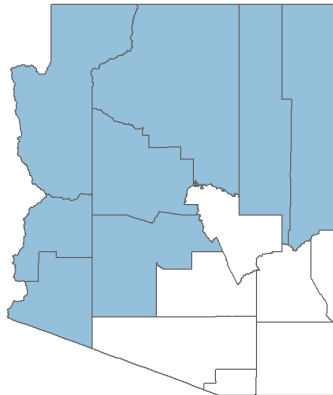




# Arizona Court of Appeals Division One

**CourTools Fiscal Year 2015**



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## **Executive 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 performance standards designed for tracking the length of time a court takes to resolve different types of cases on appeal. Because appellate cases vary greatly in difficulty and complexity, a court meets the standard if 75 percent of its cases are resolved within the applicable time period.

During Fiscal Year 2015, which ended June 30, 2015, Division One of the Arizona Court of Appeals (the “Court”) met the overall time standard for case processing of 75.7 percent of its appeals in civil, criminal, juvenile, special action, and workers’ compensation cases. As shown below, the Court met the overall time standard in 75 percent of civil cases and in 97.5 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 has always been a significant challenge because the Court has less control over such delays. During FY 2015, the Court met the overall time standard in 58.3 percent of its criminal cases. A different standard measures the point when the Court has received all of the transcripts, briefs and other records it needs to decide a case, to when the Court issues its decision in the case. Significantly, the Court met that standard in 83.5 percent of criminal cases.

## **Introduction**

The Arizona Supreme Court established the Appellate CourTools Committee in 2008 to recommend measures to track case processing by Arizona’s appellate courts using a methodology developed by the National Center for State Courts. Only a handful of appellate courts across the country have undertaken this project, and the Court is committed to gathering and publishing this information on an annual basis. Three performance measures selected by the Appellate CourTools Committee, (1) Time Standards; (2) Case Clearance; and

(3) Age of Pending Caseload, are discussed below. Also discussed are the results of the Court's biannual opinion survey of trial judges and appellate counsel.

### 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 specific reference points for certain key periods in the handling of an appellate case. In annual reports commencing with FY 2009, the Court has reviewed its performance against the selected time standards. 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 between when an appeal begins at the Court and when the Court issues its decision in the appeal.
- **“At-Issue to Disposition.”** This standard measures the length of time between when the Court has received all the briefs, transcripts and other records that are required to decide an appeal, and when the Court issues its decision in the appeal.
- **“Under-Advisement to Disposition.”** This standard measures the length of time between when a panel of judges meets to consider an appeal and when 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.

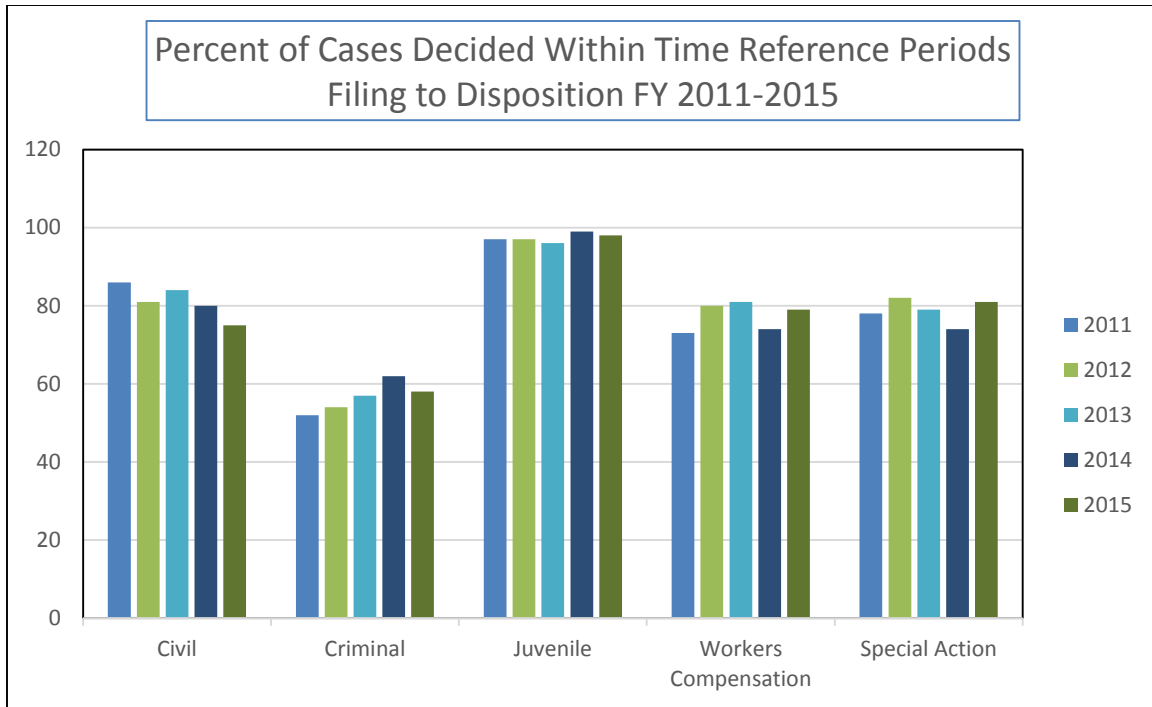
## 1. Filing to Disposition

The Court met the standard (time reference point) for filing to disposition (i.e., commencement of the appeal to issuance of a decision) in 75.7 percent of all the cases it completed during FY 2015. The table below shows, for each case type, the number of days chosen as the reference period for the time between the filing of an appeal or special action and the day the Court decides the case, and the percentage of cases that met that reference period during FY 2015:

Case Type	Reference Period (filing to disposition)	Percent of FY 2015 Cases Decided Within Reference Period
Civil	400 days	75.0%
Criminal	375 days	58.3%
Juvenile	275 days	97.5%
Workers Compensation	300 days	78.8%
Special Actions	25 days	81.0%

The table and graph below show the Court's performance with respect to these reference points during FY 2015 and in prior years.

<b>Filing to Disposition FY 2011-2015 (percent of cases, rounded, decided within reference periods)</b>					
	Civil	Criminal	Juvenile	Workers Compensation	Special Action
2011	86%	52%	97%	73%	78%
2012	81%	54%	97%	80%	82%
2013	84%	57%	96%	81%	79%
2014	80%	62%	99%	74%	74%
2015	75%	58%	98%	79%	81%



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

The Court also tracks 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”).<sup>1</sup>

The Court met the standards for at-issue to disposition in 68.3 percent of all the cases it completed during FY 2015. 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 2015:

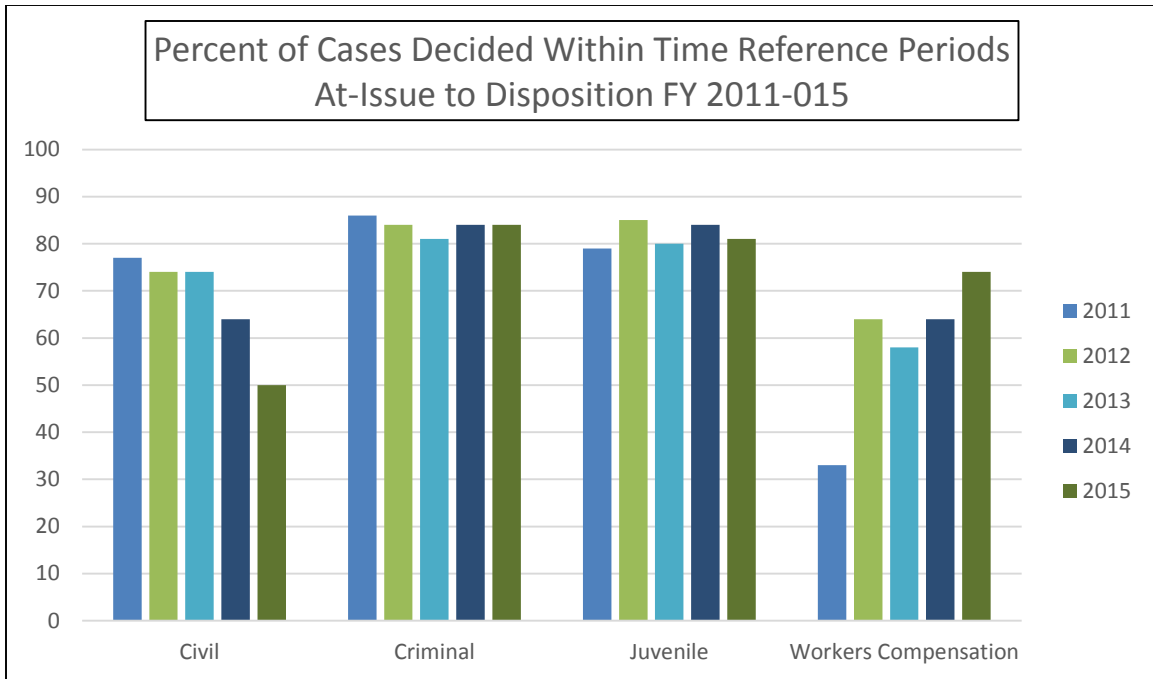
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<sup>1</sup> These reference periods are not relevant to special actions (interlocutory appeals).

Case Type	Reference Period (at-issue to disposition)	Percent of FY 2015 Cases Decided Within Reference Period
Civil	225 days	50.1%
Criminal	150 days	83.5%
Juvenile	100 days	81.3%
Workers Compensation	150 days	73.7%

The table and graph below show the Court's performance with respect to these reference points during FY 2015 and in prior years:

At-Issue to Disposition FY 2011-2015 (percent of cases decided within reference periods)				
	Civil	Criminal	Juvenile	Workers Compensation
2011	77%	86%	79%	33%
2012	74%	84%	85%	64%
2013	74%	81%	80%	58%
2014	64%	84%	84%	64%
2015	50%	84%	81%	74%



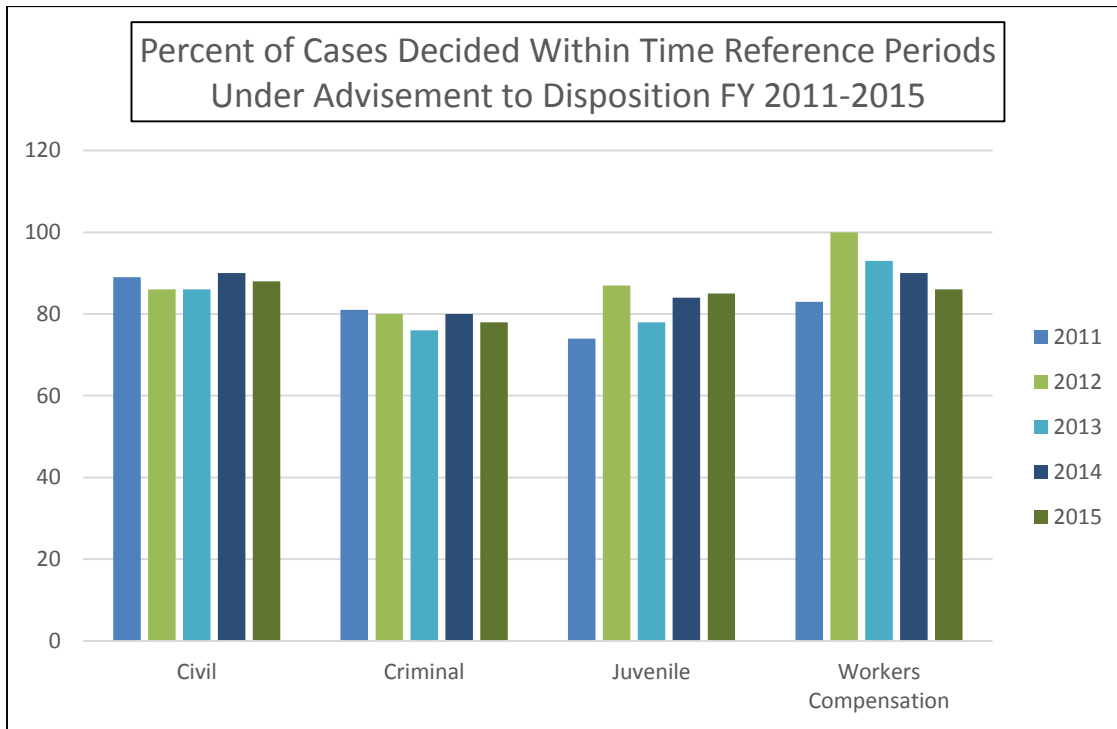
The Court met the standards for under advisement to disposition in 83.1 percent of all the cases it completed during FY 2015. The table below shows, for each case type, the number of days chosen as the reference period for the time between the day an appeal is taken under advisement and the day the Court decides the case, and the percentage of cases that met that reference period during FY 2015:

Case Type	Reference Period (under- advisement to disposition)	Percent of FY 2015 Cases Decided Within Reference Period
Civil	120 days	88.0%
Criminal	90 days	77.5%
Juvenile	40 days	84.6%
Workers Compensation	100 days	86.1%

The table and graph below show the Court's performance with respect to these reference points during FY 2015 and in prior years:



Under-Advisement to Disposition FY 2011-2015 (percent of cases decided within reference periods)				
	Civil	Criminal	Juvenile	Workers Compensation
2011	89%	81%	74%	83%
2012	83%	80%	87%	100%
2013	86%	76%	78%	93%
2014	90%	80%	84%	90%
2015	88%	78%	85%	86%



Together, the data recounted in the pages above show that compared to FY 2014, the Court saw a slight decline in FY 2015 (three and one 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 handling juvenile cases, and the number of cases resolved within the target timeframe has remained very high. Although the percentage of civil cases resolved within the target timeframes also declined five percentage points, civil cases meeting

the target were well above the 75 percent goal. Workers compensation and special action cases both saw significant improvements at eight and five percentage points respectively.

Timely handling of criminal cases continues to present a challenge, due in large part to delays in receiving of trial court records, transcripts and briefs. The Court resolved 58 percent 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 trial court records and transcripts have been received and briefs have been filed. Moreover, the Court resolved 78 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 superior court seem to cause court reporters continued difficulty in completing the official transcripts of criminal court proceedings in a timely fashion. The Court closely tracks deadlines for transcripts and orders tardy court reporters to appear at “show cause” hearings held twice a month to attempt to reduce this delay. The Court has continued to work collaboratively with superior court personnel, including court reporter supervisors, to resolve delays in the filing of transcripts. Significantly, in March 2015, the Court issued an administrative order outlining updated policies to address the circumstances in which the Court allows additional time for the filing of transcripts in criminal appeals.

The Court also has taken steps to reduce continuances granted to counsel for the submission of appellate briefs. In January 2015, the Court issued an administrative order outlining updated policies for

criminal appeals, and addressing requests for extensions of time for filing briefs and requests to supplement the record on appeal, with the goal of reducing unnecessary delays in the appellate process. However, constitutional due process requires a careful review of the trial record by appellate counsel and by the Court for criminal appeals. 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 some 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 short, constitutionally mandated due process requirements for criminal appeals may extend the time until the appeal is considered at issue.

A final note about the percent (73.7) of workers compensation cases that met the time reference period for at-issue to disposition. The court was able to resolve 86.1 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 a timely fashion.

## **B. Case Clearance**

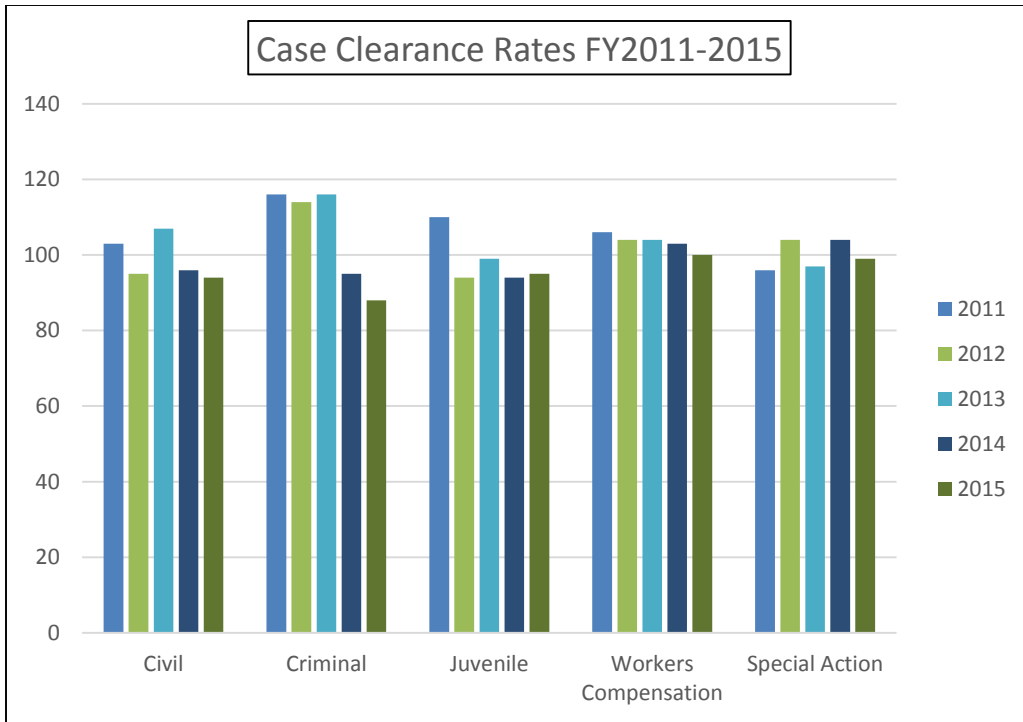
“Case clearance” measures the number of cases decided in a fiscal year as a percentage of the number of new cases filed that year. The purpose of the measurement is to assess the number of “older” cases the Court is resolving at the same time as it decides newly filed matters. The case clearance percentage for all types of cases that the Court completed during FY 2015 is 93.5 percent.

In FY 2015, the Court achieved the following case clearance rates:

Case Type	Case Clearance Rate FY 2015
Civil	94.1%
Criminal	87.8%
Juvenile	94.9%
Workers Compensation	100%
Special Action	99.4%

The table and graph below show the Court's case-clearance performance during FY 2015 with prior years:

Case Clearance Rates FY 2011 - 2015					
	Civil	Criminal	Juvenile	Workers Compensation	Special Action
2011	103%	116%	110%	106%	96%
2012	95%	114%	94%	104%	104%
2013	107%	116%	99%	104%	97%
2014	96%	95%	94%	103%	104%
2015	94%	88%	95%	100%	99%



These data show that, compared with FY 2014, the court’s case clearance rate was slightly down overall, and slightly down in every case category except for juvenile.

### C. Age of Pending Caseload

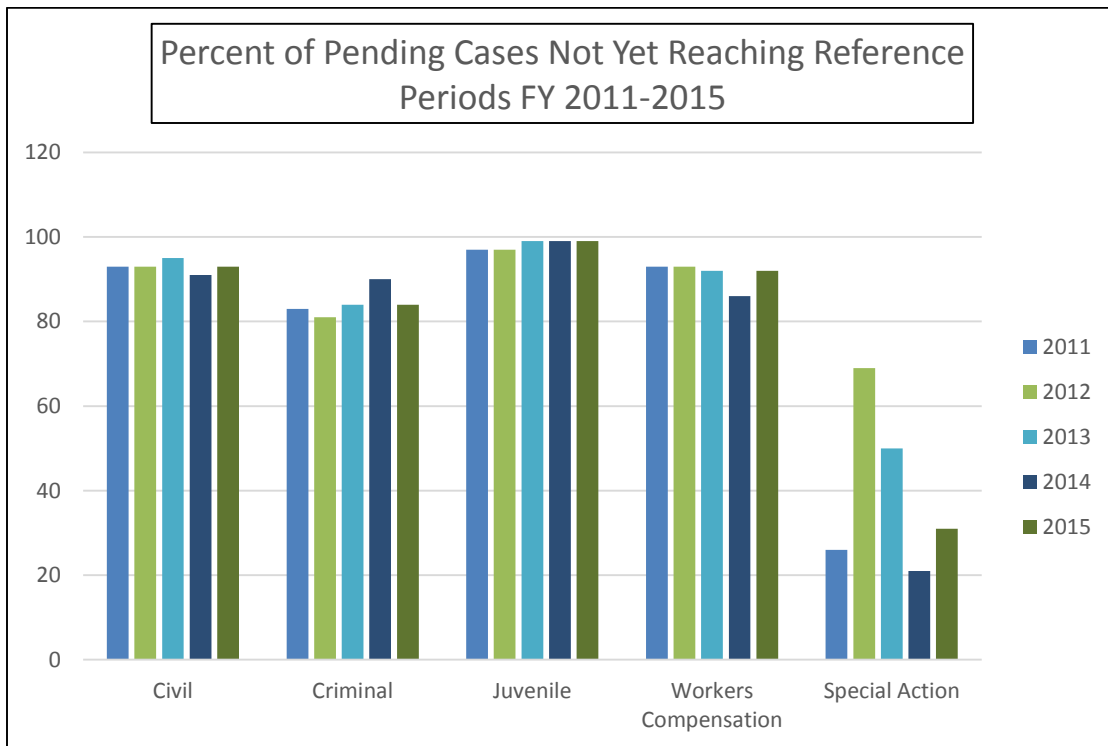
This measurement is intended to provide information about the age of the Court’s complement of pending cases. It calculates the percentage of cases pending at the end of a fiscal year that had not reached the time reference points described above.

The percentage of all cases pending at the end of FY 2015 that had not reached the time reference points was 89 percent.

Broken down by case types, the data show:

Percent of Pending Cases Not Yet Reaching Reference Points FY 2011 - 2015					
	Civil	Criminal	Juvenile	Workers Compensation	Special Action
2011	93%	83%	97%	93%	26%
2012	93%	81%	97%	93%	69%
2013	95%	84%	99%	92%	50%
2014	91%	90%	99%	86%	21%
2015	93%	84%	99%	92%	31%

Percent of Pending Cases Not Yet Reaching Reference Points  
FY 2011-2015



These data show that at the end of FY 2015, 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 “strongly disagree.” The most recent survey was conducted in 2015, when responses were received from 318 individuals, or 27 percent of those surveyed. Results of the 2015 survey are shown below, along with results of the same survey conducted in 2011 and 2013.

Survey Question	2011- Results <sup>2</sup>	2013- Results <sup>2</sup>	2015- Results <sup>2</sup>
The Court resolves its cases expeditiously.	72%	76%	71%
The Court renders decisions without any improper outside influences.	94%	94%	93%
The Court considers each case based upon its facts and applicable law.	87%	88%	85%
The Court’s written decisions reflect thoughtful and fair evaluation of the parties’ arguments.	84%	86%	81%
The Court’s written decisions clearly state the applicable legal principles that govern the decision.	87%	90%	87%

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<sup>2</sup> 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 inform the trial courts and parties of what additional steps, if any, must be taken.	85%	89%	89%
The Court's written decisions treat trial court judges with courtesy and respect.	97%	97%	97%
The Court treats attorneys with courtesy and respect.	94%	94%	95%
The Court is procedurally and economically accessible to the public and attorneys.	91%	86%	84%
The Court effectively informs attorneys and trial judges of its procedures, operations, and activities.	92%	89%	89%
The Court's website is a useful tool.	90%	90%	92%
The Court's Clerk's office responds well to inquiries.	95%	96%	96%
It is useful to have memorandum decisions available for review on the Court's website and through Westlaw.	98%	96%	100%

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) treats trial court judges and attorneys with courtesy and respect; (3) provides a useful website; (4) has a responsive clerk's office; and (5) assists the public by making its memorandum decisions available for online review. The number of respondents with an opinion who strongly agreed or agreed that it is useful to have memorandum decisions available for review on the Court's website and through online research sites rose in 2015 by four percentage points to 100 percent. This may be in part that effective January 1, 2015, the Arizona Rules of



Court were amended to allow parties to cite to the Court's memorandum decisions in certain circumstances.

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