



Arizona Court of Appeals Division One 2014: The Year in Review

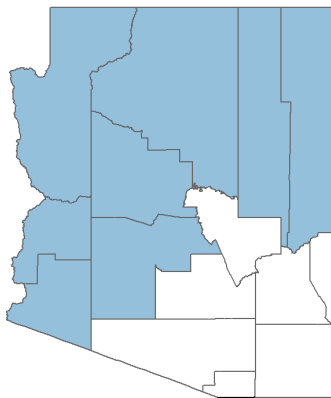


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Introduction



The Arizona Legislature created the Court of Appeals in 1964. The court serves as an intermediate appellate court with two divisions: Division One, based in Phoenix, and Division Two, based in Tucson. Division One started with three judges and, over time, expanded with the state's population to its current complement of 16 judges.

Division One resolves appeals from eight of Arizona's 15 counties: Apache, Coconino, La Paz, Navajo, Maricopa, Mohave, Yavapai and Yuma. Under the Arizona Constitution, judges of the

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

The court is funded entirely through the state's general fund. The sole work of the court is to resolve the appeals and special actions that come before it; it operates no related programs requiring legislative appropriation. In addition to its 16 judges, Division One employs 81 other employees, including the Clerk of the Court, Ruth Willingham, who oversees the appellate record and distribution of decisions, and Barbara Vidal Vaught, Chief Staff Attorney. Despite Arizona's continued population growth, Division One has not added a panel of three judges since 1989 and last received a new judge

position in 1995. All judges and employees must comply with codes of conduct adopted by the Arizona Supreme Court and must complete a designated amount of continuing education each year.

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

The court decides appeals in a wide variety of substantive areas, including civil, criminal, juvenile, family law, mental health, probate and tax. The court also reviews decisions made by the Industrial Commission in workers' compensation cases, by the Arizona Corporation Commission and the Unemployment Compensation Board, and considers "special action" petitions seeking pre-judgment and emergency relief. With few exceptions, every decision is made by a panel of three judges after they meet to consider the case and hear any necessary oral argument. Each decision is memorialized in writing, and opinions and memorandum decisions are posted on the

court's website. Although all of the court's decisions are subject to discretionary review by the Arizona Supreme Court, in 2014, Division One's decision was the final word in more than 98 percent of the cases it resolved.

The judges and employees of Division One work diligently to decide cases impartially and efficiently. Despite budget restrictions resulting from Arizona's fiscal crisis over the last few years, the court's judges and employees remain dedicated to public service and take great pride in their work. This, the court's sixth Year in Review report, is offered to inform the public about the court's integral role in Arizona's justice system.

Judges of Division One of the Court of Appeals

Current Judges¹

Judge	Home County	Appointed
Jon W. Thompson	Coconino	04/03/95
John C. Gemmill*	Maricopa	05/11/01
Lawrence F. Winthrop*	Maricopa	10/15/02
Maurice Portley	Maricopa	06/12/03
Donn Kessler	Maricopa	06/23/03
Patricia K. Norris	Maricopa	12/17/03
Patricia A. Orozco	Yuma	12/15/04
Diane M. Johnsen	Maricopa	10/03/06
Michael J. Brown	Navajo	01/02/07
Margaret H. Downie	Maricopa	11/05/08
Peter B. Swann	Maricopa	11/05/08
Andrew W. Gould	Yuma	01/01/12
Randall M. Howe	Maricopa	04/11/12
Samuel A. Thumma	Maricopa	04/11/12
Kent E. Cattani	Maricopa	06/09/13
Kenton D. Jones	Yavapai	10/28/13

*Former Chief Judge

¹ Listed by seniority of their service to the court.

Former Judges

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

E.G. Noyes, Jr.*	1992-2003	Maricopa
Sheldon H. Weisberg*	1992-2011	Mohave
James B. Sult	1995-2006	Yavapai
Cecil B. Patterson, Jr.	1995-2003	Maricopa
Michael D. Ryan^	1996-2002	Maricopa
Rebecca White Berch	1998-2002	Maricopa
James M. Ackerman^	2000-2001	Maricopa
Ann A. Scott Timmer*	2000-2012	Maricopa
Daniel A. Barker	2001-2011	Maricopa
Philip Hall	2001-2013	Yuma
G. Murray Snow	2002-2008	Maricopa
Patrick Irvine	2002-2011	Maricopa

* Former Chief Judge

^ Deceased



How the Court Makes Decisions

Appeals

When all the briefs have been submitted in an appeal or the time has expired for doing so, the Clerk of the Court sets the case on the next available calendar of one of the five panels of the court. The Clerk assigns cases without reviewing their subject matter or considering the composition of the panels (except to ensure that none of the judges assigned to hear a case has a conflict of interest). No judge has a role in determining which cases are assigned to any panel. The cases on a calendar usually are grouped by subject matter. For example, a panel may have a calendar of criminal cases one week, a civil calendar the next and a combined civil/workers' compensation calendar the week after that. The case calendars are posted on the court's website at least a month in advance.

All panels meet weekly, typically either on Tuesday or Wednesday. Prior to meeting, each judge reads the briefs for each case, conducts legal research and reviews pertinent parts of the record. The judges are assisted in this effort by their law clerks and staff attorneys.

By the time they meet, the judges are well-versed in each case's material facts and legal issues. If a party requests oral argument and the court believes argument would be helpful, the panel will hear oral argument the same day it discusses the case in a conference. Typically, the panel will decide how to resolve each of the cases on the calendar during the panel's weekly conference.

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

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

- (1) The court is required by law to give priority to juvenile delinquency and dependency/parental termination cases, criminal cases, election cases, mental health appeals, workers' compensation

cases, and child support appeals. Also, on application by a party and for good cause, the court may accelerate some civil appeals pursuant to court rule.

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

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

(4) An opinion generally is more time-consuming to draft than other decisions. Because opinions may be cited as precedent in future cases (memorandum decisions do not constitute controlling

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

Special Actions

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

Each panel of judges is assigned about once a month to a special action calendar of up to eight cases. As petitions are filed, the Clerk of

the Court sends them to the panel in the order received. The panel assigned to receive special actions at any particular time is known as the "hot panel" because the judges on that panel must be available to address any requests for emergency relief.

If a petitioner needs an immediate order from Division One staying a decision by the superior court, the petitioner usually first must ask the judge who issued the order to stay it pending resolution of the petition for special action. If that judge denies the request, the petitioner then may request a stay order from the Court of Appeals. Once a stay request is made in Division One, the hot panel usually will set a telephone hearing and issue its ruling at the conclusion of the hearing, with a written order to follow.

Unlike in direct appeals, in special actions, the Court of Appeals has discretion to decline jurisdiction of the matter. To save the parties time and money and to decide petitions more expediently, the hot panel reviews each petition before any response is due to discern whether the petition sets forth allegations that may entitle the petitioner to special action relief. When it is clear that a petition does not do so, the panel may decline jurisdiction immediately without

waiting to receive a response brief. If the petition sets forth sufficient allegations, the panel will wait to determine whether to accept jurisdiction until after it has received full briefing. The panel then will confer and decide the petition in the same manner as an appeal. If the court decides to decline jurisdiction, it usually will issue a short order to that effect. The brevity of an order declining jurisdiction may not reflect the extent of the analysis underlying the court's decision.

Motions

The court receives many motions filed in cases on appeal. These include, for example, motions to dismiss all or part of an appeal, motions to supplement the superior court record on appeal, and motions to strike all or a portion of a party's brief. If a motion is filed after a case is assigned to a panel of judges, that panel will decide the motion. If a substantive motion is filed before a case is assigned to a panel, a three-judge motions panel will decide the motion. All judges in the court take turns serving on the motions panel.

The Court's Budget

The Court of Appeals is entirely funded by Arizona's general fund on a fiscal-year basis (July 1 – June 30). Fiscal years are referred to by the year in which the fiscal year ("FY") expires. In FY 2015, the current budget year, Division One has a baseline budget of \$10,039,900. Approximately 96 percent of the court's current budget is devoted to salaries and employee-related expenditures (for example, health and dental expenses, travel expenses for judges who live outside of Maricopa County, and retirement fund contributions). Division One has no state-funded court programs that might be reduced to free up funds during times of tight budgets. The court has weathered budget shortfalls over the past several years by delaying filling budgeted employee positions that come vacant and by other measures, such as drastically reducing its library resources. The court also has taken advantage of technology advances and, to a large extent, has converted to electronic filing, review and distribution of decisions and orders.

Transitioning to the E-World

With only a few exceptions, the superior courts deliver electronic versions of their records (rather than hard copies) to Division One for cases that are on appeal. Electronic access to the record allows each judge on a panel of the court to review the trial-court record easily. It also minimizes the time spent by the superior court staff in gathering and transmitting paper records.

The court continued to work closely with the Supreme Court and its vendor in 2014 to implement e-filing by parties in all case types through a system called "AZTurboCourt." By order of the Chief Justice, e-filing is mandatory in Division One and the Supreme Court for most attorneys appearing in those courts.

With an upgrade to its case management system, the court has expanded electronic distribution to include parties in all case types who have email addresses on file with the court. By electronically distributing decisions and orders, the court provides quicker access to decisions and saves postage.

Court Statistics

Filings and Terminations

The court began calendar year 2014 with a total of 2,017 pending cases over all case categories. During the year, 2,652 appeals and special actions were filed and 46 cases were reinstated. The court terminated 2,384 cases, leaving 2,206 cases pending at the start of 2015.

Here are the annual statistics for the court's major case categories:

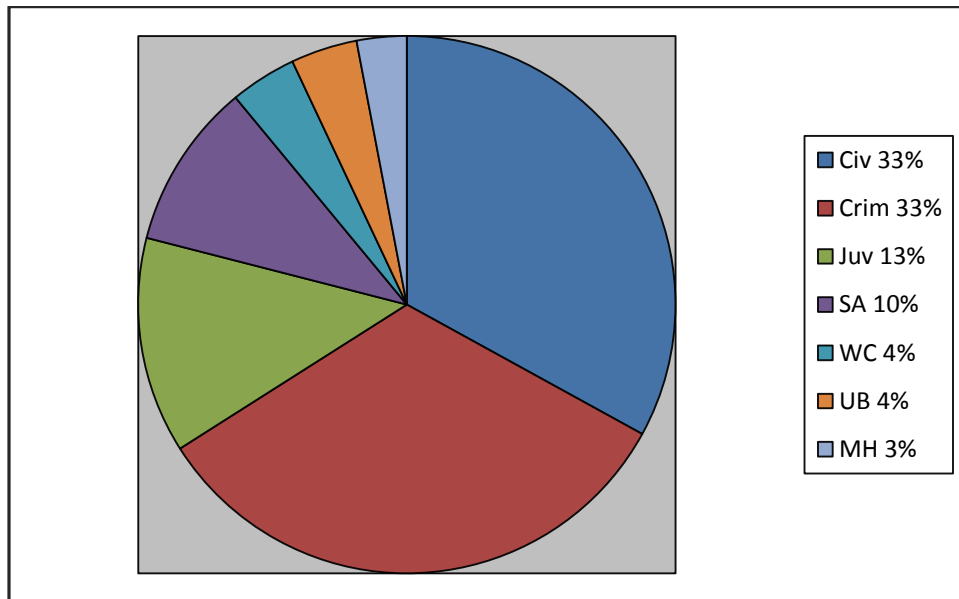
Case Type	Number of Cases Pending at Start of Year	Cases Filed/Reinstated During Year	Cases Disposed of During the Year	Number of Cases Pending at End of Year ²
Civil	686	893	801	757
Criminal ³	1003	884	697	1099
Juvenile	122	347	325	145
Mental Health	33	90	102	21
Workers' Comp	45	95	62	58
Special Actions	99	262	277	84

² Includes transfers that may not be reflected in the other columns.

³ Includes criminal appeals, petitions for review of post-conviction relief rulings and habeas corpus filings.

The percentages of new filings and reinstatements in the various case types broke down as follows:⁴

**Percentage of 2014 New Filings/Reinstatements
by Case Type**



New case filings (plus reinstatements) over all case types in Division One fell by 94 cases (3 percent) to 2,698 in 2014 from 2,792 in 2013. New and reinstated filings in criminal cases were down (86 fewer cases, a reduction of 9 percent), as were special actions (83 fewer

⁴ Division One had too few new tax, Corporation Commission, and electrical power appeals in 2014 to register measurable percentages of new filings and reinstatements. Additionally, all percentages are rounded to the nearest percentage point and therefore do not add up to 100%.

cases, 24 percent) and unemployment benefit appeals (77 fewer cases, 42 percent). The number of new and reinstated civil appeals, however, rose by 102 (13 percent), and new juvenile appeals increased by 20 cases (6 percent). Likely due to the increased number of new civil appeals, which tend to take longer to resolve than other appeals, Division One had about 9 percent more cases pending at the end of 2014 (2,206) than at the end of 2013 (2,017).

Over the past 10 calendar years (2004–2014), new filings over all case types ranged from a high of 3,062 filings (2010) to a low of 2,615 (2006).

Oral Arguments

Oral arguments are set when warranted, usually on motion of a party. The court may deny a request for oral argument if it determines that the briefs adequately present the facts and legal arguments and that oral argument would not aid the court significantly in deciding a case. Most oral arguments are in civil cases; the court rarely receives requests for argument in criminal appeals, and generally grants argument in those cases when requested. The court heard oral

arguments in 178 cases in 2014 (it heard 128 oral arguments in 2013 and 177 in 2012).

Decisions

Division One issued 1,215 decisions in 2014 by way of opinions, memorandum decisions and decision orders. All of these decisions are available on the court's website, <http://www.azcourts.gov>. Opinions are published by Thomson Reuters and by court rule may be cited as precedent in future cases. Compared to recent years, the number of published opinions in 2014 (131) increased over the number published in 2013 (122) and in 2012 (116). Pursuant to Rule 111(b), Rules of the Supreme Court and Rule 28(b), Arizona Rules of Civil Appellate Procedure, formal opinions are reserved for those decisions that (1) establish, alter, modify or clarify a rule of law; (2) call attention to a rule of law that appears to have been generally overlooked; (3) criticize existing law; or (4) involve a legal or factual issue of unique interest or substantial public importance. In addition, if one of the judges on the panel writes a separate concurrence or dissent, that judge may request that the decision be issued in the form of a published opinion.

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

Parties occasionally ask the court to reconsider a decision. The court carefully considers these requests and may grant such a motion when a decision requires clarification or revision. Parties filed 189 motions for reconsideration in 2014 (down from 216 in 2013). The court granted 20 of the motions for reconsideration (it granted 25 in 2013).

Dispositions in the Arizona Supreme Court

In 2014, parties filed petitions for review in the Arizona Supreme Court concerning 453 decisions issued by Division One. (During 2013, 444 petitions for review were filed in Division One cases.) The Arizona

Supreme Court in 2014 granted review in 23 cases issued by Division One, up from 14 cases in 2013. The Supreme Court accepts review for a number of reasons, including when a case involves an issue of significant statewide concern or a rule of procedure or evidence, or when different panels of the Court of Appeals have reached conflicting decisions on an issue of law. These statistics indicate that, although Division One is an "intermediate" appellate court, its decision is the final word in the matter more than 98 percent of the time.

Occasionally, the Supreme Court "depublishes" an opinion (or a portion of an opinion) issued by the Court of Appeals, meaning the result is left intact but the decision cannot be used as precedent in future unrelated cases. Although the Supreme Court generally does not provide an explanation when it depublishes an opinion, it is generally accepted that the court takes this action when it identifies language in the opinion it disagrees with or the appeal involves an issue the court would prefer to address in a different factual or procedural setting. In 2014, the Supreme Court depublished four opinions issued by Division One.

Performance Measures: CourTools Introduction and Summary

"CourTools" is a package of metrics by which an appellate court measures the timeliness of its processing of cases. The metrics are nationally accepted time standards for the handling of different types of cases on appeal. Because appellate cases vary greatly in difficulty and complexity, a court meets a standard if 75 percent of its cases are resolved within the applicable time period.

During FY 2014, Division One of the Court met the overall time standard for case processing in 77.1 percent of its cases. The Court met the overall time standard in 80.3 percent of civil cases and in 98.8 percent of juvenile cases. Due to delays by some court reporters in preparing trial transcripts and some attorneys in submitting briefs, the time standard for resolving criminal cases always has been a challenge for the Court. During FY 2014, the Court met the overall time standard in 61.7 percent of its criminal cases. A different time standard applies to the period after the transcripts and briefs have been filed; during FY

2014 the Court met that time standard for issuing a decision in 83.5 percent of its criminal cases.

A. Time Standards

The time standards employed by CourTools measure the length of time it takes the Court to process various categories of cases. In preparation for implementing CourTools, the Court selected reference timeframes for certain key periods in the handling of an appellate case. Three time standards are most relevant to assessing the timeliness of the Court's processing of its cases:

- **"Time to Disposition."** This standard measures the length of time from the day an appeal begins (filing of the notice of appeal) and the day the Court issues its decision in the appeal.
- **"At-Issue to Disposition."** This standard measures the length of time from the day the Court has received all the briefs, transcripts and other records that are required to decide an appeal, and the day the Court issues its decision in the appeal.
- **"Under-Advisement to Disposition."** This standard measures the length of time from the day a panel of judges meets

to consider an appeal and the day the Court issues its decision in the appeal.

Although the Court strives to timely resolve all cases that come before it, the goal of an appellate court using the CourTools methodology is that 75 percent of its cases will be handled within the applicable time standard.

1. Filing to Disposition

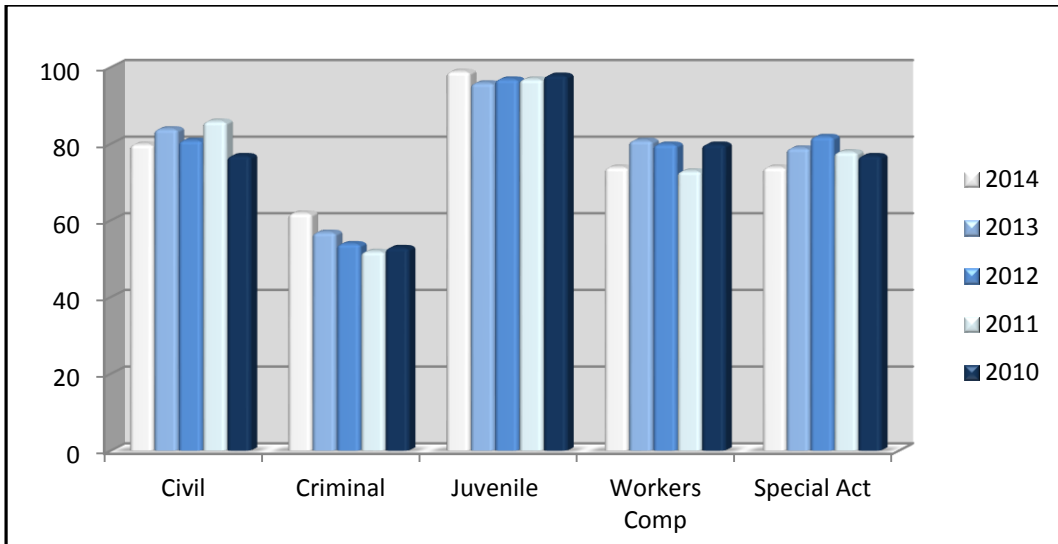
The Court met the time reference point for filing to disposition (i.e., filing of the notice of appeal to issuance of a decision) in 77.1 percent of all the cases it completed during FY 2014. The following table shows, for each case type, the number of days chosen as the reference period for the time between the filing of a notice of appeal or petition for special action and the day the Court decides the case, and the percentage of cases that met that reference period during FY 2014:

Case Type	Reference Period (filing to disposition)	Percent of FY 2014 Cases Decided Within Reference Period
Civil	400 days	80.3%
Criminal	375 days	61.7%
Juvenile	275 days	98.8%
Workers Compensation	300 days	73.8%
Special Actions	25 days	73.5%

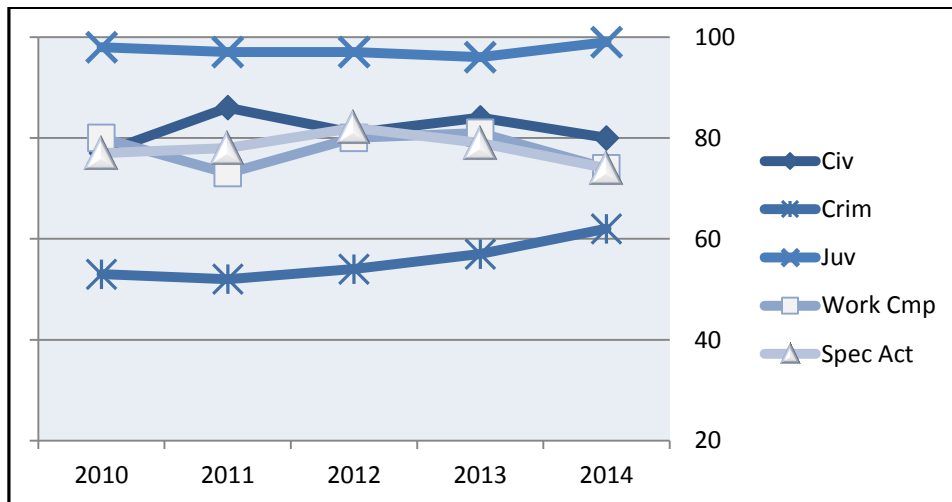
The table and graphs below show the Court's performance with respect to these reference points during FY 2014 and in prior years.

Filing to Disposition FY 2010 - 2014 (percent of cases, rounded, decided within reference periods)					
	Civil	Criminal	Juvenile	Workers Compensation	Special Action
2014	80	62	99	74	74
2013	84	57	96	81	79
2012	81	54	97	80	82
2011	86	52	97	73	78
2010	77	53	98	80	77

Percent of Cases Decided Within Time Reference Points Filing to Disposition FY 2010-2014



Percent of Cases, by Case Type, Decided Within Time Reference Points for Filing to Disposition FY 2010-2014



2. At-Issue to Disposition and Under-Advisement to Disposition

The Court also reviews the time it takes to decide an appeal from the day all records, transcripts and briefs have been filed in the Court (i.e., from when the case is "at-issue") and from the day a panel of the court meets to discuss the case and/or holds oral argument on the case (i.e., from when the case is "under-advisement").⁵

The Court met the time reference point for at-issue to disposition in 74.6 percent of all the cases it completed during FY 2014. The table below shows, for each case type, the number of days chosen as the reference period between the day an appeal is at-issue and the day the Court decides the case, and the percentage of cases that met that reference period during FY 2014:

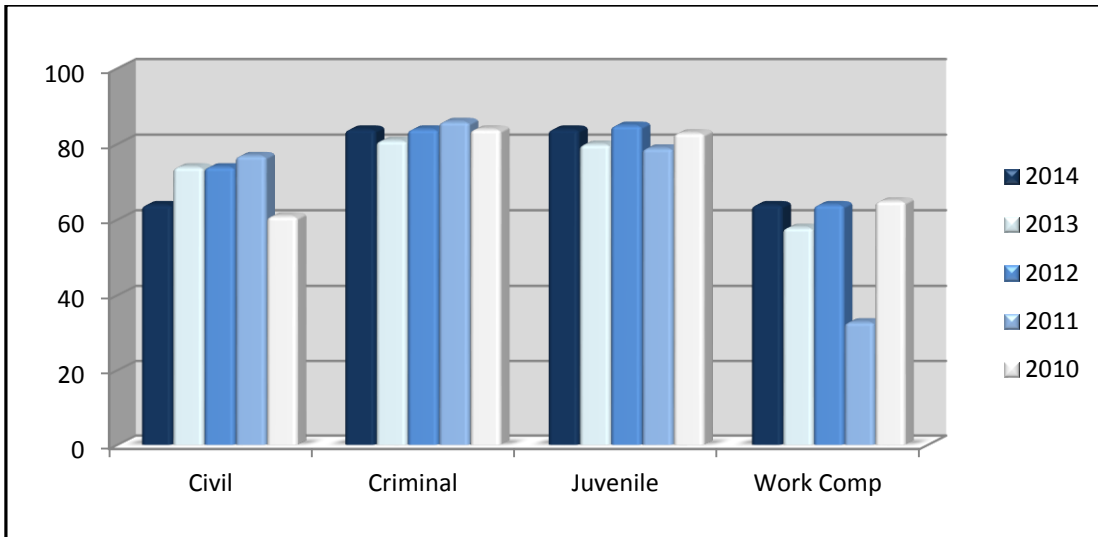
⁵ These reference periods are not relevant to special actions (interlocutory appeals).

Case Type	Reference Period (at-issue to disposition)	Percent of FY 2014 Cases Decided Within Reference Period
Civil	225 days	63.8%
Criminal	150 days	83.5. %
Juvenile	100 days	84.2%
Workers Compensation	150 days	64.1%

The table and graph below show the Court's performance with respect to these reference points during FY 2014 and in prior years:

At-Issue to Disposition FY 2010 - 2014 (percent of cases decided within reference periods)				
	Civil	Criminal	Juvenile	Workers Compensation
2014	64	84	84	64
2013	74	81	80	58
2012	74	84	85	64
2011	77	86	79	33
2010	61	84	83	65

Percent of Cases Decided Within Time Reference Points At-Issue to Disposition FY 2010-2014



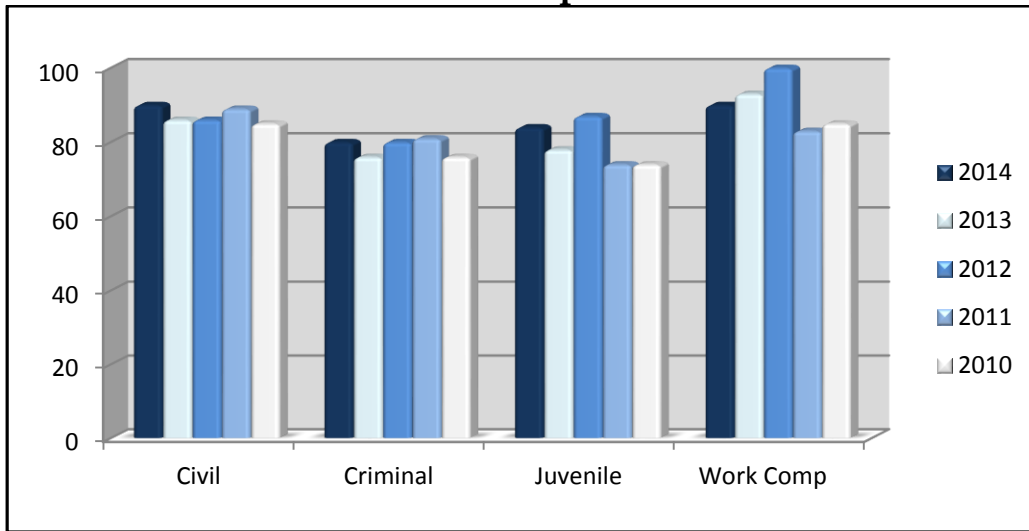
The Court met the time reference point for under-advisement to disposition in 84.7 percent of all the cases it completed during FY 2014. The table below shows, for each case type, the number of days chosen as the reference period for the time from the day an appeal is taken under-advisement and the day the Court decides the case, and the percentage of cases that met that reference period during FY 2014:

Case Type	Reference Period (under- advisement to disposition)	Percent of FY 2014 Cases Decided Within Reference Period
Civil	120 days	89.6%
Criminal	90 days	79.9%
Juvenile	40 days	83.8%
Workers Compensation	100 days	89.5%

The table and graph below show the Court's performance with respect to these reference points during FY 2014 and in prior years:

Under-Advisement to Disposition FY 2010 - 2014 (percent of cases decided within reference periods)				
	Civil	Criminal	Juvenile	Workers Compensation
2014	90	80	84	90
2013	86	76	78	93
2012	86	80	87	100
2011	89	81	74	83
2010	85	76	74	85

Percent of Cases Decided Within Time Reference Points Under-Advisement to Disposition FY 2010-2014



Together, the data show that compared to FY 2013, the Court saw slight improvements in FY 2014 (five and three percentage points, respectively) in criminal and juvenile cases in the broadest time reference period - filing to disposition. By statute, the Court must grant priority to resolving juvenile cases, and the number of cases resolved within the target timeframe has remained very high. Although the percentage of civil, workers' compensation and special action cases resolved within the target timeframes declined slightly (four, seven and five percentage points, respectively), civil cases meeting the target were well above the 75 percent goal, and workers compensation and special action cases were not far below that goal.

Timely handling of criminal cases continues to challenge the Court, due in large part to delays in receiving trial court records, transcripts and briefs. The Court resolved 62 percent (an increase of five percentage points over 2013, and eight points better than in 2012) of its criminal cases within the 375 days that is the reference time period for the overall handling of a criminal appeal (filing to disposition). The Court resolved a much higher percentage of criminal cases – 84 percent – within the target time period for after a case is at-issue, that is, in the 150-day period after the briefs have been filed. Moreover, the Court resolved 80 percent of criminal cases within the target time period for under-advisement to disposition. Taken together, these data demonstrate that although the court expeditiously resolves criminal cases once they are at-issue and under-advisement, significant delays (*vis-a-vis* the reference time periods) continue to occur before the Court begins its analysis of the merits of many criminal cases, *i.e.*, delays in the transmission of the record and trial transcripts and delays in filing of the briefs by counsel.

The volume of criminal appeals, extended staff shortages and budgetary constraints in the trial court seem to cause court reporters

continued difficulty in completing the official transcripts of criminal court proceedings in a timely fashion. The Court of Appeals closely tracks deadlines for transcripts and orders tardy court reporters to appear at "show cause" hearings held twice monthly to attempt to reduce this delay. The Court will continue to work with superior court personnel, including court reporter supervisors, to resolve delays in the filing of transcripts.

The Court also has taken steps to reduce continuances granted to counsel for the submission of appellate briefs; however, constitutional due process requires a careful review of the trial record by appellate counsel and by the court. This painstaking process often causes counsel to ask for additional trial transcripts to be prepared and for additional time to complete such review. If there are arguable questions of law, those issues need to be identified and briefed. Additionally, if counsel certifies the absence of any arguable questions on appeal, the defendant-appellant is entitled to submit his or her own supplemental brief. Finally, in relatively rare instances, as a result of the court's own independent review of the record for fundamental error, the court may identify an issue and order the parties to submit

supplemental briefing. In sum, constitutionally mandated due process requirements for criminal appeals may extend the time until the appeal is considered at-issue for as long as two years.

A final note about the relatively low (64.1 percent) of workers compensation cases that met the time reference period for at-issue to disposition. The court was able to resolve 73.8 percent of its workers compensation cases within the broader reference period for filing to disposition. This is because, as shown by the relatively high number (89.5 percent) of cases resolved within the reference timeframe for under-advisement to disposition, once workers compensation cases are readied for consideration by panels of the court, the court tends to dispose of them in timely fashion.

B. Case Clearance

"Case clearance" measures the number of cases decided in a fiscal year as a percentage of the number of new appeals filed that year. The purpose of the measurement is to assess the number of "older" cases the Court is resolving at the same time as it decides newly filed matters. The case clearance percentage for all types of cases that the

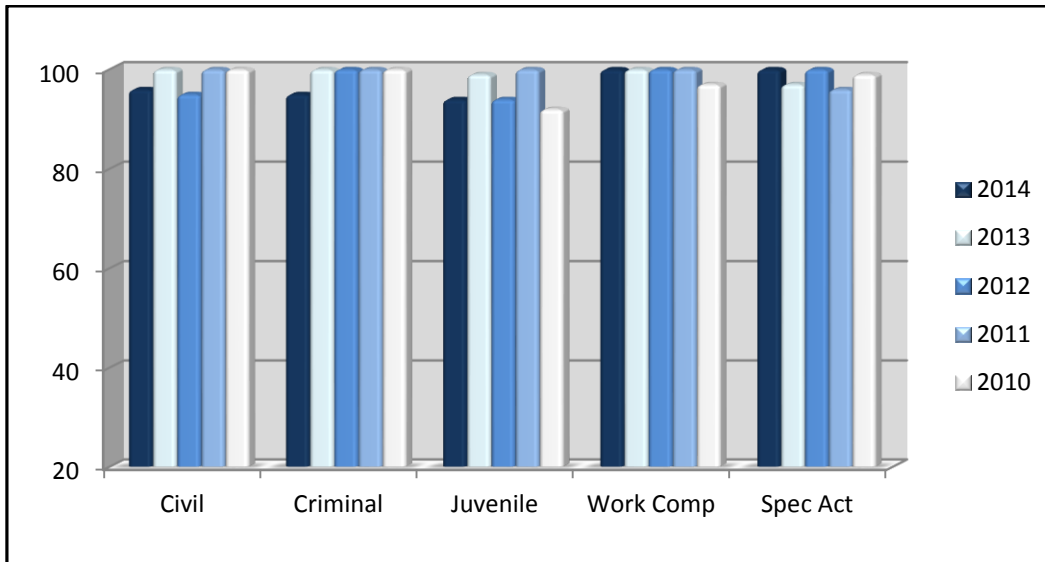
Court completed during FY 2014 is 96.8 percent. In FY 2014, the Court achieved the following case clearance rates:

Case Type	Case Clearance Rate FY 2014
Civil	96.4%
Criminal	94.7%
Juvenile	94.2%
Workers Compensation	102.6%
Special Action	103.7%

The table and graph below show the Court's case-clearance performance during FY 2014 with prior years:

Case Clearance Rates FY 2010 - 2014					
	Civil	Criminal	Juvenile	Workers Compensation	Special Action
2014	96%	95%	94%	103%	104%
2013	107%	116%	99%	104%	97%
2012	95%	114%	94%	104%	104%
2011	103%	116%	110%	106%	96%
2010	101%	104%	92%	97%	99%

Case Clearance Rates FY 2010-2014



These data show that, compared with FY 2013, the court's case clearance rate was slightly down overall, and slightly down in every case category except for special actions.

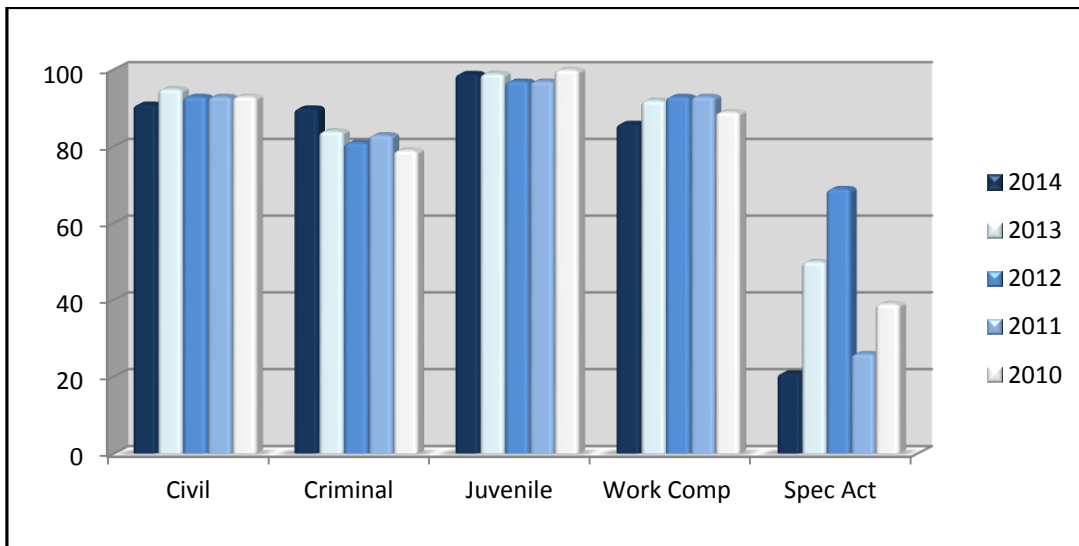
C. Age of Pending Caseload

This measurement illustrates the age of the Court's pending caseload. It calculates the percentage of cases pending at the end of the fiscal year that are too new to fit within the time reference points described above.

The percentage of all cases pending at the end of FY 2014 that were too new to fit within the time reference points was 90 percent:

Percent of Pending Cases Not Yet Reaching Reference Points FY 2010 - 2014					
	Civil	Criminal	Juvenile	Workers Compensation	Special Action
2014	91	90	99	86	21
2013	95	84	99	92	50
2012	93	81	97	93	69
2011	93	83	97	93	26
2010	93	79	100	89	39

**Percent of Pending Cases Not Yet Reaching Reference Points FY
2010-2014**



These data show that at the end of FY 2014, the Court's pending cases were relatively new, as most had not yet reached their time reference points.

D. Attorney/Trial Bench Survey

The Court conducts a biannual anonymous survey of attorney members of the Appellate Practice Section of the State Bar of Arizona, other attorneys who appeared before the Court, and superior court judges and commissioners. The survey asks respondents to rate their agreement with specified statements about the Court on a five-point scale ranging from "strongly agree" to "undecided/unknown." Responses to the 2013 survey were received from 416 individuals, or 33 percent of those surveyed. Results of the 2013 survey are shown below, along with results of the same survey conducted in 2011:

Survey Question	2011- Results⁶	2013- Results
The Court resolves its cases expeditiously.	72%	76%
The Court renders decisions without any improper outside influences.	94%	94%
The Court considers each case based upon its facts and applicable law.	87%	88%
The Court's written decisions reflect thoughtful and fair evaluation of the parties' arguments.	84%	86%

⁶ Results indicate the percent of respondents who selected "Agree or Strongly Agree" and exclude all "Undecided or Unknown" responses.

The Court's written decisions clearly state the applicable legal principles that govern the decision.	87%	90%
The Court's written decisions clearly inform the trial courts and parties of what additional steps, if any, must be taken.	85%	89%
The Court's written decisions treat trial court judges with courtesy and respect.	97%	97%
The Court treats attorneys with courtesy and respect.	94%	94%
The Court is procedurally and economically accessible to the public and attorneys.	91%	86%
The Court effectively informs attorneys and trial judges of its procedures, operations, and activities.	92%	89%
The Court's website is a useful tool.	90%	90%
The Court's Clerk's office responds well to inquiries.	95%	96%
It is useful to have memorandum decisions available for review on the Court's website and through Westlaw.	98%	96%

Of particular note, greater than 90 percent of those who responded agreed or strongly agreed that the Court (1) renders its decisions without any improper outside influences; (2) issues decisions that clearly state the applicable legal principles; (3) treats trial court judges and attorneys with courtesy and respect; (4) provides a useful website; (5) has a responsive clerk's office; and (6) assists the public by making its memorandum decisions available for online

review. Although the Court fell just short of a 90 percent rating in several areas, the percentage of favorable responses to several survey questions increased in 2013 over 2011. The number of respondents with an opinion who strongly agreed or agreed that the Court resolves its cases expeditiously rose in 2013 from 2011 by four percentage points, to 76 percent.

Settlement Program

Division One operates a free-of-charge settlement program that allows parties to try to resolve their appeals at a minimum of expense and other resources. Most civil appeals, including domestic relations and workers' compensation cases, are eligible for the program. Cases may be assigned to the court's settlement program at the request of a party or on the court's own initiative. An active or retired judge serves as a settlement judge. If the case does not settle, it is placed back on track for decision by a panel of judges, and the judge who served as settlement judge will have no further involvement with the case. One of the court's staff attorneys coordinates the settlement conference program.

The settlement conference program was on hiatus during much of 2014 to allow for mediation training of participating court personnel, including judges. Nevertheless, litigants in five cases participated in the settlement program during 2014, and of those, two appeals were resolved.⁷

Connecting with the Community

Pro Bono Attorney Programs

The court has worked with the Appellate Section of the Arizona Bar Association, the Volunteer Lawyers Program of the Maricopa County Bar Association, the State Bar Modest Means Program and the Arizona Foundation for Legal Services and Education to establish a program to match indigent Maricopa County residents involved in family court and civil appeals who desire legal representation with volunteer lawyers willing to provide legal assistance for free or at a reduced rate.

⁷ Some unresolved cases in which settlement conferences were held may yet settle in 2015.

In 2014 the court created a separate pro bono representation program for civil cases involving difficult or complex legal or factual issues. In this program, the court will appoint a volunteer lawyer for an unrepresented party or parties when the court determines that resolution of the appeal will be aided by a lawyer's briefing.

The court is grateful to the volunteers in both programs and strives, where appropriate, to set oral argument in cases in which it has appointed volunteer lawyers.

High School Oral Argument Program

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

with a local or specialty bar association to put on the program. Superior court judges, local elected officials, teachers and school district leaders have been generous with their time in attending these sessions.





The program has been highly successful, as schools welcome opportunities for their students to observe the appellate process in action. Judge Kent E. Cattani chairs Division One's Connecting with the Community Committee. In 2014, the Court was pleased to hold oral arguments and associated educational programs at McClintock High School in Phoenix.

Over the years, Division One has held oral arguments at the following high schools:

Cesar Chavez H.S. (2002)
South Mountain H.S. (2002)
Central H.S. (2003)
Carl Hayden H.S. (2004)
Highland H.S. (2004)
Horizon H.S. (2005)
Queen Creek H.S. (2005)

Marcos De Niza H.S. (2006)
Dysart H.S. (2006)
South Mountain H.S. (2007)
Cesar Chavez H.S. (2007)
Shadow Mountain H.S. (2008)
Centennial H.S. (2008)
Agua Fria H.S. (2009)

Perry H.S. (2009)
Maryvale H.S. (2010)
Mesa H.S. (2010)
Moon Valley H.S. (2011)
Coronado H.S. (2011)
AZ School for the Arts (2012)

Deer Valley H.S. (2012)
Lee Williams H.S. (2013)
North Canyon H.S. (2013)
McClintock H.S. (2014)

Appellate Update Programs

Division One judges welcome opportunities to engage with members of the Bar outside the court. During 2014, teams of judges from the court presented continuing legal education programs to audiences in Yavapai County, Coconino County, Yuma County, Navajo County and Maricopa County about recent developments in civil law, criminal law, family law, juvenile law, as well as various rules updates.

Community Outreach

Division One is grateful to have generous employees who reach out to the community when not performing court duties. Many employees support local shelters with monetary and other donations. In 2014, Division One employees also continued their ongoing support for a class at Wilson Elementary School for a sixth consecutive year. Court employees provided financial support and devoted many lunch

hours to help with class programs and celebrations. Employees also participated in school supply, book, holiday gift and food drives for the children and their families. Finally, judges and other court employees frequently visit with other elementary or high school groups during organized tours of the court.

Victims Assistance

Several years ago, the court learned that the now-adult victim of a brutal child molestation case had been traumatized by the knowledge that her full name was revealed in a published Court of Appeals case issued many years before. The court contacted legal publisher Thomson Reuters and secured its agreement to substitute letters for the victim's name so she could not be identified in the online version of the decision. Volunteer court employees then searched the Thomson Reuters case database to identify other cases that included the full names of victims of personal crimes, and notified the publisher of 155 such cases. At the court's request, Thomson Reuters agreed to change the online references to omit the victims' full names. Going forward, when possible and appropriate, the court refrains from

including in its decisions identifying information concerning juveniles, victims and bystanders.

Employee Recognition

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

Throughout 2014, small awards were bestowed on various deserving employees. Additionally, in the Spring, the Committee (without public funds) hosted the fifth annual "Employee Appreciation Lunch." The Committee also selected the court's Employees of the Year for 2014, honoring employees for exemplary efforts on behalf of the court. Each employee honored received a commemorative plaque and shared use of a designated parking space. The court also used the occasion to acknowledge judges and other

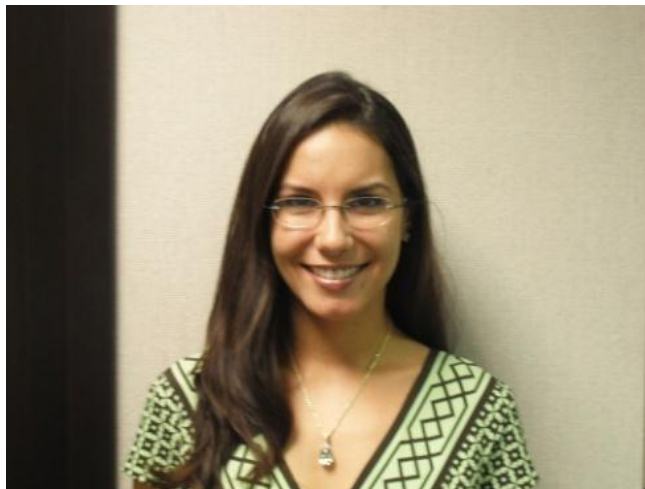
employees with 5, 10, 15 and 20 years of service with the court. Our award winners for 2014:

**Staff Attorney of the Year
Melina Brill**



(l-r: Chief Judge Diane M. Johnsen, Operations Manager Jakob Trierweiler and Staff Attorney Melina Brill)

**Judicial Staff Employee of the Year
(and) Above and Beyond Award
Jaleh Najafi, law clerk**



Clerk's Office Employee of the Year
Carlos Solano, senior desktop support specialist



(l-r: Chief Judge Diane M. Johnsen, Operations Manager Jakob Trierweiler and Carlos Solano)

Quality Customer Service Award
Shirley Bindenagel, deputy clerk

Great Idea Award
Justin Ackerman, law clerk

Value Award
Patsy Lestikow, technical services coordinator

Journey Award
Reagan Taylor, deputy clerk

Community Service Award
Janet Mathias, judicial assistant, and Ruth Willingham, Clerk of the Court

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