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HOW WE GOT TO SEE THE OPIOID DATABASE, Continued.

*Part two of two.*

by

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It was a near thing. We got to see the opioid database because two judges voted for us to see it. They also voted for us to see the documents related to it.

In a 2-to-1 decision, the majority on a panel of the Sixth Circuit held that the trial judge's decision to conceal the opioid information was "bizarre" and "irrational." In re: National Prescription Opiate Litigation, 927 F.3d 919, 932 (6th Cir. 2019). The trial judge previously ruled simultaneously that keeping the opioid information secret was not important and also that it was important to keep the opioid documents – and the opioid database – secret.

Corporate media accounts have generally been outstanding in their reporting on this issue but many nonetheless seem to say, erroneously, that the trial judge's ruling in this litigation made the opioid database and the documents available to the public. See, e.g., Jan Hoffman, Katie Thomas and Danny Hakim, *3,271 Pill Bottles, a Town of 2,831: Court Filings Say Corporations Fed Opioid Epidemic*, NEW YORK TIMES, Saturday, July 20, 2019, p. A1 ([online July 19, 2019](#); the New York Times may charge to view online). The District judge in this case has been shown in something of a favorable light in the corporate media generally. See, e.g., Jan Hoffman, *Groundwork is Laid For Opioids Settlement That Would Touch Every Corner of U.S.*, NEW YORK TIMES [online June 14, 2019](#) (New York Times may charge for online access).

The trial judge did not make the database or the documents available to the public. To the contrary, the trial judge ruled to make the opioid documents and the opioid database *unavailable* to the public.

It was the Sixth Circuit panel of appellate judges that ruled in favor of the importance of public access guaranteed by the First Amendment to the U.S. Constitution. Actually, the ruling was made by two of those judges. Their names? Eric L. Clay, who wrote the opinion, and Robert A. Griffin, who concurred in the opinion completely.

To say again, it was a near thing.

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