

**Woodward Wins ACC Public Records Case at Court of Appeals
Information and Perspective by Warren Woodward
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Longtime readers may recall I made a public records request of the Arizona Corporation Commission (ACC) regarding documents and emails concerning the "smart" meter health study that the ACC asked the Arizona Department of Health Services (ADHS) to perform. The ACC redacted stuff they had no legal right to redact. They even invented a redaction classification that does not exist under Arizona law, "state of mind."

Worse, at the same time I also made a public records request of the ADHS. In the ADHS's response, I found a revealing email exchange between the head of the ADHS and the head of the ACC that was not in the documents I got from the ACC. In other words, the ACC hid it from me. In that exchange, the head of the ACC was prejudicing the study from the start by telegraphing the type of study the ACC wanted (favorable to "smart" meters). Remarkably, the head of the ADHS responded that he knew "intuitively" that "smart" meters were safe. So much for objective science. The ADHS study went downhill from there.

After getting blown off by the Citizen Ombudsman Office (don't ever waste your time on them!) and the state Attorney General (another waste of time), I took the ACC to Superior Court.

I'm trying to keep this short so won't go into all the details, but the Superior Court judge botched the case six ways to Sunday. Basically, in a surprising and highly unusual move, the judge gave me all the documents in unredacted form but told me they were for my eyes only. Then later in the case he asked me to show why they were not legal (even though the burden of proof was on the ACC to show why they *were* legal).

So I went through each illegal redaction and cited specific examples, and then the judge busted me for violating his gag order. In other words, he had set me up.

On top of that, the judge then dismissed the case saying I could keep the records he gave me but not share them. That's called "prior restraint" and big, big 1st Amendment no-no. So I filed an appeal in the Court of Appeals, and yesterday they ruled in my favor. Their decision is here:

<http://www.azcourts.gov/Portals/0/OpinionFiles/Div1/2017/1%20CA-CV%2016-0695.pdf>

Although I never asked for my costs, the Court of Appeals awarded me my court filing fees and process server cost which total \$544. Unlike a lawyer, I don't get paid for my time, but getting those costs back is better than nothing. And of course winning is the main thing.

I don't know why they'd bother but the ACC *can* appeal this to the Arizona Supreme Court, and the case has actually been "remanded" back to the Superior Court, but in my opinion that judge's hands are pretty much tied by the Court of Appeals' decision.

PS - Howard Fischer of Capitol Media Services picked up this story. That article is here:

<http://azcapitoltimes.com/news/2017/10/03/sedona-arizona-smart-meters-corporation-commission-warren-woodward/>