

OUR COURTS ARIZONA

Arizona's Judges: Selection, Retention and Accountability

Judge Samuel A. Thumma
Arizona Court of Appeals – Division One
Phoenix

Judge Kyle Bryson
Associate Presiding Judge/Presiding Probate Judge
Pima County Superior Court
Tucson

Victor Flores
Public Member
Phoenix

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OVERVIEW/INDEX

TO BE ADDED

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I. Introduction.

- A. Introduce Self and Thanks.
- B. Touch on Four Topics Today.
 - 1. Overview of Arizona's State Courts.
 - 2. How Arizona's Judges Are Selected.
 - 3. How Arizona's Judges Are Retained.
 - 4. How Arizona's Judges Are Accountable.
- C. Encourage questions throughout.

II. Overview Of Arizona State Courts.

- A. The Legislative Branch, the Executive Branch (the Governor) and the Judicial Branch are the three branches of government in Arizona (parallels the federal system).
- B. Arizona's judiciary consists of about 550 judicial officers their staff committed to getting it right, doing it once and treating everyone with fairness, respect and dignity.
 - 1. Five Justices on the Arizona Supreme Court who hear appeals by parties who are not satisfied with what happened in the trial court or the Court of Appeals.
 - 2. Arizona Court of Appeals hears appeals by parties who are not satisfied with

what happened in the trial court.

1. Division One hears cases in Phoenix, has 16 Judges and hears appeals from courts in Apache; Coconino; La Paz; Navajo; Maricopa; Mohave; Yavapai and Yuma Counties.
2. Division Two hears cases in Tucson, has 6 Judges and hears appeals from courts in Cochise; Graham; Gila; Greenlee; Pima; Pinal and Santa Cruz Counties.
3. Arizona Superior Court, the statewide trial court in all counties, has a total of 247 judicial officers, Judges and Commissioners.
4. Hundreds of other judicial officers, including:
 1. Approximately 100 Justices of the Peace;
 2. Approximately 150 Municipal Court Judges.
5. Arizona Supreme Court Justices and Judges on the Arizona Court of Appeals and the Superior Court must be 30 years

old, good moral character and admitted to practice of law in Arizona and a resident of Arizona for 5 years (Court of Appeals and Superior Court) or 10 years (Supreme Court).

6. Justices of the Peace must be at least 18 years old, registered to vote in Arizona, live in the justice court precinct and understand English. While some justices of the peace are attorneys, there is no requirement that they be attorneys.
7. Cities establish qualifications for City Court Judges.
8. There were 2,118,498 case filings in the Arizona Courts during the 12 months ending June 30, 2013.
 1. More than 1.15 million filings in Municipal Court; 760,000 in Justice Court and more than 200,000 in Superior Court.
 2. 8,473 filings every work day.

III. How Arizona's Judges Are Selected.

- A. Arizona's Judges are selected in various ways.
- B. In 1974, Arizona voters amended Arizona's

Constitution to create a merit selection and retention system to replace contested, partisan elections of judges. Arizona Constitution Article VI §§ 36, 41

1. Since then, all Arizona Supreme Court Justices, Court of Appeals Judges and Superior Court Judges in Maricopa and Pima County have been selected through the merit selection process. Pinal County just joined the merit selection process based on its population growth.
2. Merit selection is an open, transparent process involving three steps:
 - (1) People interested in being a judge on these courts submit a lengthy application to a bipartisan Nomination Commissions made up of 15 Arizonans: 5 lawyers and 10 laypeople (non-lawyers)
 - (2) Four different Commissions and the Appellate Nominating Commission is a statewide body.
 - (3) Commission receives public input and decides who to interview.

- (4) Commission interviews candidates and nominates at least three, not of the same political party.
- (5) Governor makes the selection from the list of nominees, which has to include representatives from different political parties.
- C. Superior Court Judges in all counties other than Maricopa, Pima and Pinal and Justices of the Peace are elected.
- D. City or town councils appoint city court judges, except in Yuma, where city court judges are elected.

IV. How Arizona's Judges Are Retained.

- A. Arizona's Judges are retained in a variety of ways.
- B. Arizona Supreme Court Justices and Court of Appeals Judges serve six-year terms while Superior Court Judges serve four-year terms.
- C. The Judges who are selected through merit selection (The Supreme Court Justices; Court of Appeals Judges and Superior Court Judges in Maricopa, Pima and Pinal

Counties) appear on the ballot for a retention election.

1. Not contested or partisan.
2. Question is do the voters want to keep them as judges (and if majority of those who vote on the judge vote “yes,” the judge is retained for another term).
3. In 1992, Arizona voters amended Arizona’s Constitution to create a judicial performance review commission to evaluate merit selected judges and, when they appear on the ballot for retention election, to state whether they meet specified standards. Arizona Constitution Article VI §§ 41, 42.
 - (a) Judicial Performance Review Commission has 18 members of the public, 6 attorneys and 6 judges.
 - (b) Commission conducts anonymous surveys of parties, lawyers, witnesses and jurors that appear before judges, asking about the judge’s legal knowledge and reasoning and treatment of the

parties.

- (c) Commission votes in public meeting on whether each judge meets or does not meet Judicial Performance Review standards with results published and disseminated to all voters in a publicity pamphlet, and with public online access to all JPR reports and survey data. www.azjudges.info.
- (d) Judicial Performance Review gives context for making informed decisions in retention elections and holds judges accountable.

- D. Judges in non-merit selection counties, and Justices of the Peace, stand for re-election.
 - 1. Thought is that the jurisdictions are small enough that the voters can really get to know the specific judicial officers and make an informed decision.
 - 2. Subject to various evaluations and surveys from court users.
- E. City court judges serve terms set by the city or town council, which must be at least two years.

F. Justices of the peace serve four-year terms.

V. How Arizona's Judges Are Accountable.

A. Start With How Arizona Judges Are NOT Accountable.

1. Don't decide cases based on whim, or majority vote of the parties or the public, or based on personal policy preferences.
2. Don't have a constituency of partisan voters that tell a judge how cases are to be decided.
3. Don't decide cases based on the attorneys or the parties involved.
4. Don't decide cases based on newspaper articles about the case, or letters to the editor, or blogs.
5. Very different than how the Governor makes decisions, or how Legislators, County Commissioners or City Council Members make decisions.
6. What works just fine for a popularly elected official is not how it works for judges.
7. Judges take an oath to decide cases by applying the law (Constitution, statute,

regulation or prior case) to the specific facts of the case received in court involving specific parties.

B. Bound by the Arizona Code Of Judicial Conduct.

1. Applicable to all judges.
2. Four Canons of conduct:

“A judge shall uphold and promote the independence, integrity, and impartiality of the judiciary and shall avoid impropriety and the appearance of impropriety.” Canon 1

“A judge shall perform the duties of judicial office impartially, competently, and diligently.” Canon 2

“A judge shall conduct the judge’s extrajudicial activities so as to minimize the risk of conflict with the obligations of judicial office.” Canon 3

“A judge or candidate for judicial office shall not engage in political or campaign activity that is inconsistent with the independence, integrity, or impartiality of the judiciary.” Canon 4

C. Arizona Commission On Judicial Conduct.

1. In 1970, and in 1988, Arizona voters amended Arizona's Constitution to create and refine the Commission on Judicial Conduct. Arizona Constitution Article 6.1.
2. Commission on Judicial Conduct reviews, investigates and takes action on complaints against Judges.
3. Commission has 11 members including judges, lawyers and non-lawyers.
4. Commission has jurisdiction over all Arizona judicial officers and has authority to investigate a wide variety of complaints against judges.
5. Can impose a variety of consequences, including reprimands, censures, suspensions and even removals.
6. Website: <http://www.azcourts.gov/azcjc>

VI. Strength of Arizona Judicial System As Recognized By Those Outside Of The System.

- A. November 2013 Arizona Town Hall list of 10 things Arizonans can be grateful, with the second listing “One of the best (if not the best) state court systems in the country.”
- B. Maricopa County Superior Court Judge Chris Whitten Chair of American Bar Association Judicial Division National Conference of State Trial Judges.
- C. Pima County Superior Court Judge Leslie Miller prior Chair of the same group and a member of the American Bar Association House of Delegates.
- D. Other examples.