



Arizona Court of Appeals Division One 2023: The Year in Review

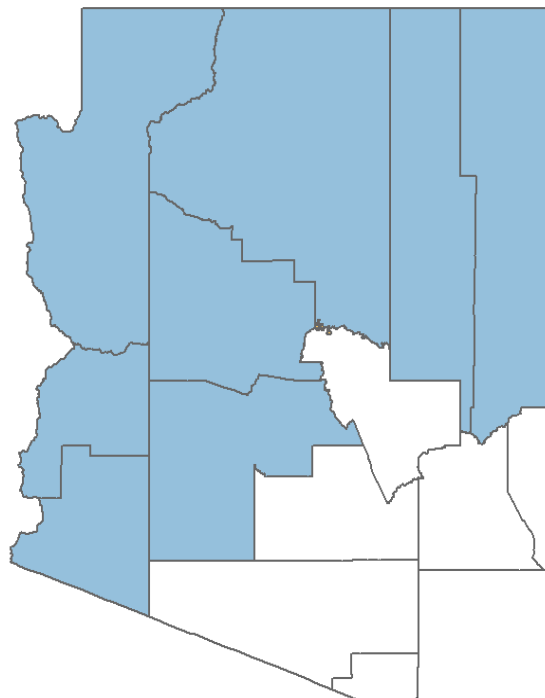


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EXECUTIVE SUMMARY

Calendar year 2023 was a busy and productive time for the Arizona Court of Appeals, Division One. This report summarizes Division One's responsibilities and what it has done to resolve appeals and to connect with the communities it serves. Highlights for the calendar year 2023 include:

- Receiving over 2,500 new appeals, while also resolving more than 2,500 appeals.
- For the eighth year in a row, Division One achieved a positive clearance rate, meaning it resolved more appeals than were filed during the year.
- Maintaining an almost zero backlog of civil appeals.
- Expanding ongoing outreach efforts in communities Division One 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). The Legislature funds the court through an annual appropriation from the State's general fund.

Division One started with three judges. Over time, the Legislature added new judges. It currently has 19 judges. Division Two started with three judges and now has nine. Those numbers include three new positions the Legislature added to each Division beginning in January 2023.

Division One receives appeals from eight of Arizona's fifteen counties: Apache, Coconino, La Paz, Navajo, Maricopa, Mohave, Yavapai, and Yuma. More than 5.25 million people live in those counties. Division One's geographic area serves is larger than that of 35 states. Division One is bordered by Mexico, California, Nevada, Utah, and New Mexico.

Division One historically has had a higher appeal load per judge than Division Two. Division Two judges voluntarily agreed to handle some overflow appeals originating from superior courts from within Division One. As part of the

recent legislation adding three judges to each Division, the Legislature directed the two Divisions to equalize the workload for judges to the extent possible.

The two Divisions now have created a formula to identify appeals to transfer to Division Two. The process involves totaling the numbers of appeals filed in both Divisions in specified categories, e.g., civil, criminal, and family appeals, then determining the percentage of appeals in each category to be transferred to Division Two to equalize the workload between the Divisions.

During the last quarter of 2023, Division One's sent every 7th civil appeal, every 4th family law appeal, every 13th criminal appeal, and every 7th post-conviction relief appeal filed in Division One to Division Two. The appeals are transferred sequentially without regard to the parties involved or the number of issues raised. Division One and Division Two leadership meets periodically to reassess the formula for transferring appeals. To minimize travel costs for parties, Division Two has expressed a willingness to conduct oral arguments electronically for appeals arising from counties within Division One if the parties make such a request.

Under the Arizona Constitution, the Court's judges are chosen through a merit selection process. The Governor appoints judges from a list of nominees forwarded by the non-partisan Commission on Appellate Court Appointments. The Arizona Constitution requires geographic diversity. The Governor must appoint 10 Division One judges from Maricopa County, 5 from counties outside Maricopa County, and 4 (filling "at-large" positions) from any county within Division One.

After being appointed to Division One, judges stand for a retention vote by Division One voters. The Commission on Judicial Performance Review publishes information on the judges who are up for retention. A judge first stands for retention in the first general election two years after the judge's appointment. The judge then stands for retention every six years. Judges must retire before age 70.

The Court decides appeals in three-judge panels, which rotate in composition every six months. Neither the Court nor a Division may sit *en banc*. Division One judges elect 1 of the 19 to serve as Chief Judge and another to serve as Vice Chief Judge. Because of the Chief Judge's administrative duties, the Chief Judge 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. David B. Gass currently serves as Chief Judge, and Randall M. Howe serves as Vice Chief Judge.

In addition to its 19 judges, Division One employs more than 90 employees. Key staff include Clerk of the Court Amy Wood, and Chief Staff Attorney Steve Lawrence. Until recently Barbar Vidal Vaught served as Chief Staff Attorney for more than 10 years. Division One extends its appreciation to Ms. Vidal Vaught's stellar service to Division One and Arizona. 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 appeals. 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. Division One considers appeals from superior court rulings, administrative rulings first considered by the superior court, and some matters from limited jurisdiction courts. Division One also directly reviews rulings from the Arizona Corporation Commission, from the Arizona Industrial Commission in workers' compensation appeals, and from the Arizona Department of Economic Security Appeals Board for appeals for unemployment and other benefits appeals. Division One 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 appeal. Each ruling is memorialized in writing. Division

One’s opinions and memorandum decisions are posted on Division One’s website at <https://www.azcourts.gov/coal/Division-One>. The Arizona Supreme Court may exercise discretionary review over rulings from the Court, but the Arizona Supreme Court typically grants review in just a small percentage of appeals.

Division One’s judges and employees are dedicated to public service and take great pride in their work. They work diligently to decide appeals impartially and efficiently.

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 Jacobs	Maricopa	02/21/23

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 APPEALS

Appeals

Once the parties have briefed the issues and the time for further briefing has passed, the Clerk sets the appeal on the next available calendar before one of Division One's six three-judge panels. The Clerk assigns appeals without reviewing their merits. Except to ensure none of the judges assigned to hear an appeal has a conflict of interest, the Clerk does not consider the composition of the panels. Though the Chief Judge designates judges who will sit on specific six-month panels, no judge or panel has a role in determining which appeals the Clerk

assigns to the panel. The Clerk usually groups appeals on a calendar by subject matter. For example, a panel may have a criminal calendar one week, the panel next may have a civil calendar, and then may have a combined civil/workers' compensation calendar after that. The Clerk posts appeals scheduled for calendars on 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 or biweekly, either on Tuesday, Wednesday, or Thursday. Before meeting, each judge reads the briefs for each appeal, 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 appeal. If a party requests oral argument and the panel believes argument would be helpful, the panel will hear argument. Oral argument generally occurs on the same day the panel discusses the appeal in a conference. Typically, the panel will decide how to resolve each of the assigned appeals the same day as the scheduled conference and any oral argument.

At the beginning of the panel's six-month term, each panel's judges elect a presiding judge. The presiding judge assigns writing responsibility for each appeal 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 that judge's viewpoint.

Division One judges and staff strive to issue written rulings expeditiously. Several factors may affect the timing of the release of a ruling, most often the following. First, by law, Division One must prioritize 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 appeals. General civil appeals have the lowest priority. Even so, on a party's application and for good cause, Division One may accelerate some civil appeals.

Second, a judge's pending workload may affect the speed with which the judge completes work on an appeal. From time to time, an appeal assigned to a judge may be exceptionally lengthy, difficult, or complicated. Such appeals may require extended periods of focused time for research, record review, analysis, and drafting. Because a judge assigned to draft a time-consuming appeal typically is not relieved of other ongoing weekly responsibilities, such an appeal might slow disposition of the judge's other assigned appeals.

Third, after an authoring judge submits a draft to the panel, the other two judges review it and submit comments and suggestions. At this point, a judge wishing to write a dissent or concurrence will do so. The panel may exchange several drafts before the judges agree on a final version. Some rulings may take longer to complete because of the appeal's complexity.

Fourth, a ruling also may take longer depending on whether it will be a memorandum decision or an opinion. A panel generally takes less time to issue memorandum decision than an opinion. Under Arizona Supreme Court Rule 111(c), litigants may not cite memorandum decisions as precedent. Under an amendment to that rule, litigants may now cite to memorandum decisions issued after January 1, 2015, for persuasive value in certain circumstances. Memorandum decisions issued before January 1, 2015, have no precedential or persuasive value, and litigants may cite them for very limited purposes. Also, memorandum decisions are not subject to review and comment by judges other than the panel members.

In contrast to memorandum decisions, opinions often take longer. By court rule, litigants may cite opinions as precedent in future appeals. Because litigants may cite an opinion as controlling authority, opinions generally are more time-consuming. Under Arizona Supreme Court Rule 111(b) and Arizona Rule of Civil

Appellate Procedure 28(b), opinions generally are reserved for 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, under Rule 28(b), if one of the judges on the panel writes a concurrence or dissent, that judge may require the ruling be issued as a published opinion. An opinion often contains more extensive reasoning and analysis, with care taken to avoid language or reasoning potentially leading to unintended consequences in future appeals. Additionally, Division One circulates all draft opinions for comment to all the judges in Division One, including those who are not on the panel assigned to resolve the appeal. The judges who are not members of the panel deciding an appeal do not vote on the outcome, but their comments often are helpful to the panel members as they refine the opinion.

Special Actions

Parties file petitions for special action relief to ask Division One to order a public officer or entity to take a particular action or refrain from taking a particular action. Special action petitions usually seek immediate relief, and the petitioner must show the matter cannot be resolved (or cannot wait to be resolved) through the regular appeal process.

Through December 31, 2023, each three-judge panel typically is assigned to a special action calendar of up to eight appeals once a month. Starting January 1, 2024, each three-judge panel is assigned to a special action calendar for one week out of every six weeks. As petitions for special action are filed, the Clerk sends them to the panel electronically in the order received. The panel assigned to receive special actions at any given time is known as the “hot panel,” and the judges on that panel must be available to address any requests for emergency relief. As with other appeals, the presiding judge will assign one of the three judges

on the panel 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 ruling, 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 Division One. If a stay hearing is requested, the hot panel usually will set a virtual stay hearing, then issue a ruling at the conclusion of the stay 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 comes due and determines whether the petition sets forth allegations that may entitle the petitioner to special action relief. If the petition does not, the panel may decline jurisdiction immediately without waiting for a response. 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 tempore* judges resolve most of those motions. The motions generally 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. If a party files certain types of motions (generally involving substantive issues) before an appeal is assigned to a panel, a

rotating three-judge panel will decide the issue. If a party files a motion after the Clerk has assigned an appeal to a panel, the assigned panel will resolve that motion.

DIVISION ONE BUDGET

For fiscal year 2023 (July 1, 2022 - June 30, 2023), Division One's baseline appropriation was \$11,895,500. More than 90 percent of Division One's budget goes 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 Street 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 that Building. Next to the filing counter, the Clerk's office provides a public viewing room where members of the public can view electronic records and exhibits.

Division One has welcomed technological advances. It largely has moved to using electronic records and has adopted electronic filing, review, and distribution of rulings. With few exceptions, the superior courts deliver electronic versions of their records to Division One. Electronic access to the record allows Division One's judges and employees to review the superior court record easily and efficiently. Electronic access also minimizes the time superior court personnel must spend gathering and transmitting paper records.

Most superior court records are accessible electronically. But courtroom exhibits vary in type and form. They may not be available electronically. Additionally, even digital exhibits may be difficult to review electronically on appeal because of differences in how the exhibits were formatted for presentation in the courtroom. In 2021, the Court and the superior courts established a statewide program to load and access courtroom exhibits into an online portal. All superior courts use that portal. That portal provides access in a variety of formats, allowing superior court and appellate court judges to review digital evidence in a seamless manner.

Beginning in 2009, Division One began implementing electronic communications regarding appeal rulings. By 2017, Division One had expanded that effort to include distributing most orders and notices electronically. Division One also digitized the mandate process, which is the order Division One uses to transfer jurisdiction back once Division One has resolved the appeal.

Division One has adopted various web-based collaboration tools to allow judges and employees to share pertinent records, drafts of rulings, comments, and proposed edits. Adoption of that technology 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 persons to sign up for electronic receipt of new rulings and informational news items. Interested person can subscribe to these services 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 appeals in person at the filing counter, persons who are paying for copies, and persons who have court-approved payment plans.

DIVISION ONE STATISTICS

Appeals Filed and Appeals Resolved

Division One began calendar year 2023 with 1,447 pending appeals. During the calendar year, 2,540 new appeals and special actions were filed, and 46 appeals were reinstated or transferred to Division One. Division One resolved 2,516 appeals and transferred 211 appeals, leaving 1,314 appeals pending at the end of calendar year 2023.

Here are the annual statistics for Division One's largest appeal categories:

Appeal Type	Appeals Pending at Start of 2023	Appeals Filed/ Reinstated During 2023	Appeals Resolved/ Transferred During 2023	Appeals Pending at End of 2023
Civil	366	518	550	333
Family	188	322	349	162
Criminal ¹	483	395	333	606
Juvenile	116	233	242	106
Mental Health	31	210	184	52
Workers' Compensation	29	37	34	30
Special Actions	62	254	245	66

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

Unemployment Benefits	151	409	496	63
Other	21	5	17	8
Totals	1,447	2592	2,727	1,304

New appeal filings (including reinstatements) over all appeal types decreased in calendar year 2023, down by 73 appeals – from 2,619 in 2022 to 2,546 in 2023.

For context, over the past 17 years (2006–2023), new filings over all appeal types ranged from a high of 3,396 (2017) to a low of 2,494 (2021).

Oral Arguments

Division One holds oral arguments when warranted, usually on a party’s request. Division One generally grants requests for oral argument. But Division One may deny the request if it determines the briefs adequately present the facts and legal arguments and oral argument would not significantly aid in deciding an appeal. Most oral arguments are in civil appeals. Division One rarely receives requests for argument in other types of appeals. Division One heard oral arguments in 151 appeals in calendar year 2023.

Division One 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 Division One’s website at <https://www.azcourts.gov/coa1/Oral-Arguments/Oral-Argument-Recordings>.

Opinions, Memorandum Decisions, and Other Resolutions

Division One generally resolves appeals either with an opinion or a memorandum decision. Since 2007, Division One has posted its opinions and memorandum decisions 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, LexisNexis, and other online databases also publish Division One’s opinions.

In 2023, Division One resolved 901 appeals with memorandum decisions or opinions. It resolved other appeals with an order. The 2023 totals represent a 10 percent decrease from 2022, when Division One resolved 1,003 appeals by memorandum decision or opinion. Division One published 22 more opinions in 2023 (95) than it did in 2022 (73). The Chief Judge or a judge *pro tempore* can resolve some appeals through other means, for example if a party fails to pay a required fee or fails to file a brief.

Parties occasionally ask Division One to reconsider an opinion, memorandum decision, or other resolution. For opinions and memorandum decisions, the assigned panel considers those requests and may grant such a motion if the requested clarification or revision is necessary and appropriate. Parties filed 214 requests for reconsideration in 2023, 32 of which were granted.

Further Proceedings in the Arizona Supreme Court

In calendar year 2023, parties filed 382 petitions for review of Division One appeals in the Arizona Supreme Court (down from 392 in 2022). The Arizona Supreme Court accepts review for a number of reasons, including when an appeal involves an issue of significant statewide concern or a rule of procedure or evidence, or when different panels of the Court have rendered conflicting rulings on an issue of law. In 2023, the Arizona Supreme Court granted review in 38 Division One appeals, which is about 1.5 percent of the appeals Division One resolved. Though Division One is an intermediate appellate court, its ruling was the final word in the appeal 98 percent of the time in 2023.

Occasionally, the Arizona Supreme Court “depublishes” an opinion (or a portion of an opinion) issued by the Court, meaning the result is left intact but the

opinion cannot serve as precedent in future unrelated appeals. The Arizona Supreme Court typically does not explain why it depublished an opinion. But it is generally accepted that the Arizona Supreme Court takes this action if it identifies language in the opinion with which it disagrees or if the appeal involves an issue the Arizona Supreme Court may prefer to address in a different factual or procedural setting. In calendar year 2023, the Arizona Supreme Court did not depublish any Division One opinions.

PERFORMANCE MEASURES

In 2009, Division One began using performance standards called CourtTools, which was a product of the National Center for State Courts. CourtTools established various court performance measures. The CourtTools measures focuses on: (1) Appellate Time Standards (including filing to disposition, at-issue to disposition, and under advisement to disposition); (2) appeal clearance; (3) appeal aging; and (4) biannual anonymous survey results.

Effective July 1, 2016, the Arizona Supreme Court replaced CourtTools 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 Division One and when Division One issues its ruling in the appeal). Appellate Time Standards use different time periods for resolution of appeals than CourtTools (including a substantially shortened recommended time for resolution of juvenile appeals). Appellate Time Standards also reflect different priorities than those in CourtTools, including an expectation Division One will resolve civil appeals more promptly. The following information sets forth Division One's performance measures for Calendar Year 2023 under the Appellate Time Standards, focusing on filing to disposition. In addition to the Time Standards, Division One also monitors appeal clearance rates.

Appellate Time Standards: Filing to Disposition

The Standards list two different measures/goals for various types of appeals: (1) days from filing to disposition for 75 percent of appeals of a specific type and (2) days from filing to disposition for 95 percent of appeals of a specific type. For Calendar Year 2023, the Appellate Time Standards results for Division One are:

	Appeals Resolved	75% Goal		95% Goal	
		Standard Days	Percent Meeting Goal	Standard Days	Percent Meeting Goal
Civil	534	390	92%	500	97%
Family	338	345	94%	425	97%
Criminal	318	450	92%	600	98%
Juvenile	231	190	75%	220	88%
Workers' Compensation	34	285	82%	365	88%
Special Actions	249	40	85%	80	92%

These results show Division One is meeting and exceeding all Time Standards at the 75 percent goal, and Division One is meeting or exceeding the standards (other than in juvenile and workers' compensation appeals) at the 95 percent goal.

Appeal Clearance

Appeal clearance measures the number of appeals decided during a given period as a percentage of the number of new appeals filed during that same period. Appeal clearance measures whether Division One is keeping pace with the incoming appeal volume. Any measure exceeding 100 percent reflects a decrease in pending appeals, and any measure less than 100 percent indicates an increasing number of pending appeals. Division One had a 102 percent appeal clearance percentage for all appeal types during Calendar Year 2023. Calendar Year 2023 was the eighth year in a row Division One's overall appeal clearance rate has met or exceeded 100 percent.

In Calendar Year 2023, Division One achieved the following appeal clearance rates:

Appeal Type	Appeal Clearance Rate
Civil	102%
Family	116%
Criminal	87%
Juvenile	93%
Workers' Compensation	73%
Special Actions	95%
Overall	102%

The table below shows Division One's appeal clearance performance during Calendar Year 2023 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%
2023	102%	116%	87%	93%	95%	73%	102%

Survey Results

Division One periodically conducts an anonymous survey of attorneys who appeared in an appeal before it, 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. Division One’s 2022 Annual Report reports the results, which will not be repeated here. The next survey is set for 2024. Division One’s 2024 Annual Report will include the results of that survey.

SETTLEMENT AND PRO BONO ATTORNEY PROGRAMS

Division One operates a free-of-charge settlement program to help parties to resolve their appeals at a minimum of expense. Most civil appeals, including family law and workers’ compensation appeals, are eligible for the program. Appeals may be assigned to Division One’s settlement program at a party’s request or on Division One’s own initiative. An active judge serves as the settlement judge. If the appeal does not settle, it is placed back on track for ruling by a three-judge panel, and the judge who served as settlement judge will have no further involvement with the appeal. A Division One staff attorney coordinates the settlement conference program.

In Calendar Year 2023, the assigned staff attorney screened 584 appeals for participation in the settlement program, and in 27 of those appeals, the parties were asked to participate. Ultimately, 14 appeals were assigned to the settlement program, 9 settlement conferences were held, and 4 appeals were resolved.

In 2014, Division One created a pro bono representation program for unrepresented parties in appeals involving difficult or complex legal or factual issues. Division Two also participates in this program. In the program, a volunteer lawyer is appointed to represent a party or parties if Division One 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 appeals in the program. Division One appreciates the work done by participating

lawyers and tries to provide opportunities for oral argument in appeals in which it has appointed volunteer lawyers. One such placement resulted in oral argument not only in Division One but also in the Arizona Supreme Court and in the Supreme Court of the United States.

Additional information about the program, including a sign-up form and the Court's Pro Bono Representation Program Manual, can be found on Division One's website at <https://www.azcourts.gov/coa1/Court-Programs/Pro-Bono-Representation-Program>.

COMMUNITY INVOLVEMENT

Connecting with the Community Program

Since 2002, Division One has engaged in Connecting with the Community Program. Under that program, Division One has scheduled several oral arguments each year at high schools around the state. Division One 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. They answer the student's questions about the judicial process and careers in the legal profession. Division One 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 also attend the events.

The program most-recently was chaired by Vice Chief Judge Randall M. Howe and currently is co-chaired by Judges David D. Weinzwieg and Brian Y. Furuya. It has been very successful, giving students opportunities to observe the appellate process in action. In 2022, Division One held oral arguments and associated educational programs for Phoenix Community College, Phoenix

College Preparatory, Franklin Police and Fire Academy, Arizona School for the Arts, Girls Leadership Academy, Coconino High School, and Arizona Western College. In the Spring of 2023, Division One held oral arguments for The Academies at South Mountain, Trevor Browne High School, and Maryvale 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
Arizona Western College	2017
Verrado High School	2018
Desert Vista High School	2018
Lee Williams High School	2019
Arizona Western College	2019
PCC, Phoenix College Preparatory, Franklin Police and Fire, Arizona School for the Arts, Girls Leadership Academy	2022
Coconino High School	2022
Arizona Western College	2022
The Academies at South Mountain, Trevor Browne/Maryvale	2023

Appellate Update/Court Conversation Programs

Division One judges welcome opportunities to engage with attorneys and others outside the courtroom. During 2021, teams of judges presented continuing legal education programs remotely to audiences in Mohave and Yavapai Counties. In 2022, teams of judges presented continuing legal education programs in Yuma County. These programs addressed various topics, including developments in Division One, recent developments in the law, rule change updates, ethics, and other aspects of appellate practice and the judicial system. Division One judges present regularly at continuing legal education programs for the State Bar of Arizona, county bar Associations, and other legal organizations.

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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