing to provide her with the records she requested.

4. Section 1-200(5), G.S., provides:

Public records or files means any recorded data or information relating to the conduct of the public's business prepared, owned, used, received or retained by a public agency, ... whether such data or information be handwritten, typed, tape-recorded, printed, photostated, photographed or recorded by any other method.

5. Section 1-210(a), G.S., provides, in relevant part:

Except as otherwise provided by any federal law or state statute, all records maintained or kept on file by any public agency, whether

or not such records are required by any law or by any rule or regulation, shall be public records and every person shall have the right to (1) inspect such records promptly during regular office or business hours, ... or (3) receive a copy of such records in accordance with section 1-212.

6. Section 1-212(a), G.S., provides in relevant part: “Any person applying in writing shall receive, promptly upon request, a plain, facsimile, electronic or certified copy of any public record.”

7. It is concluded that the records requested by the complainant are public records within the meaning of §§1-200(5), 1-210(a), and 1-212(a), G.S.

8. It is found that the complainant is a former employee of the State of Connecticut who worked at the University of Connecticut Health Center (“UConn Health”).

9. It is found that the respondents in the present case are the attorneys for UConn Health, and have represented UConn Health with respect to the underlying matters of concern to the complainant since at least 2005.

10. It is found that the respondents maintain records responsive to the complainant’s request, described in paragraph 2, above. The respondents claim that §1-210(b)(10), G.S., exempts such records from disclosure pursuant to the attorney/client privilege.

11. Section 1-210(b)(10), G.S., permits an agency to withhold from disclosure records of “communications privileged by the attorney-client relationship.”

12. The applicability of the exemption contained in §1-210(b)(10), G.S., is governed by established Connecticut law defining the privilege. That law is well set forth in Maxwell v. FOI Commission, 260 Conn. 143 (2002). In that case, the Supreme Court stated that §52-146r, G.S., which established a statutory privilege for communications between public agencies and their attorneys, merely codifies “the common-law attorney-client privilege as this court previously had defined it.” Id. at 149.

13. Section 52-146r(2), G.S., defines “confidential communications” as:

all oral and written communications transmitted in confidence between a public official or employee of a public agency acting in the performance of his or her duties or within the scope of his or her employment and a government attorney relating to legal advice sought by the public agency or a public official or employee of such public agency from that attorney, and all records prepared by the government attorney in furtherance of the rendition of such legal advice. . . .

14. The Supreme Court has also stated that “both the common-law and statutory privileges protect those communications between a public official or employee and an attorney that are confidential, made in the course of the professional relationship that exists between the attorney and his or her public agency client, and relate to legal advice sought by the agency from the attorney.” Maxwell, supra at 149.

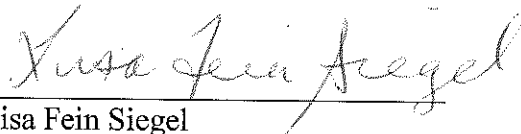
15. It is found that the records requested by the complainant were generated in the course of and pertain to the respondents’ legal representation of UConn Health.

16. It is found that the records are protected by the attorney/client privilege, within the meaning of §1-210(b)(10), G.S.

17. Based on the facts and circumstances of this particular case, it is concluded that the respondents did not violate the FOI Act as alleged.

The following order by the Commission is hereby recommended on the basis of the record concerning the above-captioned complaint:

1. The complaint is dismissed.



Lisa Fein Siegel
as Hearing Officer