



Arizona Court of Appeals Division One 2018: The Year in Review

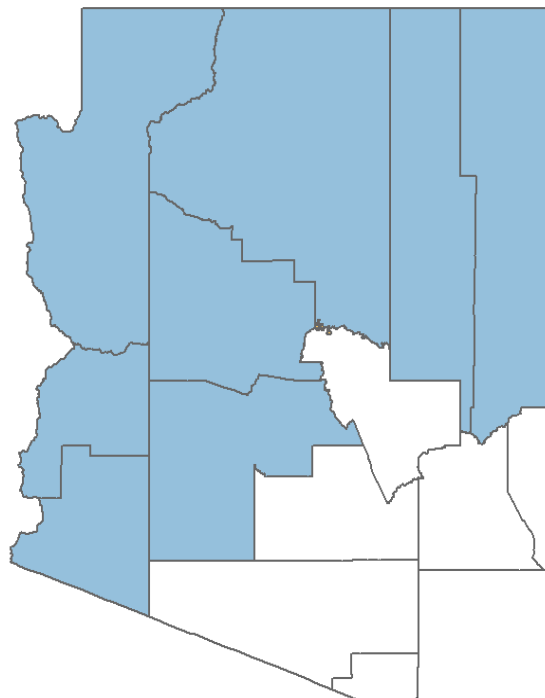


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Executive Summary

2018 was another busy and productive year for the Arizona Court of Appeals, Division One. As described more fully in this Year in Review report, Division One highlights from 2018 include:

- Receiving nearly 3,000 new appeals while resolving more than 3,300 appeals, the second year in a row that the Court resolved 300 more appeals than it received.
- For the third year in a row, achieving a positive clearance rate. The 2018 clearance rate was 104 percent, meaning for every 100 new appeals filed, the Court resolved 104 appeals.
- Reducing the backlog of civil cases ready to be placed with panels from more than 200 in August 2016 to almost zero by mid-2018 and to zero in March 2019. This is the result of a Court-wide effort and is the first time in decades that this backlog has been eliminated. In addition, procedures implemented are designed to keep it that way in the future.
- Reducing the backlog of post-conviction relief matters from nearly 600 in January 2017 to approximately 100 by May 2018 (nearly half of which were not yet ready for consideration) and maintaining that level since that time. This sustainable effort was made possible by a Court-wide effort and the assistance of Division Two.
- Expanding ongoing outreach efforts in communities the Court serves.

In 2018, the Court continued to implement procedures to enhance the fair, impartial and prompt resolution of appeals, now and in the future. What follows is the 2018 Year in Review, summarizing the Court and what it is and has done this past year in resolving appeals and connecting with the communities it serves.

Introduction



The Arizona Legislature created the Arizona Court of Appeals in 1964. The Court serves as an intermediate appellate court with two divisions: Division One, based in Phoenix, and Division Two, based in Tucson. Division One started with three judges and, over time, expanded with the state's population to its current complement of 16 judges. Despite Arizona's continued population growth, Division One has not added a panel of three judges since 1989 and last added a new judge position in 1995.

Division One resolves appeals from eight of Arizona's 15 counties: Apache, Coconino, La Paz, Navajo, Maricopa, Mohave, Yavapai and Yuma. More than 5.25 million people live in these

counties and the geographic area the Court serves is larger than about 35 states. Division One is bordered by Mexico, California, Nevada, Utah and New Mexico.

Under the Arizona Constitution, judges of the Court of Appeals are chosen by merit selection; they are appointed by the Governor from a list of nominees forwarded by the non-partisan Commission on Appellate Court Appointments. Ten Division One judges must reside primarily in Maricopa County, five must reside primarily in one of the other counties within Division One, and one may reside in any county within Division One. After their appointment, judges stand for retention by the voters based on information published by the Commission on Judicial Performance Review. A judge first stands for retention in the first general election held two years after his or her appointment; thereafter, the judge stands for retention every six years.

Division One is funded through the State's general fund. Division One resolves the appeals that come before it; it operates no related programs requiring legislative appropriation. In addition to its 16 judges, Division One employs more than 80 employees, including the Clerk of the Court, Amy Wood, who among other things oversees all appellate records and coordinates distribution of decisions, and Barbara Vidal Vaught, Chief Staff Attorney, who assists with staff attorneys preparing cases for Court calendars. All judges and employees must comply with codes of conduct adopted by the Arizona Supreme Court and must complete a designated amount of continuing education each year.

Division One decides appeals in three-judge panels, which rotate in composition every few months. The 16 judges elect one of their number to serve as Chief Judge. In light of the Chief Judge's administrative duties, he or she is not assigned to a regular three-judge panel but instead sits on various panels as required to accommodate vacancies, conflicts and workload issues.

Division One decides appeals in a wide variety of substantive areas, including civil, criminal, juvenile, family, mental health, probate, and tax law. Along with considering appeals from superior court decisions, administrative decisions first considered by the superior court and some matters from limited jurisdiction courts, Division One also reviews decisions made by the Arizona Industrial Commission in workers' compensation cases, by the Arizona Corporation Commission and the Arizona Department of Economic Security appeals board, and considers "special action" petitions seeking pre-judgment and emergency relief. With few exceptions, every decision is made by three judges after they meet to consider the case and hear any oral argument provided. Each decision is memorialized in writing, and opinions and memorandum decisions are posted on the Court's website. Although all the Court's decisions are subject to discretionary review by the Arizona Supreme Court, in 2018, Division One's decision was the final word in more than 99 percent of the cases it resolved.

The judges and employees of Division One work diligently to decide cases impartially and efficiently. The Court's judges and

employees remain dedicated to public service and take great pride in their work. This, the Court's tenth Year in Review, is offered to inform the public about the Court's integral role in Arizona's judicial system.

Judges of Division One Arizona Court of Appeals As of January 2019

**Current Judges
(listed by seniority in order of their service on
this Court)**

Judge	Home County	Appointed
Jon W. Thompson	Coconino	04/03/95
Lawrence F. Winthrop*	Maricopa	10/15/02
Diane M. Johnsen*	Maricopa	10/03/06
Michael J. Brown*	Navajo	01/02/07
Peter B. Swann	Maricopa	11/05/08
Randall M. Howe	Maricopa	04/11/12
Samuel A. Thumma	Maricopa	04/11/12
Kent E. Cattani	Maricopa	02/09/13
Kenton D. Jones	Yavapai	10/28/13
Paul J. McMurdie	Maricopa	11/14/16
James P. Beene	Maricopa	12/12/16
Maria Elena Cruz	Yuma	04/12/17
Jennifer B. Campbell	Yavapai	04/12/17
Jennifer M. Perkins	Maricopa	09/29/17
James B. Morse Jr.	Maricopa	09/29/17
David D. Weinzweig	Maricopa	12/29/17

*Former Chief Judge

Former Judges

Judge	Service Dates	Home County
James Duke Cameron*^	1965-1971	Yuma
Francis J. Donofrio^	1965-1981	Maricopa
Henry S. Stevens*^	1965-1975	Maricopa
Levi Ray Haire*	1969-1989	Maricopa
William E. Eubank^	1969-1992	Maricopa
Eino M. Jacobson*^	1969-1995	Yavapai
Williby E. Case^	1971-1972	Yuma
Jack L. Ogg*^	1973-1985	Yavapai
Gary K. Nelson^	1974-1978	Maricopa
Donald F. Froeb*^	1974-1988	Maricopa
Laurance T. Wren*^	1974-1982	Coconino
Mary M. Schroeder	1975-1979	Maricopa
Joe W. Contreras*^	1979-1996	Maricopa
Sandra Day O'Connor	1979-1981	Maricopa
Robert J. Corcoran^	1981-1989	Maricopa
Sarah D. Grant*^	1981-1999	Maricopa
Thomas C. Kleinschmidt*	1982-2000	Maricopa
J. Thomas Brooks	1982-1991	Coconino
Bruce E. Meyerson	1982-1986	Maricopa
D. L. Greer^	1982-1989	Apache
Melvyn T. Shelley^	1985-1991	Navajo
Noel Fidel*	1986-2001	Maricopa
Rudolph J. Gerber	1988-2001	Maricopa
John L. Claborne^	1989-1995	Apache
Edward C. Voss*	1989-2003	Maricopa
Susan A. Ehrlich	1989-2008	Maricopa
Ruth V. McGregor*	1989-1998	Maricopa
Jefferson L. Lankford	1989-2006	Maricopa
John F. Taylor	1989-1992	Navajo
William F. Garbarino	1991-2004	Coconino
Philip E. Toci*	1991-2000	Yavapai
E.G. Noyes, Jr.*	1992-2003	Maricopa

Sheldon H. Weisberg*	1992-2011	Mohave
James B. Sult	1995-2006	Yavapai
Cecil B. Patterson, Jr.	1995-2003	Maricopa
Michael D. Ryan^	1996-2002	Maricopa
Rebecca White Berch	1998-2002	Maricopa
James M. Ackerman^	2000-2001	Maricopa
Ann A. Scott Timmer*	2000-2012	Maricopa
Daniel A. Barker	2001-2011	Maricopa
Philip Hall	2001-2013	Yuma
John C. Gemmill*	2001-2016	Maricopa
G. Murray Snow	2002-2008	Maricopa
Patrick Irvine	2002-2011	Maricopa
Maurice Portley	2003-2016	Maricopa
Donn Kessler	2003-2017	Maricopa
Patricia K. Norris	2003-2017	Maricopa
Patricia A. Orozco	2004-2016	Yuma
Margaret Downie	2008-2017	Maricopa
Andrew W. Gould	2012-2016	Yuma

* Former Chief Judge

^ Deceased

How the Court Makes Decisions

Appeals

When all the briefs have been submitted in an appeal, or the time has expired for doing so, the Clerk of the Court sets the case on the next available calendar of one of the five three-judge panels of the Court. The Clerk assigns cases without reviewing their merits or considering the composition of the panels (except to ensure that none of the judges assigned to hear a case has a conflict of interest). No judge has a role in determining which cases are assigned by the Clerk to any

panel. The cases on a calendar usually are grouped by subject matter. For example, a panel may have a calendar of criminal cases one week, a civil calendar the next and a combined civil/workers' compensation calendar the week after that. The case calendars are posted on the Court's website at least one month in advance.

Panels typically meet weekly, usually either on Tuesday or Wednesday. Before meeting, each judge reads the briefs for each case, conducts legal research and reviews pertinent parts of the record. The judges are assisted in this effort by their law clerks and the Court's staff attorneys. By the time they meet, the judges are well-versed in the material facts and legal issues for each case. If a party requests oral argument and the Court believes argument would be helpful, the panel will hear oral argument the same day it discusses the case in a conference. Typically, the panel will decide how to resolve each of the cases on the calendar during the panel's weekly conference.

At the beginning of their term together, the judges of each panel elect a presiding judge, who assigns writing responsibility for each case on the calendar to one of the three panel members and presides over oral arguments. If a judge on the panel disagrees with the majority's decision, that judge may write a dissent. If a judge agrees with the majority's decision but not its reasoning, that judge may write a concurrence explaining his or her viewpoint.

The judges and Court staff work diligently to issue written decisions expeditiously. The timing of the release of a decision, however, may be affected by several factors:

(1) The Court is required by law to give priority to special actions, juvenile delinquency and dependency/parental termination appeals, criminal appeals, election appeals, mental health appeals, matters involving child support, child custody, spousal maintenance, workers' compensation and other types of cases. Also, on application by a party and for good cause, the Court may accelerate some civil appeals. Otherwise, general civil cases have the lowest priority of all the appeals the Court handles.

(2) A judge's pending caseload may affect the speed with which the judge completes work on a case. From time to time, a judge is assigned a case that may be exceptionally lengthy, difficult and/or complicated, requiring extraordinary periods of focused time for research, record review, analysis and drafting. Because a judge assigned to draft one of these time-consuming decisions typically is not relieved of other ongoing weekly case responsibilities in the meantime, such a case can slow disposition of the judge's other assigned cases.

(3) After an authoring judge submits a draft to the panel, the other two judges review it and submit comments and suggestions. A judge wishing to write a dissent or concurrence then will do so. Several drafts may be exchanged before the panel agrees on a final version.

(4) An opinion generally is more time-consuming to draft than a memorandum decision. Because opinions may be cited as precedent in future cases (memorandum decisions do not constitute controlling precedent), opinions usually contain more legal authority, provide

more reasoning and require more time and care to avoid language or reasoning that may lead to unintended consequences in future cases. Further, all draft opinions are circulated for comment by each of the other 13 judges on the Court who are not on the panel assigned to resolve the case. The judges who are not members of the panel deciding a case do not vote on the outcome of the decision, but their comments often are helpful to the panel members as they refine the decision. Memorandum decisions are not subject to such review and comment by the full Court.

Special Actions

Petitions for special action relief are filed by parties asking the Court to order a public officer or entity to take particular action or refrain from taking particular action. Such petitions usually seek immediate relief, and the petitioner must demonstrate that the matter cannot be resolved (or cannot wait to be resolved) during the regular appeal process.

Each panel of judges is assigned about once a month to a special action calendar of up to eight cases. As petitions for special action are filed, the Clerk of the Court sends them to the panel electronically in the order received. The panel assigned to receive special actions at any particular time is known as the “hot panel,” because the judges on that panel must be available to address any requests for emergency relief.

If a petitioner needs an immediate order from the Court staying a decision by the superior court, the petitioner usually must first ask

the superior court judge who issued the order to stay it pending resolution of the petition for special action. If that judge denies the stay request, the petitioner then may request a stay from Division One. Once a stay request is made in Division One, at the request of the party, the hot panel usually will set a telephonic hearing on the request and issue its ruling at the conclusion of the hearing, with an order to follow.

Unlike direct appeals, in special actions, the Court has discretion to decline jurisdiction of a petition for special action. To save the parties time and money and to decide petitions more expediently, the hot panel reviews each petition before any response is due to determine whether the petition sets forth allegations that may entitle the petitioner to special action relief. When it is clear that a petition does not do so, the panel may decline jurisdiction immediately without waiting to receive a response brief. If the petition sets forth sufficient allegations, the panel will wait to determine whether to accept jurisdiction until after it has received additional briefing. The panel then will confer and decide the petition in a manner similar to a direct appeal. If the panel decides to decline jurisdiction, it usually will issue a short order to that effect. The brevity of an order declining jurisdiction may not reflect the extent of the analysis underlying the panel's decision.

Motions

Each year, the Court receives thousands of motions filed in cases on appeal and in special actions. These include, for example, motions

to dismiss all or part of an appeal and motions to strike all or a portion of a party's brief. If a motion is filed after a case is assigned to a three-judge panel, that panel will decide the motion. If a substantive motion is filed before a case is assigned to a panel, a designated three-judge motions panel will decide the motion. All judges in the Court take turns serving on the motions panel. Additionally, the Chief Judge, Vice Chief Judge, and staff attorneys who serve as *pro tem* judges resolve several thousand motions each year relating to administrative procedures governing appeals, such as requests for additional time for court reporters to file transcripts, motions for extensions of time to file briefs, requests for oral argument, motions to supplement the record on appeal, and requests for participation in the Court's settlement program.

Court Budget

The Court is funded by Arizona's general fund on a fiscal year basis (July 1 – June 30). Fiscal years are referred to by the year in which the fiscal year ("FY") ends. In FY 2019, the current budget year, Division One has a baseline appropriation of \$11,099,600. More than 95 percent of the Court's current budget is devoted to salaries and employee-related expenditures (for example, health and dental expenses, travel expenses for judges who live outside of Maricopa County, and retirement fund contributions).

Courthouse and Technology

For nearly 30 years, the Court has been located in the State Courts Building, 1501 West Washington, Phoenix. The two Courtrooms and the Clerk of the Court's Office, including the filing counters, are located on the second floor of the State Courts Building.



To better serve the public, in 2017, the Court built a file reviewing room next to the public filing counter adjacent to the Clerk of the Court's Office. The file reviewing room allows attorneys, parties and the public to review publicly available electronic, microfilm and paper materials made available by the Court, to make copies, to make filings, and to make payments electronically.

The Court has welcomed technological advances and has largely moved to electronic records as well as electronic filing, review, and

distribution of decisions and orders. With only a few exceptions, the superior courts deliver electronic versions of their records to the Court for cases that are on appeal. Electronic access to the record allows the Court's judges and employees to more easily and efficiently review the trial court record. It also minimizes the time spent by the superior court staff in gathering and transmitting paper records. In 2017, in collaboration with Division Two, the Court expanded this practice to receive electronic versions of records from the Arizona Industrial Commission for workers' compensation award challenges.

The Court has continually strived to increase the use of technology to better serve the public, including through more expedient delivery and saving postage. Beginning in 2009, the Court implemented, in stages, electronic communications regarding case decisions. By the end of 2013, most Court orders and notices were distributed electronically to parties that maintain email addresses with the Court. In 2017, this effort was expanded to include an electronic mandate process, which clearly transfers jurisdiction to the trial court when an appeal is resolved.

The Court has adopted various web-based collaboration tools, including using SharePoint, which allow judges and employees to more easily share pertinent case records, draft decisions, comments, and suggested edits. This implementation is consistent with the Court's goal to continually identify and implement technological advances that will assist judges and employees to accomplish their duties in a more efficient manner.

In 2017, the Court allowed interested individuals additional ways to receive new opinions and informational news items. Subscription for both new opinions and news items can be done by texting COA1INFO to 22828. Subscription for either new opinions or news items (or both) also can be done by going to the Court's website <http://www.azcourts.gov/coa1> and clicking on the "subscribe" tab.

The Court also now allows credit and debit card payments using a web-based application accessed through computers in the Clerk of the Court's Office. This alternative is intended to help self-represented litigants that file cases in paper at the counter, individuals paying for copies, and those who have Court approved payment plans.

Court Statistics

Cases Filed and Cases Resolved

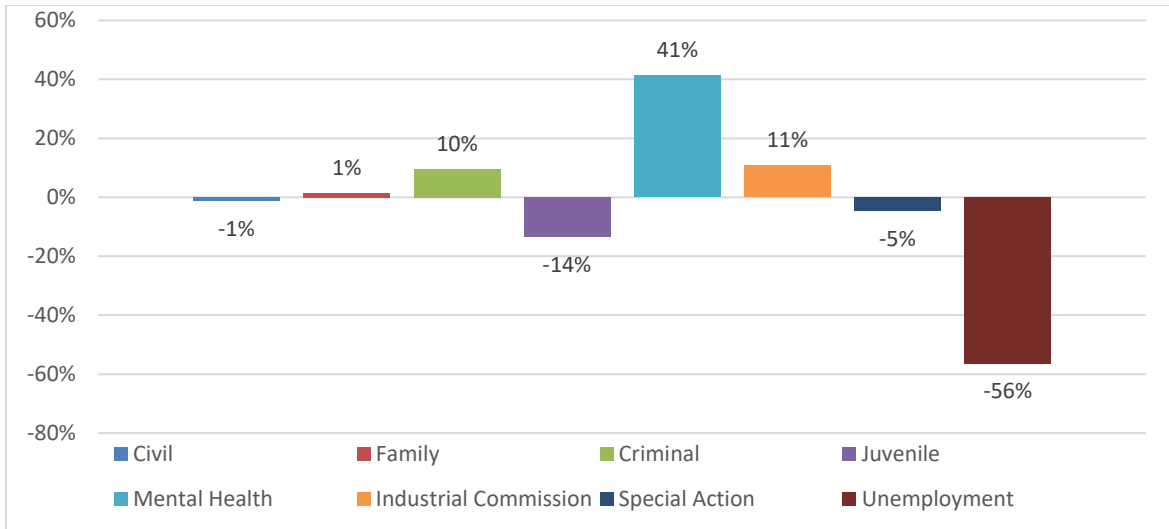
The Court began calendar year 2018 with a 2,197 pending cases over all categories. During the year, 2,973 appeals and special actions were filed, and 83 cases were reinstated or transferred to the Court. The Court resolved 3,326 cases and transferred 49 cases, leaving 1,878 cases pending at the end of 2018.

Here are the annual statistics for the Court's largest case categories:

Case Type	Cases Pending at Start of 2018	Cases Filed/ Reinstated During 2018	Cases Resolved/ Transferred During 2018	Cases Pending at End of 2018
Civil	497	519	580	436
Family	196	289	301	184
Criminal ¹	1,045	955	1,157	843
Juvenile	219	510	534	195
Mental Health	12	82	77	17
Workers' Comp	45	83	63	65
Special Actions	79	312	313	78
ADES Appeals Board	83	283	328	38
Other	21	23	22	22
Totals	2,197	3,056	3,375	1,878

Expressed in percentages, the change of new and reinstated filings between 2017 and 2018 in the various case types is broken down as follows:

¹ Includes criminal appeals and petitions for review of post-conviction relief rulings.



New case filings (including reinstatements) over all case types decreased in 2018 by 340 cases to 3,056, down from 3,396 in 2017, a decrease of 10 percent, but up from 2,746 in 2016, an increase of 11.2 percent. For context, over the past 13 years (2006–2018), new filings over all case types ranged from a high of 3,396 (2017) to a low of 2,657 (2006). The decrease in 2018 when compared to 2017 is largely attributed to two factors.

First, the number of ADES appeals board matters transmitted to the Court in 2018 was down by 365 cases compared to 2017, a 56 percent decrease. This decrease was anticipated. In 2017, the Court held ADES in contempt for its failure to timely transmit applications for appeal to the Court and issued Administrative Orders, with corresponding monthly reporting obligations, to ensure timely transmittal going forward. *See In the Matter of: Arizona Department of Economic Security's Compliance with Administrative Order 2017-01*, No. 1 CA-UB 17-0128-OSC, 2017 WL 4784584 (Oct. 24, 2017) (mem. dec.);

Administrative Orders 2018-07 (Oct. 17, 2018); 2018-05 (July 31, 2018); 2017-03 (Nov. 8, 2017) and 2017-01 (Feb. 13, 2017); *see also* 2017 Year in Review at 20-23 (providing additional background). Given those measures, it was anticipated that the spike in 2017 in the number of ADES Appeals Board matters would not sustain in 2018. The filings in 2018 confirm that thought, and the measures taken by the Court, including imposing on ADES monthly reporting obligations to the Court, appear to be working.

Second, a decrease of 80 juvenile appeals (a decrease of 14 percent), the first time since 2011 that the number of juvenile appeals declined. *See* 2017 Year in Review at pages 19-20 (providing additional background). In addition, in 2018, civil appeals decreased by 7 (1 percent) and special actions decreased by 15 cases (5 percent) when compared to 2017.

In 2018, appeals increased in four categories: criminal appeals increased by 83 cases (10 percent); mental health appeals increased by 24 cases (41 percent); workers' compensation appeals increased by 8 cases (10 percent) and family court appeals increased by four cases (1 percent) when compared to 2017.

Oral Arguments

Oral arguments are held when warranted, usually on request of a party. The Court may deny a request for oral argument if it determines that the briefs adequately present the facts and legal arguments and that oral argument would not aid the Court

significantly in deciding a case. Most oral arguments are in civil cases; the Court rarely receives requests for argument in other types of appeals and generally grants oral argument in those cases when requested. The Court heard oral arguments in 185 cases in 2018, 78 percent of which were in civil matters. By comparison, the Court heard 163 oral arguments in 2017, 156 in 2016, 202 in 2015, and 178 in 2014.

Decisions

Division One issued 1,577 decisions in 2018 by way of opinions or memorandum decisions, with other cases resolved by order. These decisions are available on the court's website, <http://www.azcourts.gov/coa1>. This is a four percent decrease from 2017, where the Court issued 1,638 decisions, likely an all-time high. Compared to the five years before 2017, the Court issued 325 more decisions in 2018 than it did in any of those years, which ranged from a high of 1,219 in 2016 to a low of 1,171 in 2013.

Opinions are published by Thomson Reuters and by court rule may be cited as precedent in future cases. The number of published opinions in 2018 (100) was a slight increase from 2017 (96) and decreased from the number published in 2016 (119), 2015 (108), 2014 (131), and 2013 (122). Pursuant to Arizona Supreme Court Rule 111(b) and Arizona Rule of Civil Appellate Procedure 28(b), opinions are reserved for those decisions that (1) establish, alter, modify, or clarify a rule of law; (2) call attention to a rule of law that appears to have been generally overlooked; (3) criticize existing law; or (4) involve a legal or

factual issue of unique interest or substantial public importance. In addition, if one of the judges on the panel writes a concurrence or dissent, that judge may request that the decision be issued in the form of a published opinion.

Pursuant to Arizona Supreme Court Rule 111(c), the Court's memorandum decisions may not be cited as precedent. An amendment to Rule 111(c), effective January 1, 2015, allows a party to cite a memorandum decision issued after January 1, 2015 for persuasive value in certain circumstances. Division One posts its memorandum decisions on its website with a search engine and permits online research companies to include such decisions in online databases.

Parties occasionally ask the Court to reconsider a decision. The Court carefully considers these requests and may grant such a motion when a decision requires clarification or revision. Parties filed 264 motions for reconsideration in 2018 (down from 286 in 2017 but up from 227 in 2016, 205 in 2015, and 189 in 2014). The Court granted 20 motions for reconsideration in 2018 (up from 15 in 2017; down from 32 in 2016 and 24 in 2015, and the same as in 2014).

Dispositions in the Arizona Supreme Court

In 2018, parties filed petitions for review in the Arizona Supreme Court concerning 646 decisions issued by the Court (up from 462 in 2017, 454 in 2016 and 473 in 2015). In 2018, the Arizona Supreme Court granted review in 22 cases issued by the Court (down from 27 in 2017

and 39 in 2016 and equal to 22 in 2015). The Arizona Supreme Court accepts review for a number of reasons, including when a case involves an issue of significant statewide concern or a rule of procedure or evidence, or when different panels of the Court of Appeals have reached conflicting decisions on an issue of law. These statistics indicate that, although Division One is an intermediate appellate court, its decision is the final word in the matter more than 99 percent of the time.

Occasionally, the Arizona Supreme Court “depublishes” an opinion (or a portion of an opinion) issued by the Court of Appeals, meaning the result is left intact but the decision cannot be used as precedent in future unrelated cases. Although the Arizona Supreme Court typically does not provide an explanation when it depublishes an opinion, it is generally accepted that the court takes this action when it identifies language in the opinion it disagrees with or the appeal involves an issue the court would prefer to address in a different factual or procedural setting. In 2018, the Arizona Supreme Court depublished two opinions issued by the Court (compared to two in 2017, none in 2016 and three in 2015).

Performance Measures

Appellate Time Standards

Starting in 2009, the Court used performance standards called CourTools. A product of the National Center for State Courts, CourTools set forth various court performance measures. As discussed

in previous Year in Review reports, the CourTools measures focus on: (1) time standards (including “filing to disposition,” “at-issue to disposition,” and “under advisement to disposition”); (2) “case clearance;” (3) “case aging;” and (4) biannual anonymous survey results.

Effective July 1, 2016, the Arizona Supreme Court replaced CourTools time standards with Appellate Time Standards. *See* Arizona Supreme Court Administrative Order Nos. 2016-66 (Aug. 3, 2016) and 2016-51 (June 29, 2016). Appellate Time Standards differ from CourTools time standards in several respects. Appellate Time Standards track “filing to disposition” (the time between when an appeal begins at the Court and when the Court issues its decision in the appeal), while CourTools also tracked intermediate stages of an appeal. Appellate Time Standards also use different time periods for resolution of appeals than in CourTools (including reducing substantially the time for resolution of juvenile appeals). Appellate Time Standards also reflect priorities different than those in CourTools, including that civil appeals are expected to be resolved more promptly than criminal appeals. In tabular form, these differences are summarized as follows:

Appellate Time Standards		CourTools	
Case Type	Days from filing to disposition		Days from filing to disposition
	75% Goal	95% Goal	Standard
Civil	390 days	500 days	400 days
Family	345 days	425 days	No Standard
Criminal	450 days	600 days	375 days
Juvenile	190 days	220 days	275 days
Workers' Compensation	285 days	365 days	300 days
Special Actions	40 days	80 days	25 days

Information captured by CourTools for intermediate periods in an appeal from prior years is available in previous Year in Review reports on the Court's website. <http://www.azcourts.gov/coal/Annual-Report>. Starting in FY 2017, which ended June 30, 2017, the Appellate Time Standards focus on disposition as the performance measure. With this change in mind, the following sets forth the Court's performance measure information for FY 2018, focusing on (1) "filing to disposition;" (2) "case clearance;" and (3) "case aging."

Filing to Disposition

The Appellate Time Standards measure the length of time it takes the Court to process various categories of cases focusing on "filing to disposition." This standard measures the length of time between when an appeal begins at the Court and when the Court issues its decision in the appeal. The Appellate Time Standards list two

different measures for various types of cases: (1) days from filing to disposition for 75 percent of cases of a specific type and (2) days from filing to disposition for 95 percent of cases of a specific type. For FY 2018, the Appellate Time Standards results for the Court are:

Fiscal Year 2018		75% Goal		95% Goal	
	Cases Resolved	Standard Days	Percent Decided	Standard Days	Percent Decided
Civil	521	390	71%	500	88%
Family	305	345	83%	425	94%
Criminal	543	450	82%	600	96%
Juvenile	558	190	76%	220	87%
Workers' Compensation	64	285	73%	365	98%
Special Actions	305	40	89%	80	93%

These results show the Court is meeting and exceeding most standards, including all but civil and workers' compensation at the 75 percent goal, and criminal and workers compensation for the 95 percent goal. For areas where it is not, the 75 percent goal for workers' compensation would have been met had one additional appeal been resolved earlier; the 95 percent goal for family would have been met had three additional appeals been resolved earlier and the 95 percent goal for special actions would have been met had seven more special actions been resolved earlier. Significantly, when compared to FY

2017, these results for FY 2018 are an improvement in 9 of the 12 different categories.

For Calendar Year (CY) 2018, the Appellate Time Standards results for the Court are even stronger:

Calendar Year 2018		75% Goal		95% Goal	
	Cases Resolved	Standard Days	Percent Decided	Standard Days	Percent Decided
Civil	538	390	82%	500	96%
Family	292	345	85%	425	95%
Criminal	579	450	82%	600	95%
Juvenile	521	190	80%	220	89%
Workers' Compensation	67	285	61%	365	94%
Special Actions	290	40	91%	80	97%

When compared to FY 2018, CY 2018 was an improvement in 8 of the 12 different categories, and the 95 percent goal for workers' compensation appeals would have been met had one additional appeal been resolved earlier.

Case Clearance

“Case clearance” measures the number of cases decided in a given period as a percentage of the number of new cases filed during that same period. This is a measure of whether the Court is maintaining pace with the incoming caseload. Any measure exceeding

100 percent reflects a decrease in pending cases; any measure less than 100 percent indicates an increasing number of pending cases. The case clearance percentage for all types of cases that the Court resolved during FY 2018 is 104 percent, the third year in a row the overall case clearance rate has exceeded 100 percent. In addition, the three largest categories of appeals – Civil (including Family), Criminal, and Juvenile – collectively representing a substantial majority of the new filings in FY 2018, each had clearance rates exceeding 100 percent.

In FY 2018, the Court achieved the following case clearance rates:

Case Type	Case Clearance Rate FY 2018
Civil (including Family)	109%
Criminal	101%
Juvenile	108%
Workers' Compensation	80%
Special Actions	98%
Overall	104%

The table below shows the Court's case clearance performance during FY 2017 compared with prior years:

Case Clearance Rates FY 2012 - 2018						
Fiscal Year	Civil (including Family)	Criminal	Juvenile	Workers' Compensation	Special Action	Overall
2012	95%	114%	94%	104%	104%	102%
2013	107%	116%	99%	104%	97%	106%
2014	96%	95%	94%	103%	104%	97%
2015	94%	88%	95%	100%	99%	94%
2016	102%	113%	93%	96%	101%	102%
2017	115%	106%	96%	106%	99%	105%
2018	109%	101%	108%	80%	98%	104%

Age of Pending Caseload

The “age of pending caseload” measurement provides information about the age of the Court’s complement of pending cases. It calculates the percentage of cases pending at the end of a fiscal year that had not reached the time reference point for the time to disposition measure described above.

The percentage of all cases pending at the end of FY 2018 that had not exceeded the time reference points was 90 percent, the third straight year the Court had achieved that result. Broken down by case type, the data show:

Percent of Pending Cases Not Yet Reaching Reference Points FY 2014 - 2018						
	Overall	Civil	Criminal	Juvenile	Workers' Compensation	Special Action
2014	90%	91%	90%	99%	86%	21%
2015	89%	93%	84%	99%	92%	31%
2016	90%	88%	87%	100%	100%	50%
2017	90%	92%	86%	100%	95%	41%
2018	90%	94%	84%	99%	94%	45%

These data show that, at the end of FY 2018, the Court's pending cases were relatively new, as most had not yet reached their time reference points.

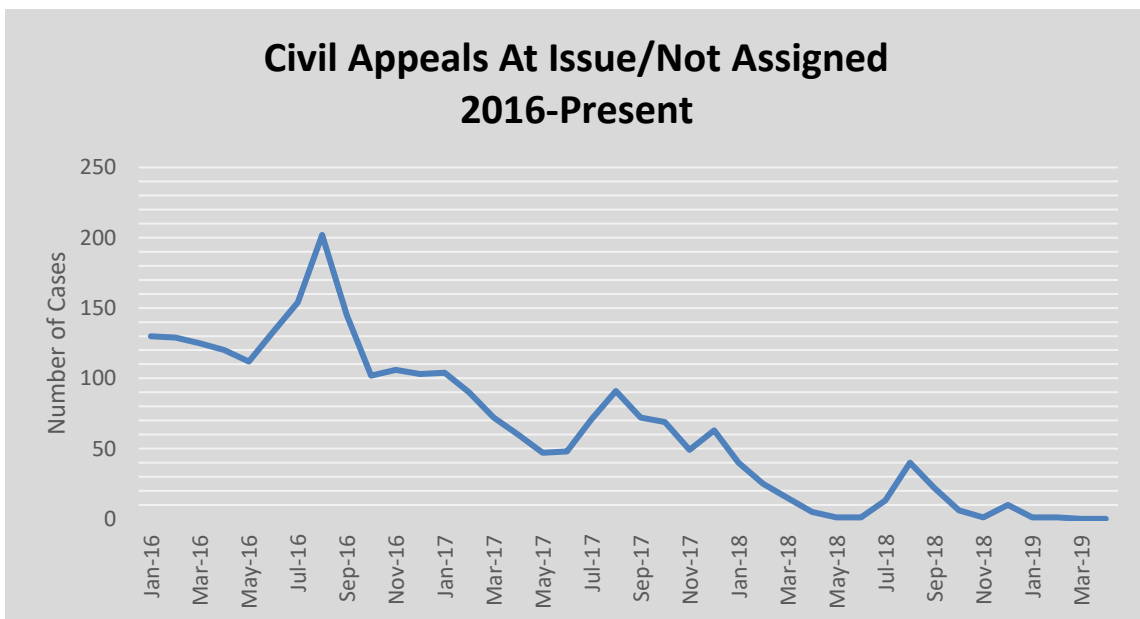
Biannual Survey Results

The Court conducts a biannual anonymous survey of attorneys who appeared before the Court, members of the Appellate Practice Section of the State Bar of Arizona, and superior court judges and commissioners. The survey asks respondents to rate their agreement with specified statements about the Court on a five-point scale ranging from "strongly agree" to "strongly disagree." The most recent survey was conducted in 2017 and is summarized in the 2017 Year in Review at pages 35-38.

Reducing The Civil And Post-Conviction Relief Backlog

For many years, the number of civil appeals at issue exceeded the capacity of the Court panels. This meant that civil appeals could not be placed with the panels in the month that they became fully briefed, delaying consideration and resolution of those appeals.

In 2016, the Court took measures to eradicate this civil backlog, including increasing the number of civil appeals assigned to each civil calendar on a temporary basis; increasing the number of civil appeals assigned to civil and Industrial Commission calendar on an ongoing basis; and adding civil appeals to each summer calendar on an ongoing basis. Given these changes, and given a Court-wide effort, this civil case backlog was reduced from more than 200 in August 2016 to almost zero in mid-2018 and to zero in March 2019. The following chart shows the progress in attaining this achievement:



This is the first time in decades that this backlog has been eliminated. Moreover, the ongoing procedures implemented to eliminate the backlog are designed to keep it that way in the future. This is the result of a strong commitment by everyone at the Court to eliminate this civil case backlog, and it is anticipated that this will help further reduce the amount of time it takes to resolve civil appeals in the future.

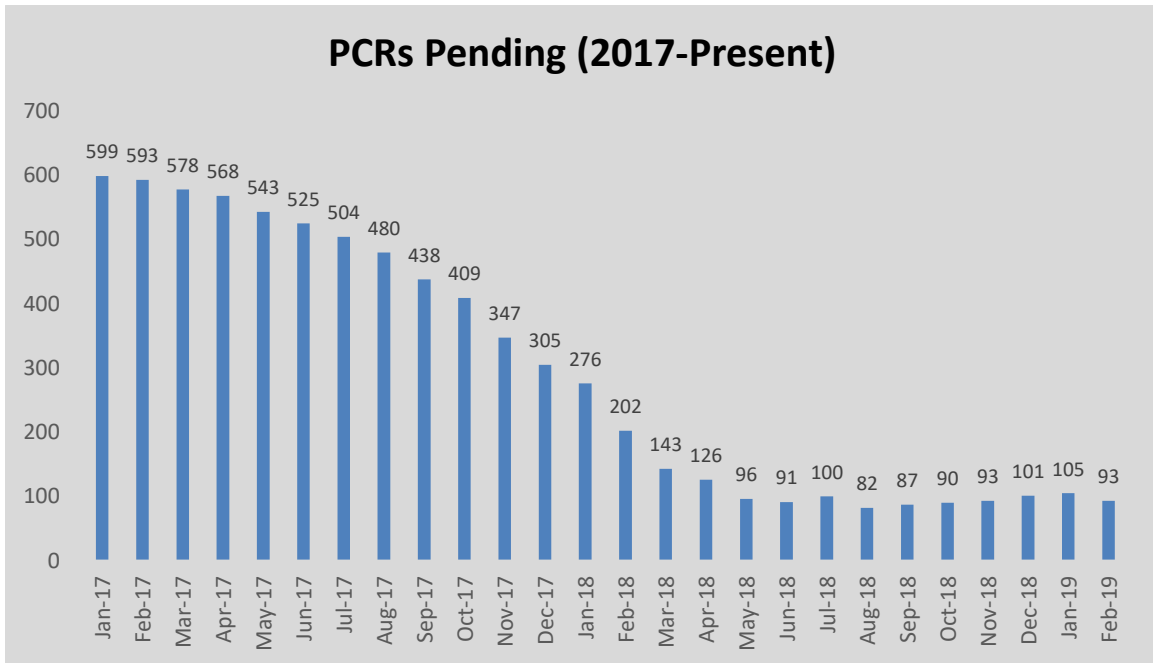
At the same time the Court was reducing the civil case backlog, it also addressed the number of petitions seeking appellate review of a post-conviction relief petition filed by a defendant convicted of a crime. Often called PCRs, on appeal, these matters involve procedures quite different than other types of appellate matters.

Along with the Court's resolution of PCRs, Division Two of the Arizona Court of Appeals helped resolve these PCRs, many times taking as many as ten such matters per month for resolution. Over time, however, and even with the assistance of Division Two, a substantial backlog of PCR petitions had accumulated.

By January 2017, there were nearly 600 PCR petitions pending with the Court. In 2017 and 2018, the Court took measures to substantially reduce this backlog, including changing the resolution process and hiring two temporary attorneys in the Staff Attorney's Office to research and present such cases to panels of the Court. Given these and other measures, the Court was able to consider and resolve a far greater number of these PCR petitions, reducing the number of unresolved PCR petitions from nearly 600 in January 2017 to

approximately 100 by May 2018. As a result, by June 2018, the Court was able to discontinue the monthly practice of transferring some of these cases to Division Two. These measures have remained effective, with the Court having approximately 100 such cases pending at the end of any given month (nearly half of which are not yet at issue and, accordingly, not ready to be considered).

The following chart shows the results of the Court’s efforts to attain and maintain these levels:



Settlement and Pro Bono Attorney Programs

Division One operates a free-of-charge settlement program that allows parties to try to resolve their appeals at a minimum of expense and other resources. Most civil appeals, including family law and workers’ compensation cases, are eligible for the program. Cases may

be assigned to the Court's settlement program at the request of a party or on the Court's own initiative. An active or retired judge serves as a settlement judge. If the case does not settle, it is placed back on track for decision by a panel of judges, and the judge who served as settlement judge will have no further involvement with the case. One of the Court's staff attorneys coordinates the settlement conference program.

In CY 2018, 685 cases were screened for participation in the settlement program and, in 50 of those cases, the parties were asked to participate. Ultimately, 13 cases were assigned to the settlement program, eight settlement conferences were held, and two appeals were resolved. This yields a settlement rate of 25 percent (where settlement conferences were held) and a settlement rate of 15 percent (for cases assigned to the program), down somewhat from CY 2017.

In late 2014, the Court created a Pro Bono Representation Program for cases involving difficult or complex legal or factual issues. In this program, which applies to Divisions One and Two of the Arizona Court of Appeals, the Court will appoint a volunteer lawyer for an unrepresented party or parties when the Court determines that resolution of the appeal will be aided by a lawyer's briefing.

Collectively, since 2015, more than 100 attorneys have volunteered to participate in the program and the Court has identified and successfully placed 24 cases in the program. Volunteer counsel also has been placed by the Arizona Supreme Court and by Division Two. One such placement resulted in oral argument before the

Arizona Supreme Court and then the United States Supreme Court. Given the overwhelming response by attorneys volunteering to participate in the program, attorneys who have volunteered through the Court's program also have been encouraged to provide pro bono services through other programs. The Court is grateful to the volunteers and strives, where appropriate, to set oral argument in cases in which it has appointed volunteer pro bono lawyers. Additional information about the program, including a sign-up form and the Arizona Court of Appeals Pro Bono Representation Program Manual, can be found on the Court's website at <http://www.azcourts.gov/coa1/Pro-Bono-Representation-Program>.

Connecting with the Community

High School Oral Argument Program

Since 2002, Division One has scheduled oral arguments each year at high schools around the state. The Court provides students with the briefs ahead of time, then works with volunteer lawyers to organize discussion sessions in the weeks leading up to the argument. After the oral argument (typically held in the school auditorium), judges, attorneys, law clerks, school administrators, and teachers meet with the students to answer questions about the judicial process and careers in the legal profession. The Court typically works with the Arizona Foundation for Legal Services and Education and with a local or specialty bar association to put on the program. Superior court

judges, local elected officials, teachers, and school district leaders have been generous with their time in attending these sessions.

The program has been highly successful, as schools welcome opportunities for their students to observe the appellate process in action. Judge Kent E. Cattani chaired the Court's Connecting with the Community Committee through mid-2018, when Judge James P. Beene took over as chair. In 2018, the Court was pleased to hold oral arguments and associated educational programs for Verrado High School (hosted at the Court) and at Desert Vista High School in Phoenix.

Along with these traditional Connecting with the Community programs, in 2018, the Court also held oral argument in conjunction with its appellate update program. In October 2018, the Court was pleased to hold oral argument at Northern Arizona University in Flagstaff. In November 2018, the Court was pleased to hold oral argument at Arizona Western College in Yuma, where more than 250 high school students and the public saw oral argument and participate in a question and answer session that followed. Pictures from the November 2018 Yuma event follow.



Over the years, Division One has held oral arguments and associated educational programs at the following schools:

Cesar Chavez H.S. (2002)	AZ School for the Arts (2012)
South Mountain H.S. (2002)	Deer Valley H.S. (2012)
Central H.S. (2003)	Lee Williams H.S. (2013)
Carl Hayden H.S. (2004)	North Canyon H.S. (2013)
Highland H.S. (2004)	McClintock H.S. (2014)
Horizon H.S. (2005)	Sandra Day O'Connor H.S. (2014)
Queen Creek H.S. (2005)	Mountain View H.S. (2015)
Marcos De Niza H.S. (2006)	Verrado H.S. (2015)
Dysart H.S. (2006)	Kingman H.S. (2016)
South Mountain H.S. (2007)	Shadow Mountain H.S. (2016)
Cesar Chavez H.S. (2007)	Lake Havasu H.S. (2017)
Shadow Mountain H.S. (2008)	Verrado H.S. (2018)
Centennial H.S. (2008)	Desert Vista High School (2018)
Agua Fria H.S. (2009)	Northern Arizona University (2018)
Perry H.S. (2009)	Arizona Western College (2018)
Maryvale H.S. (2010)	
Mesa H.S. (2010)	
Moon Valley H.S. (2011)	
Coronado H.S. (2011)	

Appellate Update/Court Conversation Programs

Division One judges welcome opportunities to engage with attorneys and others outside the courtroom. During 2018, teams of judges from the Court presented continuing legal education programs to audiences in all eight counties it serves: Apache/Navajo, Coconino, La Paz, Maricopa, Mohave, Yavapai, and Yuma Counties. These programs addressed various topics, including developments in the

Court, recent developments in the law, rule change updates, ethics and other aspects of appellate practice and the judicial system.

Community Involvement

Along with their service on the Court, Division One judges and employees are involved in and speak at a variety of other law-related educational programs, including serving as adjunct law professors and writing law-related articles. They also are members of and serve in leadership roles in various law-related and other organizations nationwide, statewide and locally. These organizations include the American Law Institute, the American Bar Association, the American Bar Foundation, the Uniform Law Commission, the Council of Chief Judges of the State Courts of Appeal, the National Conference of Appellate Court Clerks, the Court Information Technology Officers Consortium, the Society for Human Resources Management, the National Association of Court Management, the Institute of Court Management, the Arizona Judicial Council, Arizona Supreme Court Committees, Commissions and Task Forces, the State Bar of Arizona, the Arizona Women Lawyer's Association, the Arizona Judges Association, Arizona's Forensic Science Advisory Committee, and Inns of Court as well as various civic and charitable organizations.

Division One is fortunate to have generous judges and employees who reach out to the community when not performing Court duties. Many judges and employees support local shelters and civic organizations with monetary and other donations. Judges and

employees frequently visit with school groups during tours of the Court, and the Court has welcomed students from numerous schools to observe oral arguments.

Employee Recognition

The Court's Employee Recognition Committee acknowledges employees who have made outstanding achievements within the Court. The Committee seeks to reward creativity and innovation and provide an incentive for employees to find effective and cost-efficient ways of performing their jobs. The Committee's work is further intended to enhance employee morale by acknowledging jobs well done and promoting a sense of community within the Court team.

Throughout 2018, awards were bestowed on various deserving employees. Additionally, in the spring, the Committee (without public funds) hosted its annual "Employee Appreciation Lunch." The Committee also selected the Court's Employees of the Year for 2018, honoring employees for exemplary efforts on behalf of the Court. Each employee honored received a commemorative plaque and shared use of a designated parking space. The Court also used the occasion to acknowledge judges and other employees with 3, 5, 10, 15 and 25 years of service with the Court. Our employee of the year winners for 2018 are Tami Ross (Staff Attorneys' Office), Christina Coria (Clerk of the Court's Office) and LaDonna Dawson (Judicial Chambers).

Other employees who were recognized for their contributions to the Court include: Rock Solid Award – Loren Johnsen, Stacy Stolz and

Tami Ross; Quality Customer Service Award—Irma Johnson and Heather Marking; Value Award—Patsy Lestikow and Stacy Stolz; Great Idea Award—LaDonna Dawson; Journey Award—Arlette Agatti; Community Award—Daniel Peabody; and Above and Beyond Award—Amy Wood and Derek Graffious.

For more information about Division One, contact:

Hon. Samuel A. Thumma
Chief Judge
Arizona Court of Appeals
1501 West Washington
Phoenix, Arizona 85007
(602) 452-6790
sthumma@appeals.az.gov

Hon. Peter B. Swann
Vice Chief Judge
Arizona Court of Appeals
1501 West Washington
Phoenix, Arizona 85007
(602) 452-6780
pswann@appeals.az.gov

Amy M. Wood
Clerk of the Court
Arizona Court of Appeals
1501 West Washington
Phoenix, Arizona 85007
(602) 452-6700
awood@appeals.az.gov

Barbara Vidal Vaught, Esq.
Chief Staff Attorney
Arizona Court of Appeals
1501 West Washington
Phoenix, Arizona 85007
(602) 452-6713
bvaught@appeals.az.gov

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