

ORIGINAL

Arizona Corporation Commission

DOCKET

T-01051B-10-0200

May 23, 2012



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Hon. Yvette B. Kinsey  
Administrative Law Judge  
Arizona Corporation Commission  
1200 W. Washington Street  
Phoenix, AZ 85007

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ARIZONA CORPORATION COMMISSION  
DOCKET CONTROL

Dear Judge Kinsey,

I write in response to your latest order, dated May 18, 2012. You have scheduled a hearing “on May 29, 2012 at 1:00 p.m., or as soon after as is practicable . . . to hear oral argument from Complainant and Respondent on the issue of Whether Complainant should be ordered, at this time, to obtain counsel to assist him in litigating the Amended Complaint.”

First, please understand that, particularly given the short notice for a hearing to occur the day after a legal holiday, I am unable to participate in a hearing on May 29, 2012 or anytime that week, as I will not be in Arizona. In accordance with your own order, which provides for the selection of a different “practicable” date, I respectfully request that any hearing – if one is even necessary – be re-scheduled for a date between June 4-6 or June 11-15.

Second, as I have stated several times, I do not appreciate your repeated attempts to impose unnecessary requirements upon me in order to chill my complaint, rather than trying to do the primary job that I understand you are charged with doing: fairly and impartially protecting Arizona consumers, including small businesses, from unfair and monopolistic practices. Toward that end, you have repeatedly required me to jump through procedural hoops that are unprecedented in a consumer complaint, including filing formal written testimony – which I have complied with. Notwithstanding many attempts to sidetrack and dismiss my complaint, Qwest – which is very well funded and is represented by experienced counsel – has been unable to do so. My only expectation is that I be treated fairly, and I again ask that you decide my complaint on its merits rather than trying to saddle me with unnecessary burdens and expense to attempt to get me to throw in the towel. In other words, if you believe you have cause to dismiss my complaint, I invite you to do so.

Third, I find it very disturbing that your order followed, almost verbatim, the arguments in Qwest’s May 16, 2012 objections to responding to our discovery requests, in which Qwest totally ignored its obligations to respond to discovery in favor of Qwest (without seeking your permission and without following prior orders, which required Qwest to respond – not merely object – to discovery within

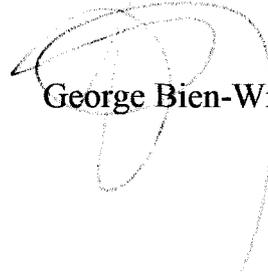
seven days) once again seeking to point fingers at us. For example, your order parrots Qwest's position that we have failed to file written testimony pursuant to your orders. That is hardly a fair or impartial statement. You and Qwest claim that we failed to file written testimony on May 3, 2012, and you both point to your February 10, 2012 procedural order. However, you and Qwest ignore that you entered an order on April 13, 2012 that set a date for me to respond to Qwest's motion to dismiss by May 4, 2012 – which I did. Your April 2012 Order did not set any other dates or reiterate the dates in your February 2012 order. On the contrary, the February 2012 order stated that “the Administrative Law Judge may rescind, alter, amend or waive any portion of this Procedural Order either by subsequent Procedural Order or by ruling at hearing.” Thus, the assertion in your latest, May 18, 2012 order that I failed to file written testimony as required by your February 2012 order is grossly unfair in light of your own April 2012 order which post-dated your February order and contained no such deadline. In any event, as noted above, we have already filed extensive written testimony in this matter (which in itself is unprecedented and unnecessary in this straightforward consumer complaint).

Fourth, your order provides that Qwest – which has had the singular goal of dismissing my complaint – be given an opportunity to weigh in on whether I should be forced to hire an attorney. In addition to my objection to your attempts to force me to hire counsel in this matter, you have offered no reason why Qwest and its lawyers should have any say in whether I should have a lawyer in this matter. In fact, it is Qwest's lawyer that has admittedly incorrectly responded to discovery requests in this matter – acts which you have helped to sweep under the rug and did not even bother to address with a formal opinion and order.

**Fifth, my understanding is that Qwest accounts for its legal department as an expense; we understand that those costs are paid for using funds collected from Arizona consumers. As you must know, if you attempt to force me to retain legal counsel, I will have to pay for that. On the other hand, it is my understanding that Qwest simply passes those costs on to consumers of its services in Arizona. Not only is this contrary to the spirit of the regulations governing monopolistic corporations like Qwest in Arizona, it is a perfect example of government regulators siding with a monopoly that they are supposed to control on behalf of the people, rather than empower. This is especially true here, where by all appearances you could care less about the fact that Qwest has already refunded me thousands of dollars for wrongful billing, admits it failed to keep adequate records of my consumer orders, and it has admitted that, like us, its own personnel are incapable of understanding the charges or services ordered on its bills, as we have already detailed in the written testimony you required and that we prepared and submitted.**

In short, I will not be able to attend a hearing on May 29, 2012, but have provided alternative dates if such a hearing is even necessary. More importantly, Judge Kinsey, I believe that your latest order is yet another indication that you are failing to fulfill your duties as an administrative judge on behalf of the Commission.

Sincerely,

A handwritten signature in black ink, appearing to be "George Bien-Willner", written over the typed name. The signature is somewhat stylized and loops around the typed name.

George Bien-Willner