

Guide to Arizona Courts

Welcome to the Arizona Court System

This guide can help you become better acquainted with Arizona's judicial system. It describes how the courts are organized, the special functions of the courts and how court cases are processed in our legal system. Here you will learn about roles of the people who work for the courts, how judges are selected and how we evaluate court employees and individual courts to make sure they are working properly.

As you explore the following sections, you should discover the essential role the state's courts play in your life or the lives of others. Whether you participate personally in the activities of Arizona's courts, or if you simply hear and read about them in the news, this guide will help you recognize how the Arizona judicial system continues to deliver

NOTE:

The Federal Courts and Tribal Courts are not part of the state court system and this guide does not address them. This guide is especially helpful in preparing students for a civics or government class, or for a visit to court. A glossary at end of this document defines the courtroom and legal terms used in the text. This guide is not intended to offer legal advice or assistance. Remember that laws and procedures can change unexpectedly. Check with a local court for current, specific information about resolving a legal problem.

Today's Court System has Three Levels

1. **Limited Jurisdiction Courts** are **Justice of the Peace and Municipal (or City) Courts**.

These courts have jurisdiction over a limited variety of cases. They are nonrecord courts, meaning that permanent records of court proceedings are not required. However, some courts do make a record of proceedings.

2. The **General Jurisdiction Court** is the **Arizona Superior Court**, a statewide trial court. This court hears the widest variety of cases, and keeps permanent records of court proceedings.

3. The **Appellate Courts** have jurisdiction to review trials and decisions appealed to them. The **Court of Appeals** hears most appeals from Superior Court. The exceptions are death penalty appeals and some cases involving elected officials and disputes between counties, which go directly to the **Supreme Court**.

To appeal a decision from the Court of Appeals, the appellant must file a Petition for Review requesting a Supreme Court hearing. Unlike the Court of Appeals, the Supreme Court is not required to hear every appeal. The Supreme Court judges, known as "justices," evaluate the case and decide whether they will review it.

Limited Jurisdiction Courts

Municipal Courts

Many incorporated cities or towns have a Municipal Court, also known as a City Court or Magistrate Court. Municipal Courts have criminal jurisdiction over misdemeanor crimes and petty offenses committed in their city or town. They share jurisdiction with Justice of the Peace Courts over violations of state law committed within their city or town limits.

Municipal Court judges (magistrates) hear misdemeanor criminal traffic cases such as driving under the influence of alcohol, hit-and-run and reckless driving where no serious injuries occur.

They hear civil traffic cases, violations of city ordinances and codes and issue orders of protection and injunctions prohibiting harassment. They can also issue search warrants and handle domestic violence and harassment cases. They DO NOT hear civil lawsuits between citizens.

City charters or ordinances establish the qualifications of these judges, who may not have to be lawyers to serve as judges. City or town councils appoint their judges except in Yuma, where municipal court judges are elected. Judges serve terms set by the city or town council; their terms must be at least two years.

Judges have court clerks who provide clerical assistance and schedule cases. In larger cities, the judges may also have court administrators.

Justice of the Peace Courts

Each county's board of supervisors sets the geographical boundaries, known as precincts, of that county's Justice of the Peace courts. Generally, Justice of the Peace precincts are larger than city or town limits and typically incorporate an entire city or town, and pieces of other communities as well. Although these geographical boundaries can be changed, the precincts cannot be abolished until the four-year term of the current justice of the peace expires.

Justice of the Peace Courts hear traffic cases and certain civil and criminal cases. They can issue search warrants and handle domestic violence and harassment cases. Their civil jurisdiction is limited to cases involving claims of \$5,000 or less.

Justice courts share jurisdiction with the Superior Court in cases of landlord/tenant disputes where the rental value does not exceed \$1,000/month and damages are \$5,000 or less. They can hear matters regarding possession of, but not title to, real property.

The Superior Court presiding judge in each county appoints special hearing officers to decide small claims cases less than \$2,500. Small claims cases are decided before the judge or hearing officer. No attorneys are allowed to represent clients in these cases. Defendants who want to use an attorney may move the case from the small claims division to the civil division of the justice court.

When conducting preliminary hearings on felonies, Justice of the Peace Court judges may require defendants to answer criminal charges in Superior Court. They also may dismiss charges if there is no probable cause to believe the defendant is guilty.

Justice of the Peace Courts have criminal jurisdiction over:

1. Petty offenses and misdemeanors;
2. Assault or battery when not committed on a public officer in the discharge of the officer's duties, or committed with intent to make the offense a felony;
3. Breaches of peace and committing a willful injury to property;
4. Misdemeanors and criminal offenses punishable by fines not more than \$2,500, or imprisonment in county jail, not more than six months, or both fine and imprisonment; and
5. Felonies, for the purpose of issuing warrants and conducting preliminary hearings.

Court Personnel

Most justice of the peace precincts have an elected constable. The constable's duties are to "execute, serve and return all processes and legal documents as directed by the court." Some statutes relating to sheriffs also govern the powers, duties and liabilities of constables.

The justice of the peace usually has one or more court clerks to provide clerical assistance and maintain court records. Additionally, Justice of the Peace Courts in some busy urban precincts

have a court administrator.

Justice of the Peace Qualifications

A Justice of the Peace:

- Is elected to a four-year term.
- Must be at least 18 years old.
- Must be an Arizona resident.
- Must be a qualified voter in the precinct in which duties of office will be performed.
- Must read and write English.
- Need not be an attorney.

General Jurisdiction Court

The **Superior Court** is the state's general jurisdiction court. Each county has at least one superior court judge. In counties with more than one superior court judge, the judges operate in numbered divisions. Superior Court judges may hear all types of cases except small claims, minor offenses, or violations of city codes and ordinances.

The Superior Court

Article VI, Section 14 of the Arizona Constitution provides the Superior Court with jurisdiction over:

- Cases and proceedings in which exclusive jurisdiction is not vested by law in another court.
- Equity cases that involve title to or possession of real property or the legality of any tax, impost, assessment, toll or municipal ordinance.
- Other cases in which the value of property in question is more than \$5,000, exclusive of interest and costs.
- Criminal cases amounting to a felony, and misdemeanor cases not otherwise provided for by law;
- Forcible entry and detainer actions (evictions of renters).
- Proceedings in insolvency (however, bankruptcy is handled in federal court).
- Actions to prevent or stop nuisances.
- Matters of probate (wills, estates).
- Dissolution or annulment of marriages (divorces).
- Naturalization and the issuance of appropriate documents for these events.
- Special cases and proceedings not otherwise provided for, and such other jurisdiction as may be provided by law.

Appellate Court Role of the Superior Court

The Superior Court acts as an appellate court for Justice of the Peace and Municipal Courts.

● **Superior Court Judge Qualifications**

Superior court judges obtain their authority from Article VI of the Arizona Constitution.

In the Superior Court system:

- Each court is entitled to one Superior Court judge and one additional judge for every 30,000 county residents or majority fraction thereof.
- Superior Court judges serve four-year terms. There are now more than 100 Arizona Superior Court judges, most serve in Maricopa and Pima counties.

A Superior Court judge must be:

- At least 30 years old.
- Of good moral character.
- Admitted to the practice of law in Arizona and a resident of Arizona for the five years immediately before taking office.

Probation Supervision

The Superior Court probation department supervises adults and juveniles on probation.

Court Personnel

The Arizona Supreme Court designates a presiding judge for counties with two or more Superior Court judges. In single-judge counties, that judge holds the administrative authority.

A 1971 state law (A.R.S. §12-141) authorized the Chief Justice of the Supreme Court to appoint judges pro tempore (temporary judges) for six-month terms to assist with caseloads. These judges usually work part-time. A judge pro tempore must be at least 30 years of age, of good moral character, a resident of Arizona and admitted to the practice of law in Arizona for not less than five years immediately preceding the appointment. A judge pro tempore may be appointed to serve in the county where he or she lives, or another county.

Each county has a Superior Court clerk elected to a four-year term. The clerk maintains court case files; certifies documents; collects fees; issues summonses, subpoenas, passports and marriage licenses and performs other duties required by law. Some counties offer these services in more than one location.

In some counties, the clerk also serves as the jury commissioner. However, in larger counties, a separate jury commissioner may be appointed.

Larger Arizona counties also have court administrators to assist the presiding judge with caseload management, records management, financial management and other administrative projects.

A county's Superior Court presiding judge may appoint court commissioners to perform limited judicial duties if the county has at least three judges. These commissioners hear cases where an uncontested charge has been entered against someone. They may also conduct the initial appearance of a defendant charged with a crime.

Juvenile Court

Counties with more than one Superior Court judge also have a special juvenile court. One or more Superior Court judges are assigned to hear all juvenile cases on delinquency, incorrigibility and dependency. Juvenile traffic cases may be heard by a court other than the juvenile court (if the presiding juvenile court judge allows it).

Arizona Tax Court

The Arizona Tax Court, established in 1988, has exclusive jurisdiction over all Arizona tax cases. This includes imposing, assessing or collecting a tax, and all questions of law and fact related to tax disputes. It is a department of the Superior Court in Maricopa County.

A taxpayer may choose to use the small claims division of the tax court for certain cases. The small claims division hears disputes concerning the valuation or classification of "class five" property if the cash value of all real and personal property does not exceed \$300,000. In addition, the small claims division judges hear all tax cases, other than class five properties, in which the amount of taxes, interest at the time of assessment, and penalties in dispute do not exceed \$5,000. There is no right to appeal the decision of the tax court's small claims division.

Arbitration

Arizona statutes require arbitration in most civil cases not exceeding \$50,000. These cases are heard by one to three arbitrators who are attorneys appointed by the court. Hearings are conducted in an informal setting and manner that saves money and reduces the number of cases in trial courts. Arbitrators act as judges. They listen to both sides and make decisions based on the law. Arbitration decisions can be appealed, but usually are not. When a decision is appealed, the case is heard from the start (trial de novo) in Superior Court.

Appellate Courts

Arizona has *two appellate courts*: The **Court of Appeals** is the intermediate appellate court; the **Supreme Court** is the court of last resort.

Court of Appeals

The Court of Appeals was established in 1965 as the first level of appeal up from Superior Court. It has two divisions: Division One in Phoenix (16 judges) and Division Two in Tucson (six judges).

The Court of Appeals:

- Hears and decides cases in three-judge panels.
- Has jurisdiction in all matters properly appealed from Superior Court.
- Reviews all decisions properly appealed to it.

Division One of the Court of Appeals has statewide responsibility for appeals from the Industrial Commission, unemployment compensation rulings of the Department of Economic Security, and rulings by the Arizona Tax Court.

The appeals process is generally the same for both civil and criminal cases. (There are filing fees in civil cases, but not for criminal cases).

Court of Appeals Judge Qualifications

A Court of Appeals judge must be:

- At least 30 years old.
- Of good moral character.
- A resident of Arizona and admitted to the practice of law in Arizona for the five years immediately prior to taking office.

Court Personnel

Each division of the Court of Appeals has a clerk of the court and other support personnel. Their duties are outlined in A.R.S. §12-120.9. A Clerk of the Court of Appeals maintains official records and case files for the Court of Appeals and handles the administrative duties of the court.

The Supreme Court

The Supreme Court's primary judicial duties under Article VI, Sec. 5 of the Arizona Constitution, are to review appeals and to provide rules of procedure for all the courts in Arizona. It is the highest court in the state of Arizona and is often called the "court of last resort."

The Supreme Court has discretionary jurisdiction. Therefore, the court may refuse to review the findings of the lower court. Cases in which a trial judge has sentenced a defendant to death, however, automatically go to the Supreme Court for review.

Supreme Court Justices

Five justices serve on the Supreme Court for a regular term of six years. One justice is selected by fellow justices to serve as Chief Justice for a five-year term. In addition to handling case work like the other justices, the Chief Justice oversees the administrative operations of all the courts in Arizona.

The Supreme Court:

- May choose to review a decision of the Court of Appeals when a party (the plaintiff or defendant in the original case) files a petition for review.
- Always hears the appeal when the Superior Court imposes a death sentence.
- Regulates activities of the State Bar of Arizona and oversees admission of new attorneys to the practice of law.
- Reviews charges of misconduct against attorneys, and has the authority to suspend or disbar them.
- Serves as the final decision-making body when disciplinary recommendations are filed against Arizona judges by the Commission on Judicial Conduct.

The Court's Role in the Impeachment Process

Impeachment is a political process designed to deal with public officials accused of committing high crimes, misdemeanors or misconduct in office. The person is charged, tried, and if convicted, removed from office.

The Chief Justice of the Supreme Court presides over Senate impeachment trials, but renders no decision as to the guilt or innocence of the public official on trial. Formal charges for an impeachable offense are initiated by a majority vote of the Arizona House of Representatives. Conviction for the impeachable offense requires a two-thirds vote in the Senate. Upon conviction, a public officer is removed from office.

The role of the Supreme Court in the impeachment process is set forth in Article VIII, Part 2, Section 1 of the Constitution of the State of Arizona.

Court Personnel

The Arizona Constitution authorizes the Supreme Court to appoint a Clerk of Court and assistants. According to A.R.S. §12-202, the clerk shall attend sessions of the court, issue legal paperwork, enter all court orders, judgments and decrees and keep other books of record and perform other duties as required by law or the court. The clerk's office maintains the court's official files and assists in scheduling matters for decisions and oral arguments. The clerk's office is also responsible for publishing and distributing the court's written opinions.

Supreme Court Justice

Qualifications

A Supreme Court Justice:

- Must be admitted to the practice of law in Arizona and be a resident of Arizona for the 10 years immediately before taking office.
- May not practice law while a member of the judiciary.
- May not hold any other political office or public employment.
- May not hold office in any political party.
- May not campaign, except for him/herself. Penalty: Forfeiture of office.
- Must retire at age 70.

THE JUDICIAL PROCESS AT WORK

The "Players" in a Trial Courtroom

Key figures in a courtroom trial are the judge, court reporter (in Superior Court), courtroom clerk and bailiff. Other central people are the attorneys, plaintiff, defendant, witnesses and jurors.

The judge is the central figure in the courtroom and is generally seated higher than everyone else.

The judge allows both sides the opportunity to present their version of the facts.

Also present are a court reporter (in Superior Court), a courtroom clerk and a bailiff. Each assists the judge with the trial. The court reporter records all proceedings in Superior Court. The courtroom clerk records selected activities for official case file records and is responsible for all case exhibits. The bailiff maintains order in the court and supervises the jury, if there is one.

The other major figures in a trial are the plaintiff and defendant and their attorneys. Attorneys are officers of the court. Therefore, they are expected to know and follow all court rules. Their role is to protect the rights of their client. Attorneys offer evidence and arguments to help the judge and the jury make a fair decision.

The judge oversees the trial and decides legal questions that arise. Cases tried in court are decided by either a judge or a jury. In most criminal cases and civil cases, either party may request a jury trial.

To ensure fair and consistent proceedings, all trials are conducted according to established rules of procedure and evidence.

Serving as a Juror

Jurors are the heart of the judicial system in the United States. In all serious criminal cases, defendants are entitled to a trial by a jury representative of the community.

The jury referred to above is a trial or "petit" jury; there also are "grand" juries. Each serves a specific role in the judicial system.

Trial or Petit Juries

Since 1980, names of prospective jurors have been obtained by random selection from lists of registered voters and licensed drivers who are 18 years of age and older. The Supreme Court may also designate other lists of residents from which jurors may be selected.

All U.S. citizens who are at least 18 years of age and are residents of the jurisdiction in which they are summoned to serve are eligible for jury duty. Persons qualified to be jurors can be exempt from service only if they have been determined to be mentally incompetent or insane, or if they are a convicted felon whose civil rights have not been restored. There are no automatic excuses or exemptions from jury duty.

Prospective jurors may be called for service by a **Justice of the Peace or Municipal Court** or by the jury commissioner of the Superior Court. Once selected, a prospective juror is subject to being called to court for 120 days, although in some courts the period is shorter, e.g., one day, one trial.

In **Superior Court**, a trial jury for a **criminal case** consists of 8-12 persons, depending on the severity of the possible sentence. A unanimous verdict is required.

For Superior Court **civil cases**, there are eight people on the jury; the agreement of six members is required to return a verdict.

In limited jurisdiction courts, there are six-member juries. Unanimous agreement is required for a verdict in criminal cases, and five of the six jurors must agree on a verdict in civil cases.

The law does accept verdicts when fewer jurors agree--if prior consent has been given by both the plaintiff and the defendant in a civil case. In a criminal case, the plaintiff, defendant and the court can determine the number of jurors they will require to be in agreement to return a verdict.

County Grand Jury

A county grand jury has the responsibility to investigate possible public offenses, including "corrupt or willful misconduct in office by public officials." A grand jury is 12-16 citizens who have qualified for jury service in the county; they usually are subject to being called into session for a period of not more than 120 days.

To begin a criminal case, the county attorney may present evidence to a grand jury and ask them to return a criminal indictment or "true bill," formally accusing someone of a crime.

An indictment means that at least nine members of the grand jury believe a crime has been committed and that there is enough evidence against the person to hold a trial.

State Grand Jury

The powers and duties of the state grand jury are similar to those of the county grand jury, except they extend statewide. Up to three grand juries can be assembled ("impaneled") simultaneously at the state level. The scope of the investigations of a state grand jury is specified by law. The Supreme Court makes rules that govern the procedures of grand juries.

Types of Juries

The three types of juries are:

- Trial or Petit Jury.
- County Grand Jury.
- State Grand Jury.

Each jury serves a specific role within the judicial system.

How a Case Moves Through the Court System

Please note:

This Guide to the Arizona Courts is intended to give only a general overview of the Arizona court system and its procedures. Not all cases proceed as outlined here.

In this section, you will learn how cases work their way through the legal system. First, case processing in the limited jurisdiction courts is covered. The most explanation is devoted to Superior Court case processing although Superior Court procedures basically apply to limited jurisdiction courts. In the case outlines that follow, each party is represented by an attorney. However, this frequently is not the case, especially in limited jurisdiction courts. People who appear in court may speak for themselves without an attorney as long as they follow court rules.

CASE PROCESSING IN LIMITED JURISDICTION COURTS

Limited jurisdiction courts usually process criminal cases as follows:

Initial Appearance

First appearance in court by a defendant. The defendant is advised of the charges. Judge appoints an attorney if defendant cannot afford one.

Arraignment

Defendant appears in court to enter a plea of guilty or not guilty. (Note: Many limited jurisdiction courts combine the initial appearance and arraignment.)

Trial

If the defendant pleads not guilty, a trial is held. The judge, or at the defendant's request, a jury, can hear evidence on the charges and find the defendant guilty or not guilty.

Sentencing

If the defendant is found guilty, the court imposes the required punishment (sentence).

Appeals

Appeals from decisions of limited jurisdiction courts go to Superior Court. Appeals may be heard as a new trial (trial de novo), or the Superior Court judge may review records of trial proceedings, if records have been kept. Decisions in small claims court cannot be appealed.

SUPERIOR COURT Case Processing

The two major types of court cases are criminal and civil. Trials in both criminal and civil cases are generally conducted the same way.

After all the evidence has been presented and the judge has explained the law related to the case to a jury, the jurors decide the facts in the case and render a verdict. If there is no jury, the judge makes a decision on the case.

CRIMINAL CASES

Criminal cases involve the commission of acts that are prohibited by law and are punishable by probation, fines, imprisonment--even death. The attorney representing the state, county or municipal government that formally accuses an individual of committing a crime is the prosecutor. The party charged with the crime is the defendant.

Steps in a Criminal Case

1. Arrest.

A person is arrested by a law enforcement officer who either observes a crime or has a warrant for arrest when probable cause exists that a person committed a crime. When a person is arrested, that person must be brought before a judge for an initial appearance within 24 hours of being arrested or must be released.

In some criminal cases, facts may be presented to a state or county grand jury to determine whether there is probable cause to believe the person under investigation is guilty of the offense. If the grand jury believes there is probable cause, the jurors will return an indictment ("true bill") formally accusing the person of the crime.

2. Initial Appearance

At the initial appearance, the judge determines the defendant's name and address, informs the defendant of the charges and of the right to remain silent and to have an attorney. The judge appoints an attorney if the defendant cannot afford one, and sets the conditions for release from jail.

3. Preliminary Hearing

If a preliminary hearing is held (usually by a justice of the peace), the judge hears evidence and testimony from witnesses called by the prosecuting attorney and the defendant's attorney. If the judge determines there is enough evidence to believe the defendant probably committed the crime, the defendant is held for trial in Superior Court, and an arraignment date is set.

4. Arraignment

At the arraignment, the defendant enters a plea of "guilty," "not guilty" or "no contest." If the defendant enters a "not guilty" plea, the judge will set a trial date. If the defendant enters a "guilty" plea or declares "no contest" to the charges, the judge will set a date to sentence the defendant for the crime.

5. Trial

Opening Statements

The defendant has the right to a trial either before a jury or a judge. When the court is ready for the trial to begin, opening statements are made by both sides. In a criminal case, the prosecuting attorney speaks first.

To begin, the attorney gives an overview of the facts to be presented. The opposing attorney may present the same type of opening comment or may reserve the opening statement until later in the trial when that side of the case begins. Either attorney may choose not to give an opening statement.

Witnesses

The prosecuting attorney will begin the case by calling witnesses and asking them questions. This is "direct examination."

Witnesses in all trials take an oath or affirmation that what they say in court is true. All trial evidence, including testimony and physical evidence such as documents, weapons or articles of clothing, must be acceptable as defined by the Arizona Rules of Evidence before it can be admitted into evidence and shown to the jury. The judge decides what evidence and testimony is admissible under the rules.

In a criminal trial, the prosecuting attorney presents evidence and testimony of witnesses to try to prove the defendant committed the crime. The attorney for the defendant may present evidence and witnesses to show that the defendant did not commit the crime or to create a reasonable doubt as to the defendant's guilt. However, the defendant is considered innocent of the crime charged until proven guilty.

When the prosecution's side has completed its questioning of a witness, the defense is allowed to "cross-examine" the witness on any relevant matter.

After cross-examination, the attorney who originally called the witness may ask additional questions of the witness to clarify something touched on in the cross-examination. This is "re-direct examination." The judge may allow an opportunity for the opposing attorney to "re-cross-examine."

When the plaintiff or prosecution has called all the witnesses for its side of the case and presented all its evidence, that side "rests" its case.

At this point, the defendant's attorney may ask the court to decide the case in the defendant's favor because the plaintiff or prosecuting attorney did not present sufficient evidence to prove the case against the defendant. This is called a "judgment of acquittal" in a criminal case.

If the judge agrees that there is not enough evidence to rule against the defendant, the judge rules in favor of the defendant, and the case ends.

If a judgment of acquittal is not requested, or if the request is denied, the defense may present evidence for its side of the case. The attorney for the defense often waits until this part of the trial to make an opening statement.

The defense may choose not to present evidence, as it is not required to do so. Remember, the defendant in a criminal case is not required to prove innocence, but the prosecution is required to prove the defendant's guilt beyond a reasonable doubt.

If the defense does present a case and call witnesses, the same rules and procedures which governed presentation of evidence by the prosecution now apply to evidence presented by the defense. The only difference is that the defense calls the witnesses and questions them first.

At the conclusion of the defendant's case, the prosecutor may present additional information to deny evidence offered by the defense. Following this, the defense is given another opportunity to present additional evidence on the defendant's behalf.

Closing Arguments

When both sides have presented their evidence, each side may make closing arguments. Closing arguments are similar to opening statements. They provide an opportunity for the attorneys to address the judge or jury one final time regarding the case. The plaintiff/prosecutor speaks first, usually summarizing the evidence that has been presented, and highlighting items most beneficial to the prosecution. The attorney for the defendant speaks next. The defense attorney will usually summarize the strongest points of the defendant's case and point out flaws in the case presented by the prosecutor. The prosecutor then has one last opportunity to speak.

Verdict

After closing arguments in a jury trial, the judge reads instructions to the jurors explaining the law that applies to the case. Jury members are required to follow these instructions in reaching a verdict. The jury goes to a special jury room and elects a foreman to lead the discussion. Jurors must consider all the evidence, review the facts of the case, and reach a verdict. When the jury makes its decision, the court is called back into session. The foreman presents a written verdict to the judge, and either the judge or court clerk reads the jury's verdict to the court. The court then enters a judgment based on the verdict, and the jury is released from duty.

If found not guilty, the defendant in a criminal case is released immediately. If the defendant is found guilty, a date is set for sentencing.

6. Sentencing

At the sentencing hearing, the judge hears testimony from the prosecution and the defense regarding the punishment that each side feels the defendant should receive.

In Arizona, the Legislature has established a range of sentences for different crimes, and the judge must impose a sentence within the range outlined by law. The options include probation, fines, imprisonment or a combination of these punishments. In some cases, the penalty of death can be

imposed.

7. Appeals

A convicted defendant may appeal. In a case where the death penalty is imposed, an automatic appeal is filed with the Supreme Court. In all other criminal cases, the appeal goes to the Court of Appeals.

CIVIL CASES

Civil cases typically involve legal disagreements between individuals, businesses, corporations or partnerships. A person can also be involved in a civil lawsuit with a government entity, such as a state, county or city.

Most civil cases involve disputes related to breach of contract, the collection of a debt, monetary compensation for personal injuries, property damage or family law issues such as divorce.

The party suing in a civil case is the plaintiff, and the party being sued is the defendant.

Steps in Bringing a Civil Lawsuit

1. The plaintiff files a document ("complaint") with the clerk of the court stating the reasons why the plaintiff is suing the defendant, and what action the plaintiff wants the court to take.
2. The plaintiff must state whether the case is eligible for arbitration according to court rules.
3. A copy of the complaint and a summons are delivered to ("served on") the defendant.
4. The defendant has a limited time (usually 20 days) to file a written answer admitting or denying the statements in the complaint.
5. The plaintiff and the defendant exchange information about the case. This is called "discovery."
6. Each side may file motions asking the court to decide disagreements prior to trial.
7. The parties may agree to a settlement before going to court and avoid the cost of a trial.
8. Either party can ask the court to schedule the case for trial.
9. The case is tried before a jury or a judge. At trial, the first to speak is the attorney for the plaintiff. Opening statements are made and the attorneys do their work by calling on witnesses and asking them questions and presenting evidence.
10. The judge makes a decision, or the jury gives its verdict, based on the testimony and other evidence presented during trial.
11. The losing party may appeal the decision to the next higher level of the court.

COURT OF APPEALS Case Processing

When an appeal is filed, the trial court sends the official case records to the Court of Appeals.

When the records and attorneys' written arguments ("briefs") have been received by the court, the case is said to be "at issue," and is assigned to a three-judge panel for consideration. All cases filed in the Court of Appeals must be reviewed.

The brief of the person filing the appeal (the appellant) contains legal and factual arguments as to why the decision of the trial court should be reversed. The person against whom the appeal is made (the appellee) has the right to respond to these arguments.

An Appellate Court does not conduct trials. It reviews papers, exhibits and transcripts from the trial court. These items are the "record on appeal," and are used to determine whether the trial court correctly followed the law in making its decision.

After they have reviewed the record, judges of the Court of Appeals may hear oral arguments from the attorneys before deciding the case and issuing an opinion. A majority vote (at least two out of three judges in agreement) decides the case.

Court of Appeals judges have three main choices when making a decision:

- Affirm (agree with) the trial court's decision; or
- Reverse (disagree) the decision; or
- Remand the case (send the case back to the trial court for further action or a new trial).

SUPREME COURT Case Processing

A petition for review is filed with the Supreme Court when a party wants to appeal a decision from the Court of Appeals.

After a petition for review has been filed, the record is transferred to the Supreme Court. After reviewing the petition for review and supporting materials, the court decides whether to grant or deny review of the appeal.

In almost all cases, the Supreme Court's review is discretionary. This means the court may refuse to review the case. In that event, the decision of the Court of Appeals is final.

When the Supreme Court agrees to review a decision, the justices study the record and the questions or "points of law" it raises. In some cases, the court will hear oral arguments from the attorneys involved in the appeal.

During oral argument, the attorney for the appellant (the party making the appeal) highlights and clarifies the client's side of the case. Then the attorney for the appellee (the party responding to the appeal) presents the other side. The justices often question the attorneys about the issues and about the case law cited in support of their position.

After reviewing the case, the justices meet privately to discuss the case and vote on how the court should resolve it. A majority vote decides the case. Then, one justice is assigned to write the court's majority opinion.

Decisions of the court must be in writing. When issuing a written decision or opinion, the court may:

- Affirm (agree with) the judgment of the lower court which means that judgment is final; or
- Reverse (disagree with) the decision of the lower court, meaning the Supreme Court's decision must be carried out; and/or
- Remand the case (send it back to the trial court for further action and possible retrial)

MANAGING THE JUDICIARY

Arizona Judicial Council

The Arizona Judicial Council was established in 1990 by the Chief Justice to assist the Supreme Court in developing and implementing policies and procedures for managing the court system. The Arizona Judicial Council assists the Supreme Court and the Chief Justice in developing and implementing policies designed to provide:

- Central direction for managing all state courts.
- Consistency in court operations.
- Coordination of court services.

The Council operates with four standing committees: The Committee on Technology, The Committee on Judicial Education and Training, the Committee on the Superior Court and the Limited Jurisdiction Committee.

Arizona Judicial Council Membership:

Chief Justice, Chair *

Two Court of Appeals Chief Judges(Division One and Division Two)*

Two Presiding Judges of the Superior Court, Urban (Maricopa and Pima Counties)*

Two Presiding Judges of the Superior Court, Rural

Magistrate

Justice of the Peace

Administrative Director of the Courts*

President, State Bar of Arizona*

Two Public Members

*=Denotes service by virtue of position

All other members are appointed at the discretion of the Chief Justice

Administrative Office of the Courts

The Arizona Constitution authorizes an administrative director and staff to assist the Chief Justice with administrative duties.

Under the direction of the Chief Justice, the administrative director and the staff of the Administrative Office of the Courts provide the necessary support for the supervision and administration of all state courts.

The Administrative Office of the Courts provides:

- Technical assistance to all courts.
- Research and analysis.
- Assistance in implementing special programs and procedures.
- Assistance in developing and implementing rules and procedures for the courts.
- Training and continuing legal education for all judicial employees.
- Providing public education and information programs regarding the judiciary.
- Administration and implementation of juvenile justice programs, juvenile probation services and adult probation services.
- Administration for the Foster Care Review Board and Court Appointed Special Advocate (CASA) program (CASA provides additional help for foster children.)
- Administration of a Confidential Intermediary Program that facilitates searches between

adoptees and birth parents.

- Administration of the Parent Assistance Hotline that provides information to parents whose children have been removed from the home by the court.
- Administration of domestic relations and child support enforcement programs.

Budgeting, Fund Administration and Judicial/Legislative Relations

The Administrative Office of the Courts assists the court system in preparing budgets and seeking funding from the Legislature, recommends and/or comments on legislation that may affect the judicial department and handles special projects assigned by the Supreme Court.

The following program funds are administered by the Administrative Office of the Courts. The source of funding for the programs is court-ordered fees and/or surcharges.

- Alternative Dispute Resolution (ADR) Fund: These funds are used by Justice of the Peace Courts and Superior Courts for projects that establish, maintain, improve or enhance local, regional or statewide alternative dispute resolution programs.
- Case Processing Assistance Fund: These funds are used to help courts process criminal and juvenile delinquency cases.
- Judicial Collection Enhancement Fund (JCEF)/Traffic Case Processing Fund (TCPF): JCEF monies are used by courts to improve collection and management of money owed to the court. This includes fines, fees, penalties, restitution and child support. JCEF also funds automation projects that improve case processing. TCPF monies fund administration of Defensive Driving School programs and to expedite processing of traffic cases.
- Juvenile Crime Reduction Fund: This money is awarded to state, city, county and tribal entities and school districts to conduct awareness and educational programs. Programs receiving awards are designed to reduce juvenile crime statewide.
- Juvenile Probation Services Fees Fund: The funds are used primarily for training and salaries of juvenile court personnel. Funds are also used to improve or expand juvenile probation services.
- Public Defender Training Fund: These funds are disbursed to county public defender or alternative defender offices in the state to be used exclusively for training purposes.

Some programs receive funding from other sources:

- Adult Probation Services Fund: These funds are retained locally for exclusive use by county adult probation departments for presentence investigations and supervision services. This program is funded through monthly probation fees paid by people on probationer.
- Drug Enforcement Account: The Arizona Supreme Court receives a grant of federal funds, and serves as the subgrant administrator for programs in the state. Funds are disbursed to programs that are affected by increased numbers of arrests and prosecution and processing of offenders targeted by the federal "Drug War" initiative. The funding comes from the federal government via the Arizona Criminal Justice Commission.

The AOC

The Administrative Office of the Courts (AOC) can be thought of as a "corporate office," and the Supreme Court Justices as the "Board of Directors." The AOC develops and implements programs to support the work of the court and to assist the Chief Justice with administrative duties.

UPHOLDING JUDICIAL STANDARDS

Judicial Nominating Commissions

(Merit Selection of Judges)

Arizona voters amended the state constitution in 1974 to provide for a "judicial merit selection and retention" process. This amendment requires the governor to appoint appellate court judges statewide and Superior Court judges in Maricopa County and Pima County, from a list of nominees submitted by "judicial nominating commissions". Although the constitution allows counties other than Maricopa and Pima the option of merit selection, judges in Arizona's other 13 counties continue to seek office in contested elections.

The Commissions on Judicial Appointments, also known as judicial nominating commissions, are responsible for nominating individuals to fill judicial vacancies in appellate courts and the Superior Court in Maricopa and Pima counties.

In 1992, Arizona voters approved the first changes to the merit selection process since it was adopted in 1974. The changes modify the process for appointing Superior Court and appellate court judges, including adding the requirements that judicial nominating commissions hear public testimony and vote in public before making recommendations to the governor, who then appoints new judges from the recommendations of the commissions.

A new, increased level of participation includes committees that screen and recommend candidates to the governor to serve on the three nominating commissions. There are 11 of these committees five each for the Maricopa and Pima County nominating commissions and one for the statewide appellate nominating commission.

Each of the three nominating commissions Maricopa County Commission on Trial Court Appointments, Pima County Commission on Trial Court Appointments and the Commission on Appellate Court Appointments has 16 members: 10 non-attorneys and five attorneys, plus the Chief Justice of the Supreme Court or a designated Supreme Court justice, who serves as a voting chairperson for all three commissions.

When vacancies occur for non-attorney members of the trial court nominating commissions, the county board of supervisors member from the district in which the vacancy occurred appoints a nominating committee of seven persons from the district. Public notice is given that applications are being accepted for appointment to the commission. All applications, along with the committee's recommendations, are forwarded to the governor for consideration.

When a non-attorney vacancy occurs on the appellate court commission, the governor appoints a nominating committee of nine members who solicit and review applications, and forward names of all applicants along with the committee's recommendation to the governor.

Attorney members of the three commissions are nominated to the governor by the State Bar of Arizona.

Members of the commissions are appointed by the governor and confirmed by the Senate. The commissions submit at least three names to the governor for each judicial appointment, with major consideration given to geographic and ethnic diversity. The primary criterion for judicial selection is merit--the candidates' professional qualifications.

Should a commission fail to submit names for appointment consideration to the governor within

60 days of the vacancy occurrence, the governor may appoint any qualified person to fill the judicial vacancy. Should the governor fail to appoint one of the commission's nominees within 60 days after the names are submitted, the Chief Justice makes the appointment.

Commission on Judicial Performance Review

Arizona's judicial performance review program strives to provide clear and accurate reports to the public about how well judges are doing their jobs before each general election. In 1992, voters amended the Constitution to require periodic review of the performance of appointed judges. The Commission on Judicial Performance Review was established to administer the performance evaluation process.

The Constitution requires evaluations of judges appointed through the merit selection process, using specific performance standards and performance reviews. The performance evaluation process includes surveys of jurors, witnesses, litigants, administrative staff and attorneys who have observed the judge at work. The public also provides input through written comment and public hearings. Reports on judicial performance are prepared by the commission and are made available to the voters before general elections.

Judges Appointed to the Bench under the Merit System:

- Initially hold office for a term ending 60 days following the next regular general election after the expiration of a term of two years in office.
- Seek election where voters indicate "yes" or "no" as to whether the judge should remain in office.
- If retained, a judge will serve a full regular term: four years for Superior Court or six years for appellate court. If a judge is not retained, the office is vacated upon expiration of the term and the appropriate commission begins the nominating process to fill the vacancy.

How Judges Get into Office

Judges who are screened and selected by public committees and appointed by the governor are:

- Supreme Court Justices
- Court of Appeals Judges
- Maricopa County Superior Court Judges
- Pima County Superior Court Judges

Once appointed, the judges are retained or rejected by the voters every four years for Superior Court and six years for the appellate courts.

Judges who are elected are:

- Superior Court judges from the following counties: Apache, Cochise, Coconino, Gila, Graham, Greenlee, La Paz, Mohave, Navajo, Pinal, Santa Cruz, Yavapai and Yuma.
- Justices of the Peace

City magistrates/municipal judges are usually appointed according to the law governing the city or municipality. The citizens of Yuma elect their municipal judge. Phoenix and Tucson Municipal Court judges are nominated by a merit commission.

Commission on Judicial Conduct

As authorized by the Arizona Constitution, the Commission on Judicial Conduct is charged with reviewing and investigating complaints against state and local judges and other judicial officers. The commission DOES NOT have authority to investigate a judge's decision rendered in a court case or to determine whether or not a court ruling can be appealed.

The commission has 11 members with diverse backgrounds and broad experience, both in and out of the court system. Six members are judges appointed by the Supreme Court: two from the Court of Appeals, two from Superior Court, one Justice of the Peace and one Municipal Court judge (or city magistrate).

The commission's two attorney members are appointed by the State Bar of Arizona's Board of Governors. The three public members cannot be attorneys or judges and are appointed by the governor with the consent of the Arizona Senate. Commission members serve six-year terms. The commission has authority to discipline a judge informally and to issue private sanctions for improper behavior. The commission also has the power to initiate a formal proceeding, much like a trial, to determine the facts in a particular situation and to recommend that the Supreme Court censure, suspend or remove a judge who is guilty of serious misconduct.

The activities and proceedings of the commission are confidential except when formal charges are filed against a judge. When this happens, the commission's investigation becomes public and all proceedings, including the formal hearing, are open to the public.

The commission publishes a handbook fully describing its programs and procedures. This information may be obtained by contacting:

Commission on Judicial Conduct
1501 West Washington, Suite 229
Phoenix, Arizona 85007
(602) 542-5200

Duties of the Commission on Judicial Conduct

The commission investigates complaints involving:

- Misconduct in office.
- Misconduct in or out of office resulting in a criminal conviction.
- A disability that seriously interferes with the judge's performance of judicial duties.
- Willful and persistent failure to perform duties.
- Habitual substance abuse (addiction to alcohol or drugs).
- Conduct that brings the judicial office into disrepute.
- A violation of the Code of Judicial Conduct.

GLOSSARY

This glossary is provided to help identify courtroom and other legal terms.

A.R.S. - Arizona Revised Statutes: Books containing the laws that the Arizona Legislature has enacted.

Acquit - To find a criminal defendant not guilty.

Action - A dispute taken to court to be settled. Same as "case," "suit" and "lawsuit" when used in the courtroom context.

Admissible - Evidence that is properly introduced in a trial.

Adversary System - Method used in the courts of the United States to settle legal disputes. Both parties in the case tell their story to the judge and/or jury for resolution.

Affidavit - A statement or declaration of facts that has been written down and confirmed by the originator under oath.

Affirm - To uphold a decision made by a lower court.

Answer - Written response in a civil case; in it the defendant admits or denies the allegations of the plaintiff's complaint and states any defenses that apply..

Appeal - Legal process used to ask a higher court to review a decision of a lower court.

Appellant - The person/party appealing the judgment or decision of a court.

Appellate Court - A court having jurisdiction (authority) to hear appeals.

Appellee - The party against whom the appeal is taken.

Arbitration - The process of settling a legal dispute without a formal trial

Arbitrator - An attorney selected to hear a case and settle the legal dispute without a formal trial.

Arraignment - Court proceeding in which the defendant stands before the judge to answer criminal charges by entering a plea of guilty or not guilty.

Attorney-at-law - One who is admitted to the State Bar of Arizona and who may represent clients in legal proceedings. Also called lawyers or counsel.

Bail - Money the judge requires to be posted to ensure that a criminal defendant, released while awaiting trial, will be in court for the trial. Bail is returned when the defendant returns for trial.

Bailiff - Courtroom attendant responsible for keeping order in the courtroom and supervising the jury.

Bench - The seat where a judge sits in court.

Board of Supervisors - Local governing body at the county level.

Brief - Written statement explaining facts of a case and laws that apply.

Burden of proof - Responsibility for proving the facts in a case.

Case - Lawsuit, suit, or action being resolved through the court system.

Case Law - Law composed of previous written decisions of appellate courts.

Chambers - Private office of a judge or justice.

Chief Justice - Presiding justice of the Arizona Supreme Court.

Civil Complaint - Document filed by the plaintiff in a civil case that outlines the plaintiff's claim against the defendant.

Civil law - Area of law that deals with disputes between individuals, not involving crimes.

Clerk of the Court - An appointed or elected official who is responsible for keeping records and accounts for a court and managing routine affairs.

Constable - An elected official whose primary duty is to deliver and return legal notices and

documents as directed by a Justice of the Peace Court.

Conviction - A decision by the judge or a verdict by the jury determining that a person charged with a criminal offense is guilty beyond a reasonable doubt.

Counterclaim - A claim filed by a defendant in a civil case against the plaintiff's complaint. For this claim, the defendant is a plaintiff.

County Attorney - Attorney elected in each county to prosecute criminal cases on behalf of the public and to represent the county in civil matters.

Court Administrator - Person who assists the presiding judge in managing the court.

Court Commissioner - Person with authority to do the job of a judge in limited cases.

Court of Record - Courts in which all proceedings are permanently recorded according to law. Justice of the Peace and Municipal Courts are not courts of record, but they sometimes do keep records of court proceedings.

Court Reporter - A person who records all formal court proceedings in order to be able to produce a transcript of the proceeding.

Courtroom Clerk - Person in charge of recording specific proceedings in court (including the date, names of parties, case number) and keeping the court records.

Crime - An act forbidden by law and punishable by fine, probation, imprisonment or death.

Decide - To render a decision.

Default - Failure of the defendant to file an answer or appear in a civil case within the allowed period of time. The plaintiff may then ask for a judgment against the defendant granting everything requested in the complaint.

Defendant - The person or party sued in a civil case or accused in a criminal case.

Delinquent Act - An act committed by a juvenile that if committed by an adult would be a crime.

Dependency - A relationship in which one depends on another for support in whole or in part.

Discovery - The pre-trial process by which one party becomes aware of the evidence gathered by the other party.

Dismissal - An agreement to terminate all or part of a lawsuit.

Domestic Relations - Area of law dealing primarily with family issues such as divorce, child support, custody and visitation.

Evidence - Testimony of a witness, an object, or written documents submitted in court regarding the facts in a case.

Exhibit - A document or object that is offered into evidence during a trial or hearing.

Felony - A serious crime, punishable by imprisonment by the Department of Corrections. In some cases, the death penalty can be imposed.

Forcible Entry and Detainer - A special proceeding for returning possession of lands, tenements or other real property to a person who has been wrongfully kept off the land or deprived of use of the land. This is a common proceeding used in landlord/tenant disputes, also known as eviction.

Jury Foreman - The presiding member of the grand or petit jury chosen by the members, who speaks or answers for the jury.

General Jurisdiction Court (Superior Court) - Court that has authority to hear all legal actions not assigned exclusively to another court.

Grand Jury - A group of 12-16 citizens who usually serve a term of not more than 120 days to hear or investigate charges of criminal behavior. Their indictment, called a "true bill," leads to a

court trial of the person charged.

Impeach - A formal accusation by the Arizona House of Representatives that a public official committed misconduct in office.

Incorrigible - Refers to a juvenile who is unmanageable by parents or guardians. Incorrigible offenses include running away and truancy.

Indictment - A formal, written accusation by a grand jury charging that a person or business committed a specific crime.

Initial Appearance - The first appearance in court by the defendant in a criminal case.

Insolvency - Inability or lack of means to pay debts.

Judge - The public officer authorized to preside over, hear and determine cases in a court of law.

Judgment - The official decision by a court regarding the rights and claims of the parties to a civil or criminal lawsuit.

Judge Pro Tempore - A person assigned to perform the duties of a judge on a temporary basis.

Judicial Performance Review - The process as required by the Arizona Constitution to periodically review the performance of judges appointed by the governor.

Jurisdiction - The legal authority of a court to hear and decide cases; the exercise of judicial power within certain geographic, monetary or subject matter limits.

Jury Commissioner - Court officer who ensures that potential jurors are available to serve when needed by the courts.

Law - Provisions which regulate the conduct of society, primarily generated by the legislative branch of government.

Limited Jurisdiction Court - A court which may hear and decide limited types of cases. In Arizona, these are the Justice of the Peace and Municipal Courts.

Magistrate - Often used to refer to a Municipal Court judge, but A.R.S. §1-215 provides a broad definition that includes all judicial officers with power to issue a warrant for arrest: includes a Supreme Court justice and judges of the Superior, Justice of the Peace and Municipal Courts.

Merit Selection - A system for a judicial nomination commission to recommend candidates for judicial appointments to the governor.

Misdemeanor - Offense less serious than a felony, punishable by a sentence other than being sent to prison. (A.R.S. § 13-105).

Motion - A request to a judge seeking a specific ruling or court order.

Oath - A pledge, promise, or declaration to provide true information in court or in an affidavit.

Opinion - Written statement issued to report the decision of an appellate court.

Parties - Persons, partnerships, corporations, businesses, or governmental organizations involved in legal proceedings.

Petit (Trial) Jury - The group of people selected to decide the facts and render a verdict in a civil or criminal trial.

Petition - Written request to the court asking for specific legal action.

Petition for Review - An application asking an appellate court to examine a ruling or decision.

Plaintiff - In a civil action, the party who files the lawsuit; in a criminal case, the state is the plaintiff.

Plea - Response of a defendant to the criminal charges stated; the plea is usually "guilty" or "not guilty."

Plea agreement or plea bargain - A process between the accused and the prosecution to negotiate a mutually satisfactory outcome of the case.

Points of law - The legal questions that a case may raise.

Precinct - Geographic subdivision of city, town or county, used to describe the jurisdiction of a justice of the peace or for election purposes.

Preliminary hearing - Court proceeding used to determine whether there is enough evidence against a person charged with a felony to proceed to trial.

Presiding Judge - Judge who handles the administrative duties of the court. Depending on the court, this judge may also hear a full calendar of cases.

Probable Cause - Reasonable cause; there is more evidence for than against.

Probation - A conditional suspension of the sentence given by a court in a criminal case. If the terms of probation are completed successfully, the sentence is not imposed. If the terms of probation are violated, probation may be revoked and the sentence carried out.

Proposition 109 - The constitutional amendment which required public input and the establishment of a process to review judges' performance.

Prosecutor - Attorney representing the citizens of a particular community or the state in a criminal case. This may be the city attorney, county attorney or attorney general.

Record on Appeal - Those papers, transcripts, and exhibits from the trial court that are forwarded to the appellate court for review.

Remand - To send back; an appellate court may remand a case to the trial court for re-trial or other action.

Rest - A party is said to "rest" or "rest its case" when it has presented all of the evidence it intends to offer.

Retention - The electoral process by which voters decide whether judges will continue to serve another term in their current judicial capacity.

Reverse - Decision of an appellate court to change all or part of the decision of a lower court.

Sentence - Punishment set by the court within the range of punishments authorized by statute.

Settlement - An agreement which provides satisfaction to one or both parties in a civil lawsuit in return for dismissal of the case.

Small Claims Division - Special division established within each Justice of the Peace Court to legally resolve claims that do not exceed \$2,500.

Statute - Law enacted by the Legislature and published as the Arizona Revised Statutes.

Summons - Legal document issued by the court that directs the sheriff or other officer to notify the named defendant that a complaint has been filed and that the defendant is required to appear and answer the complaint on or before the time and date specified.

Testimony - Statements made by witnesses who have taken an oath or affirmed that they will tell the truth.

Transcript - Official written, word-for-word record of court proceedings.

Trial - Formal presentation of facts to a court or jury in order to reach a legal decision.

Trial de Novo - A new trial that is held upon appeal from a non-record court, or from appeal of an arbitration award.

True Bill - An indictment by a grand jury.

Verdict - Formal decision of a trial jury.

Witness - Person who gives testimony regarding what he/she saw or heard.