

OPEN MEETING AGENDA ITEM



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Date: August 29, 2002

Docket No: S-03415A-01-000

To Administrative Law Judge Philip J. Dion III:

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AZ CORP COMMISSION  
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Legal Discussion:

The Arizona courts have refused to permit procedural rules from becoming a "shield for serious inequity." *Hosagai v. Kadota*, 145 Ariz. 227,231,700 p.2d 1327, 1331 (1985). This principle applies with at least as much force to *pro per* litigants as to those acting with the benefit of counsel. It is fundamental that federal and state constitutions guarantee the right to represent oneself. U.S. Const. Amend VI; U.S. Const Amend, XIV; Ariz. Const. Art. II. Section 24. Self-representation is a "fundamental constitutional right." *Montgomery v Sheldon*, 181 Ariz. 256, 259, 889 P.2d 614,617 (1995 (citing *Faretta v. California*, 422 U.S. 806,836,95 S. Ct. 2525, 2541 (1985)).

Inherent within one's right to self-representation is the potential that the *pro se* litigant may be unfamiliar with the rules of procedure. Furthermore, as noted by *White v Lewis*, 167 Ariz. 76, 92, 804 P.2d 805,821 (app, 1990), summary adjudication based on procedural defects is contrary to Arizona's longstanding public policy favoring resolution of disputes on their merits. *Walker v Kendig*, 107 Ariz, 510,489 P.2d 849 (1971); *u-totem store v walker*, 142 Ariz. 549, 691 P.2d 315 (app. 1984)

James Cicerelli

Arizona Corporation Commission

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