



Arizona Court of Appeals Division One 2022: The Year in Review

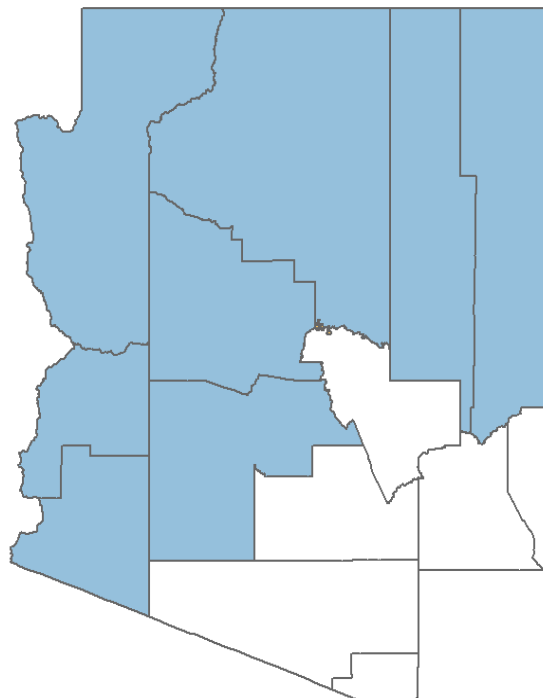


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EXECUTIVE SUMMARY

2022 was a busy and productive year for the Arizona Court of Appeals, Division One. This report summarizes the Court's responsibilities and what it has done this past year in resolving appeals and connecting with the communities it serves. Highlights for the year include:

- Receiving over 2,600 new appeals while also resolving more than 2,600 appeals. For the seventh year in a row, Division One achieved a positive clearance rate.
- Working closely with Division Two of the Court of Appeals to even the workload of judges in both divisions by transferring a specified percentage of cases from Division One to Division Two.
- Maintaining an almost zero backlog of civil cases, and significantly reducing the backlog of post-conviction matters in criminal cases.
- Expanding ongoing outreach efforts in communities the Court 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), and is funded through an annual legislative appropriation from the State's general fund.

Division One started with three judges, and over time, expanded to its current complement of 19 judges. (Division Two has nine judges.) Those numbers include three positions the Arizona Legislature added in 2022 to Division One and three to Division Two, beginning in January 2023.

Division One receives 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 that of 35 states. Division One is bordered by Mexico, California, Nevada, Utah and New Mexico.

As part of the legislation adding additional judges, the legislature directed that the workload for judges in both divisions be evened to the extent possible. Division Two judges have previously agreed to handle some overflow cases originating in superior courts from within Division One, which has generally had a higher case load per judge. The two divisions have now created a formula to automatically transfer cases to Division Two. The process involves totaling the numbers of cases filed in both divisions in specified categories, e.g., civil, criminal, and family cases, then determining the percentage of cases in each category to be transferred to equalize the workload between the divisions. For example, for the first quarter of 2023, the Division One Clerk's Office anticipates sending every 8th civil case, every 27th criminal case, and every 6th family law case filed in Division One to Division Two. The cases are transferred sequentially without regard to the parties involved or the number of issues raised. Court leadership meets quarterly to reassess the formula for transferring cases. To minimize travel costs for litigants, Division Two has expressed a willingness to conduct oral arguments electronically for cases arising from counties within Division One if the parties make such a request.

Under the Arizona Constitution, Court of Appeals judges are chosen through a merit selection process; they are appointed by the Governor from a list of nominees forwarded by the non-partisan Commission on Appellate Court Appointments. Geographic diversity is required; ten Division One judges must be selected from Maricopa County, five must be selected from counties outside Maricopa County, and four judges (filling "at-large" positions) may be selected from any county within Division One.

After being appointed to the court, judges stand for retention by Division One voters, with information on the judges published by the Commission on Judicial Performance Review. A judge stands for retention in the first general election two years after his or her appointment. The judge then stands for retention every six years. Judges must retire before age 70.

Division One decides appeals in three-judge panels, which rotate in composition every six months. The judges elect one of the 19 members of the court to serve as Chief Judge and another to serve as Vice Chief Judge. Because 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 of interest, and workload issues. Kent E. Cattani currently serves as Chief Judge, and David B. Gass serves as Vice Chief Judge. In July 2023, Judge Gass will become Chief Judge, and Judge Randall M. Howe will serve as Vice Chief Judge.

In addition to its 19 judges, Division One employs more than 90 employees, including Amy Wood, the Clerk of the Court, and Barbara Vidal Vaught, Chief Staff Attorney. Among other duties, the Clerk oversees all appellate records and coordinates distribution of orders, memorandum decisions, and opinions. The Chief Staff Attorney, along with other staff attorneys, helps judges prepare their assigned cases. All judges and employees must comply with the Arizona Supreme Court's codes of conduct and must complete a designated amount of continuing education each year.

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 by the Arizona Department of Economic Security Appeals Board. The Court also considers "special action" petitions seeking pre-judgment and emergency relief. With few exceptions, every ruling is made by three judges after they meet to consider the case. Each ruling is memorialized in writing, and opinions and memorandum decisions are posted on the Court's website at <https://www.azcourts.gov/coa1/Division-One>. The Arizona Supreme

Court may exercise discretionary review of court of appeals' rulings, but that court typically grants review in just a small percentage of cases.

The judges and employees of Division One work diligently to decide cases impartially and efficiently. The Court's judges and employees are dedicated to public service and take great pride in their work.

ARIZONA COURT OF APPEALS JUDGES - DIVISION ONE



Current Judges Listed by Seniority

| <u>JUDGE</u> | <u>COUNTY</u> | <u>APPOINTED</u> |
|----------------------|---------------|------------------|
| Michael J. Brown | Navajo | 01/02/07 |
| Randall M. Howe | Maricopa | 04/11/12 |
| Samuel A. Thumma | Maricopa | 04/11/12 |
| Kent E. Cattani | Maricopa | 02/09/13 |
| Paul J. McMurdie | Maricopa | 11/14/16 |
| 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 | 12/19/17 |
| David B. Gass | Maricopa | 10/21/19 |

| | | |
|--------------------|----------|------------|
| D. Steven Williams | Navajo | 12/16/19 |
| Cynthia J. Bailey | Maricopa | 05/16/20 |
| Brian Y. Furuya | Coconino | 01/25/21 |
| Angela K. Paton | Maricopa | 10/08/21 |
| Daniel J. Kiley | Maricopa | 12/27/22 |
| Michael S. Catlett | Maricopa | 12/27/22 |
| Anni Hill Foster | Maricopa | 12/27/22 |
| Andrew M. Jacobs | Maricopa | 02/21/2023 |

Retired Judges Listed by Service Dates

| <u>JUDGE</u> | <u>COUNTY</u> | <u>SERVICE DATES</u> |
|-------------------------|---------------|----------------------|
| James Duke Cameron*^ | Yuma | 1965-1971 |
| Francis J. Donofrio^ | Maricopa | 1965-1981 |
| Henry S. Stevens*^ | Maricopa | 1965-1975 |
| Levi Ray Haire*^ | Maricopa | 1969-1989 |
| William E. Eubank^ | Maricopa | 1969-1992 |
| Eino M. Jacobson*^ | Yavapai | 1969-1995 |
| Williby E. Case^ | Yuma | 1971-1972 |
| Jack L. Ogg*^ | Yavapai | 1973-1985 |
| Gary K. Nelson^ | Maricopa | 1974-1978 |
| Donald F. Froeb*^ | Maricopa | 1974-1988 |
| Laurance T. Wren*^ | Coconino | 1974-1982 |
| Mary M. Schroeder | Maricopa | 1975-1979 |
| Joe W. Contreras*^ | Maricopa | 1979-1996 |
| Sandra Day O'Connor | Maricopa | 1979-1981 |
| Robert J. Corcoran^ | Maricopa | 1981-1989 |
| Sarah D. Grant*^ | Maricopa | 1981-1999 |
| Thomas C. Kleinschmidt* | Maricopa | 1982-2000 |
| J. Thomas Brooks | Coconino | 1982-1991 |
| Bruce E. Meyerson | Maricopa | 1982-1986 |
| D. L. Greer^ | Apache | 1982-1989 |
| Melvyn T. Shelley^ | Navajo | 1985-1991 |
| Noel Fidel* | Maricopa | 1986-2001 |
| Rudolph J. Gerber | Maricopa | 1988-2001 |
| John L. Claborne^ | Apache | 1989-1995 |
| Edward C. Voss* | Maricopa | 1989-2003 |
| Susan A. Ehrlich | Maricopa | 1989-2008 |
| Ruth V. McGregor* | Maricopa | 1989-1998 |
| Jefferson L. Lankford | Maricopa | 1989-2006 |
| John F. Taylor | Navajo | 1989-1992 |
| William F. Garbarino | Coconino | 1991-2004 |
| Philip E. Toci* | Yavapai | 1991-2000 |
| E.G. Noyes, Jr.* | Maricopa | 1992-2003 |
| Sheldon H. Weisberg* | Mohave | 1992-2011 |
| James B. Sult | Yavapai | 1995-2006 |
| Cecil B. Patterson, Jr. | Maricopa | 1995-2003 |

| | | |
|-----------------------------------|----------|-----------|
| Michael D. Ryan [^] | Maricopa | 1996-2002 |
| Rebecca White Berch | Maricopa | 1998-2002 |
| James M. Ackerman [^] | Maricopa | 2000-2001 |
| Ann A. Scott Timmer [*] | Maricopa | 2000-2012 |
| Daniel A. Barker | Maricopa | 2001-2011 |
| Philip Hall | Yuma | 2001-2013 |
| John C. Gemmill [*] | Maricopa | 2001-2016 |
| G. Murray Snow | Maricopa | 2002-2008 |
| Patrick Irvine | Maricopa | 2002-2011 |
| Maurice Portley | Maricopa | 2003-2016 |
| Donn Kessler | Maricopa | 2003-2017 |
| Patricia K. Norris | Maricopa | 2003-2017 |
| Patricia A. Orozco | Yuma | 2004-2016 |
| Margaret Downie | Maricopa | 2008-2017 |
| Andrew W. Gould | Yuma | 2012-2016 |
| James P. Beene | Maricopa | 2016-2017 |
| Jon W. Thompson [^] | Coconino | 1995-2019 |
| Diane M. Johnsen [*] | Maricopa | 2006-2020 |
| Kenton D. Jones | Yavapai | 2013-2020 |
| Lawrence F. Winthrop [*] | Maricopa | 2002-2021 |
| Peter B. Swann [*] | Maricopa | 2008-2022 |

^{*}Former Chief Judge

[^]Deceased

HOW THE COURT DECIDES CASES

Appeals

When parties to an appeal submit their briefing or the time to do so has expired, the Clerk sets the case on the next available calendar of one of the six three-judge panels of the Court. The Clerk assigns cases without assessing the merits of the cases and without regard to which judges are on a particular panel (except to ensure that none of the judges assigned to hear a case has a conflict of interest). Although the Chief Judge designates which judges will sit on specific 6-month panels, no judge or panel has a role in determining which cases are assigned by the Clerk to the panel. The Clerk usually groups cases on a calendar by subject matter. For example, a panel may have a criminal calendar one week, a civil calendar the next, and a combined civil/workers' compensation calendar the week

after that. The Clerk posts cases scheduled for calendars on the Division One's website at least one month in advance at <https://www.azcourts.gov/coal/>. The calendars can be viewed by selecting the "Court Calendars" button at the bottom of the website page.

Panels typically meet weekly, either on Tuesday, Wednesday, or Thursday. Before meeting, each judge reads the briefs for each case, conducts legal research, and reviews pertinent parts of the record. Law clerks and staff attorneys assist the judges in this effort. By the time the judges meet, they have reviewed and considered the material facts and legal issues for each case. If a party requests oral argument and the panel believes it would be helpful, the panel will schedule an argument, generally to be heard the same day the case is discussed in a conference. Typically, the panel will decide how to resolve each of the assigned cases by the time the weekly conference has concluded.

At the beginning of the panel's six-month term together, the judges of each panel elect a presiding judge, who assigns writing responsibility for each case and presides over oral arguments. The writing assignments are not made public until the panel issues its ruling. If a judge on the panel disagrees with the majority's position, that judge may write a dissent. If a judge agrees with the majority's position but not its reasoning, the judge may write a concurrence explaining his or her viewpoint.

The judges and Division One staff strive to issue written rulings expeditiously. Several factors, however, may affect the timing of the release of a ruling:

(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. General civil cases have the lowest priority of the appeals the Court handles.

Nevertheless, on a party's application and for good cause, the Court may accelerate some civil appeals.

(2) A judge's pending caseload may affect the speed with which the judge completes work on a case. From time to time, a case assigned to a judge may be exceptionally lengthy, difficult, and/or complicated. Such cases may require extended periods of focused time for research, record review, analysis, and drafting. Because a judge assigned to draft a time-consuming case typically is not relieved of other ongoing weekly case responsibilities, such a case might 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) Division One generally resolves cases either with a memorandum decision or an opinion. Opinions may be cited as precedent in future cases. In contrast, memorandum decisions are persuasive authority but do not constitute controlling precedent. An opinion generally is more time-consuming to draft than a memorandum decision, with an opinion often containing more extensive reasoning and analysis, with care taken to avoid language or reasoning that may lead to unintended consequences in future cases. Additionally, all draft opinions are circulated for comment to each of the other judges in Division One 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 opinion, but their comments often are helpful to the panel members as they refine the opinion. Memorandum decisions are not subject to such review and comment by other judges.

Special Actions

Petitions for special action relief are filed by parties asking the Court to order a public officer or entity to take a particular action or refrain from taking a 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) through the regular appeal process.

Each panel of judges typically is assigned to a special action calendar of up to eight cases once a month. As petitions for special action are filed, the Clerk sends them to the panel electronically in the order received. The panel designated to receive special actions at any given time is known as the “hot panel,” and the assigned judges must be available to address any requests for emergency relief. As with other cases, the presiding judge will assign one of the three judges to review, make recommendations, and potentially draft a ruling on the special action.

If a petitioner needs an immediate order to stay a superior court decision, the petitioner generally first must 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 seek a stay in the court of appeals. If a stay hearing is requested, the hot panel usually will set a telephonic hearing, then issue a ruling at the conclusion of the hearing, with an order to follow.

Unlike direct appeals, in special actions, the assigned panel has discretion to decline jurisdiction. To save the parties time and money and to decide petitions more expediently, the assigned panel reviews each petition before any response is due and determines whether the petition sets forth allegations that may entitle the petitioner to special action relief. The panel may decline jurisdiction immediately without waiting to receive a response if the panel summarily determines that the petition does not warrant relief. If the petition sets forth sufficient allegations, the assigned panel will wait for additional briefing before deciding whether to accept jurisdiction. If the panel accepts jurisdiction, it will confer and decide the petition

in a manner similar to how direct appeals are handled. If the panel decides to decline jurisdiction, it usually will issue a short order to that effect.

Motions

Each year, Division One receives thousands of motions. The Chief Judge, Vice Chief Judge, and staff attorneys who serve as *pro tem* judges resolve most of those motions, which relate 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 Division One's settlement program. Other motions (generally involving substantive issues) filed before a case is assigned to a panel are resolved by one of the three-judge panels on a rotating basis, while motions filed after a case is assigned to a panel are resolved by that panel.

DIVISION ONE BUDGET

For fiscal year ("FY") 2022 (July 1, 2021 - June 30, 2022), Division One's baseline appropriation was \$11,895,500. More than 90 percent of the Court's 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 more than 30 years, Division One has been located in the State Courts Building, 1501 West Washington in Phoenix. Division One's two courtrooms and the Clerk of the Court's Office, including the filing counters, are located on the second floor of the that Building. The Clerk's office includes a room next to the filing counter where members of the public are permitted to view electronic records and exhibits.

Division One has welcomed technological advances and has largely moved to electronic records, as well as electronic filing, review, and distribution of rulings. With few exceptions, the superior courts deliver electronic versions of their records to Division One for cases on appeal. Electronic access to the record allows the Court's judges and employees to review the trial court record more easily and efficiently. Electronic access also minimizes the time spent by superior court personnel in gathering and transmitting paper records.

Although most of the trial court record is accessible electronically, trial court exhibits, which vary in type and form, may not be available electronically. Additionally, some digital exhibits may be difficult to review electronically on appeal because of differences in how the exhibits were formatted for presentation in superior court. In 2021, the Court began participation with superior courts in a

program that involves loading and accessing courtroom exhibits into a portal. The portal provides access in a variety of formats, allowing superior court and appellate court judges to review digital evidence in a more seamless manner.

Beginning in 2009, the Court implemented, in stages, electronic communications regarding case rulings. By 2017, Division One had expanded this effort to include distributing most Court orders and notices electronically, and digitizing the mandate process, which is used to transfer jurisdiction back to the trial court when an appeal is resolved.

Division One has adopted various web-based collaboration tools, including SharePoint, to allow judges and employees to share pertinent case records, drafts of decisions, comments, and proposed edits. This implementation is consistent with Division One's goal of continually identifying and implementing technological advances to help judges and employees accomplish their duties more efficiently.

Division One also allows interested individuals to sign up for electronic receipt of new decisions and informational news items. Subscriptions for these services can be obtained by texting COA1INFO to 22828. They also can be obtained by going to Division One's website at <https://www.azcourts.gov/coa1/Decisions/SubscribetoDecisionNotifications>.

Division One now accepts credit and debit card fee payments using a web-based application accessed through computers in the Clerk's office. This alternative is intended to help self-represented litigants who file cases in person at the counter, individuals paying for copies, and those who have court-approved payment plans.

DIVISION ONE STATISTICS

Cases Filed and Cases Resolved

Division One began calendar year 2022 with a 1,457 pending cases. During the year, 2,619 new appeals and special actions were filed, and 60 cases were reinstated or transferred to Division One. The Court resolved 2,649 cases and transferred 48 cases, leaving 1,439 cases pending at the end of calendar year 2022.

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

| Case Type | Cases Pending at Start of 2022 | Cases Filed/ Reinstated During 2022 | Cases Resolved/ Transferred During 2022 | Cases Pending at End of 2022 |
|-----------------------|--------------------------------|-------------------------------------|---|------------------------------|
| Civil | 365 | 479 | 479 | 365 |
| Family | 213 | 327 | 351 | 189 |
| Criminal ¹ | 529 | 639 | 682 | 486 |
| Juvenile | 146 | 291 | 322 | 115 |
| Mental Health | 15 | 122 | 107 | 30 |
| Workers' Compensation | 27 | 52 | 52 | 27 |
| Special Actions | 73 | 245 | 261 | 57 |
| ADES Appeals Board | 67 | 511 | 428 | 150 |
| Other | 23 | 13 | 15 | 20 |
| Totals | 1,457 | 2,679 | 2,697 | 1,439 |

New case filings (including reinstatements) over all case types increased in 2022 by 185 cases to 2,679, up from 2,494 in 2021, an increase of 7 percent.

For context, over the past 16 years (2006–2022), new filings over all case types ranged from a high of 3,396 (2017) to a low of 2,494 (2021).

¹ This category includes criminal appeals and petitions for review of post-conviction relief rulings.

Oral Arguments

Oral arguments are held when warranted, usually on a party's request. Division One generally grants requests for argument, but a request may be denied if the Court determines the briefs adequately present the facts and legal arguments, and that oral argument would not significantly aid in deciding a case. Most oral arguments are in civil cases; the Court rarely receives requests for argument in other types of appeals. The Court heard oral arguments in 133 cases in 2022, 86 percent of which were in civil matters.

The Court live-streams oral arguments on its website at <https://www.azcourts.gov/coa1/Oral-Arguments/Oral-Arguments>. Following argument, the recordings are posted to make them available for review from the Court's website at <https://www.azcourts.gov/coa1/Oral-Arguments/Oral-Argument-Recordings>.

Opinions and Decisions

In 2022, Division One resolved 1,003 cases by way of memorandum decisions or opinions, while resolving other cases by order. Those decision and opinions are available on the Court's website at <https://www.azcourts.gov/coa1/Division-One>. The 2022 totals represent an eleven percent decrease from 2021, when the Court resolved 1,121 cases by memorandum decision or opinion.

By court rule, opinions may be cited as precedent in future cases. Under Arizona Supreme Court Rule 111(b) and Arizona Rule of Civil Appellate Procedure 28(b), opinions generally are reserved for those rulings that (1) establish, alter, modify, or clarify a rule of law; (2) call attention to a rule of law that appears to have been 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 ruling be issued as a published opinion. The Court published 9 fewer opinions in 2022 (73) than in 2021 (81).

Under Arizona Supreme Court Rule 111(c), memorandum decisions are not citable as precedent. But under an amendment to the rule, parties may now cite to memorandum decisions issued after January 1, 2015, for persuasive value in certain circumstances.

Since 2007, Division One has posted its memorandum decisions and opinions on a searchable website at <https://www.azcourts.gov/coa1/Decisions/Search-Decisions> and permits online research companies to include such rulings in online databases. Thomson Reuters also publishes Division One's opinions.

Parties occasionally ask the Court to reconsider a memorandum decision or opinion. The assigned panel considers these requests and may grant such a motion if the requested clarification or revision is necessary and appropriate. Parties filed 210 requests for reconsideration in 2022, 29 of which were granted.

Further Proceedings in the Arizona Supreme Court

In 2022, parties filed 392 petitions for review of Division One cases in the Arizona Supreme Court (down from 438 in 2021). The Arizona Supreme Court accepts review for a variety 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 rendered conflicting rulings on an issue of law. In 2022, the Arizona Supreme Court granted review in 27 Division One cases, which is about 1 percent of the cases resolved by this Court. This means that although Division One is an intermediate appellate court, its ruling was the final word in the case 99 percent of the time in 2022.

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 opinion cannot serve as precedent in future unrelated cases.

Although the Arizona Supreme Court typically does not provide an explanation when it depublishes an opinion, it may be the case that the Supreme Court has identified language in the opinion it disagrees with or that the appeal involves an issue the Supreme Court prefers to address in a different factual or procedural setting. In 2022, the Arizona Supreme Court depublished three Division One opinions (compared to four in 2021).

PERFORMANCE MEASURES

Appellate Time Standards

In 2009, the Court began using performance standards called CourTools, which was a product of the National Center for State Courts and set forth various court performance measures. As discussed in previous Year in Review reports, the CourTools measures focused 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 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 track “filing to disposition” (the time between when an appeal begins at the Court and when the Court issues its ruling in the appeal). Appellate Time Standards use different time periods for resolution of appeals than CourTools (including a substantially shortened recommended time for resolution of juvenile appeals). Appellate Time Standards also reflect different priorities than those in CourTools, including an expectation that civil appeals will be resolved more promptly. The following information sets forth Division One's performance measures for Calendar Year (“CY”) 2022 under the Appellate Time Standards, focusing on (1) “filing to disposition;” (2) “case clearance;” and (3) “case aging.”

Filing to Disposition

The Standards list two different measures/goals 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 CY 2022, the Appellate Time Standards results for the Court are:

| | Cases Resolved | 75% Goal | | 95% Goal | |
|-----------------------|----------------|---------------|----------------------|---------------|----------------------|
| | | Standard Days | Percent Meeting Goal | Standard Days | Percent Meeting Goal |
| Civil | 429 | 390 | 89% | 500 | 97% |
| Family | 349 | 345 | 90% | 425 | 96% |
| Criminal | 354 | 450 | 79% | 600 | 97% |
| Juvenile | 405 | 190 | 81% | 220 | 91% |
| Workers' Compensation | 55 | 285 | 81% | 365 | 96% |
| Special Actions | 261 | 40 | 90% | 80 | 95% |

These results show Division One is meeting and exceeding most standards at the 75 percent goal, and the Court is meeting or exceeding the standards (other than in juvenile) at the 95 percent goal. Notably, Division One showed improvement in all case categories when compared to CY 2021.

Case Clearance

“Case clearance” measures the number of cases decided during a given period as a percentage of the number of new cases filed during that same period. “Case Clearance” measures whether the Court is keeping pace with the incoming caseload. Any measure exceeding 100 percent reflects a decrease in pending cases, and any measure less than 100 percent indicates an increasing number of pending cases. Division One’s case clearance percentage for all types of cases resolved during CY 2022 was 100 percent, the seventh year in a row the Court’s overall case clearance rate has met or exceeded 100 percent.

In CY 2022, Division One achieved the following case clearance rates:

| Case Type | Case Clearance Rate |
|-----------|---------------------|
| | |

| | |
|-----------------------|------|
| Civil | 99% |
| Family | 107% |
| Criminal | 112% |
| Juvenile | 110% |
| Workers' Compensation | 98% |
| Special Actions | 105% |
| Overall | 100% |

The table below shows Division One's case clearance performance during calendar year 2021 compared to prior years.

| Clearance Rate by Calendar Year | | | | | | | |
|---------------------------------|-------|--------|----------|----------|----------------|---------------|---------|
| Calendar Year | Civil | Family | Criminal | Juvenile | Special Action | Workers' Comp | Overall |
| 2014 | 89% | 105% | 89% | 95% | 107% | 85% | 94% |
| 2015 | 97% | 85% | 101% | 102% | 99% | 89% | 96% |
| 2016 | 117% | 110% | 109% | 84% | 103% | 107% | 104% |
| 2017 | 111% | 104% | 105% | 109% | 98% | 123% | 107% |
| 2018 | 108% | 105% | 97% | 103% | 98% | 80% | 101% |
| 2019 | 99% | 88% | 116% | 102% | 104% | 139% | 103% |
| 2020 | 116% | 110% | 135% | 103% | 98% | 112% | 113% |
| 2021 | 102% | 98% | 106% | 106% | 100% | 110% | 103% |
| 2022 | 99% | 107% | 112% | 110% | 105% | 98% | 100% |

Survey Results

Division One periodically conducts an anonymous survey of attorneys who appeared in a case 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 specific statements about Division One on a five-point scale ranging from "strongly agree" to "strongly disagree." Division One conducted the most recent survey in 2020. The information in the chart below compares the 2020 results to the 2017 results. The chart reflects the

proportion of respondents who responded with “strongly agree” or “agree” to each question.

| QUESTION | 2017 Results | 2020 Results |
|--|--------------|--------------|
| The Arizona Court of Appeals Division One resolves its cases expeditiously. | 68% | 72% |
| The Arizona Court of Appeals Division One renders decisions without any improper outside influences. | 90% | 89% |
| The Arizona Court of Appeals Division One considers each case based upon its facts and applicable law. | 85% | 83% |
| The Arizona Court of Appeals Division One’s written decisions reflect thoughtful and fair evaluation of the parties’ arguments. | 81% | 78% |
| The Arizona Court of Appeals Division One’s decisions clearly state the applicable legal principles that govern the decision. | 84% | 84% |
| The Arizona Court of Appeals Division One’s written decisions clearly inform the trial courts and parties of what additional steps, if any, must be taken. | 89% | 89% |
| The Arizona Court of Appeals Division One’s written decisions treat trial court judges with courtesy and respect. | 96% | 95% |
| The Arizona Court of Appeals Division One treats attorneys with courtesy and respect. | 93% | 90% |
| The Arizona Court of Appeals Division One is procedurally and economically accessible to the public and attorneys. | 82% | 80% |
| The Arizona Court of Appeals Division One effectively informs attorneys and trial judges of its procedures, operations and activities. | 89% | 91% |
| Division One’s Clerk’s office responds well to inquiries. | 98% | 98% |
| Division One’s website is a useful too. | 91% | 90% |
| It is useful to have memorandum decisions available for review through Division One’s website and through Westlaw. | 98% | 98% |
| Division One’s Electronic Filing Tips, including videos, are useful resources. | 97% | 93% |

| QUESTION | 2017 Results | 2020 Results |
|--|--------------|--------------|
| (2020) Division One’s oral argument recordings on the website, and later posted to YouTube, are useful resources. (2021) Division One’s livestreaming of oral arguments through YouTube is a useful resource. | 97% | 99% |
| Division One’s Annual Report is a useful Resource | 84% | 81% |
| The Arizona Court of Appeals Pro Bono Representation Program is an important public service. | 93% | 91% |
| Division One’s Appellate Update Programs (annual legal education programs to audiences in counties served by the Court) are useful programs. | 97% | 94% |

SETTLEMENT AND PRO BONO ATTORNEY PROGRAMS

Division One operates a free-of-charge settlement program to allow parties to try to resolve their appeals at a minimum of expense. 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 the settlement judge. If the case does not settle, it is placed back on track for ruling 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 2022, the assigned staff attorney screened 642 cases for participation in the settlement program, and in 17 of those cases, the parties were asked to participate. Ultimately, 7 cases were assigned to the settlement program, five settlement conferences were held, and four appeals were resolved.

In 2014, the Court created a Pro Bono Representation Program for unrepresented parties in cases involving difficult or complex legal or factual issues. Division Two also participates in this program, in which a volunteer lawyer

is appointed to represent a party or parties if the Court determines a lawyer's briefing will help resolve important issues in the appeal.

Collectively, since 2015, more than 100 attorneys have volunteered to participate in the program. Division One has identified and successfully placed 24 cases in the program. The Court appreciates the work done by participating lawyers and tries to provide opportunities for oral argument in cases in which it has appointed volunteer lawyers. One such placement resulted in oral argument not only in the Court of Appeals but also in the Arizona Supreme Court and in the United States Supreme Court.

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 <https://www.azcourts.gov/coa1/Court-Programs/Pro-Bono-Representation-Program>.

COMMUNITY INVOLVEMENT

Connecting with the Community

Since 2002, Division One has scheduled several oral arguments each year at high schools and colleges around the state. The Court provides students with the appellate briefing ahead of time, then works with volunteer lawyers to organize discussion sessions with students before 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 also attended.

The program, which is currently chaired by Judge Randall M. Howe, has been very successful, giving students opportunities to observe the appellate

process in action. The Court held oral arguments and associated educational programs in CY 2022 for Arizona Western College, Phoenix Community College Phoenix College Preparatory, Franklin Police and Fire Academy, Arizona School for the Arts, Girls Leadership Academy, and Coconino High School.

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

| PARTICIPATING SCHOOL | YEAR |
|---|-------------|
| Cesar Chavez High School | 2002 |
| South Mountain High School | 2002 |
| Central High School | 2003 |
| Carl Hayden High School | 2004 |
| Highland High School | 2004 |
| Horizon High School | 2005 |
| Queen Creek High School | 2005 |
| Dysart High School | 2006 |
| Marcos De Niza High School | 2006 |
| Cesar Chavez High School | 2007 |
| South Mountain High School | 2007 |
| Centennial High School | 2008 |
| Shadow Mountain High School | 2008 |
| Agua Fria High School | 2009 |
| Perry High School | 2009 |
| Maryvale High School | 2010 |
| Mesa High School | 2010 |
| Coronado High School | 2011 |
| Moon Valley High School (GSD participating) | 2011 |
| Arizona School for the Arts | 2012 |
| Deer Valley High School | 2012 |
| Lee Williams, Kingman, Lake Havasu, Mohave High Schools | 2013 |
| North Canyon High School | 2013 |
| McClintock High School | 2014 |
| Sandra Day O'Connor High School | 2014 |
| Mountain View High School | 2015 |
| Verrado High School | 2015 |
| Kingman High School | 2016 |

| | |
|--|------|
| Shadow Mountain High School | 2016 |
| Lake Havasu High School | 2017 |
| Shadow Mountain High School | 2017 |
| Verrado High School | 2018 |
| Desert Vista High School | 2018 |
| Lee Williams High School | 2019 |
| PCC, Phoenix College Preparatory, Franklin Police and Fire, Arizona School for the Arts, Girls Leadership Academy | 2022 |
| Arizona Western College | 2022 |
| Coconino High School | 2022 |

Appellate Update/Court Conversation Programs

Division One judges welcome opportunities to engage with attorneys and others outside the courtroom. During FY 2022, teams of judges presented continuing legal education programs remotely to audiences in Mohave and Yavapai 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.

Leadership Roles

In addition to their judicial service, 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.

Division One judges also participate and serve in leadership roles in various law-related and other organizations internationally, nationwide, statewide, and locally. These organizations include the American Law Institute, the American Bar Association, the American Bar Foundation, the Uniform Law Commission, the National Organization of Scientific Area Committees, 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 National Center for State Courts, the Federalist Society, the Institute for the Advancement of the American Legal System, judicial systems in the Ukraine, New Zealand and Vietnam, 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 other civic and charitable organizations.

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