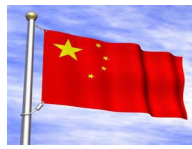


ACCESS TO JUSTICE



A LIVE BROADCAST EVENT HOSTED BY
PEORIA MUNICIPAL COURT IN ARIZONA, USA
& TULANE LAW SCHOOL IN NEW ORLEANS, LOUISIANA, USA



WELCOME TO OUR VISITING CHINESE JUDGES & OTHER COLLEAGUES

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Program & Content Overview Equal Justice for All

Each of your presenters and the vignettes presented today are intended to introduce you to some legal concepts, often complimentary, sometimes in conflict, of providing access to justice for all. Much accommodation is made for self-representing litigants including that attorneys and clients may limit the scope of agreed representation and that courts may offer forms and instructions for many case-types wherein perhaps a litigant might proceed without counsel ("pro se" or "pro per"). In Arizona, we have quite the combination of resources for those proceeding with limited scope attorney representation, full attorney representation, and *in propia persona* all on equal footing.

With kind wishes from Arizona,
Honorable Presiding Judge George T. Anagnost
Attorney Catherine Jiang, Ph.D.
Mr. Patrick Scott
Attorney & Judge *Pro Tem* Debbie Weeks

The Right to A Court-Appointed Attorney

Imagine the taxpayer burden if everyone were assigned an attorney automatically for every case type or situation! To place this in perspective, consider these statistics provided by the Superior Court (which handles felony crimes, guardianships and conservatorships of adults and minors, and cases in the areas of probate, family, tax, and juvenile).

From <http://www.clerkofcourt.maricopa.gov/news/CaseHistoryIndex.pdf> we get a glimpse of case loads, and this does not even include municipal, justice, appellate, or federal district or bankruptcy courts: In 1871, the Superior Court of Arizona reports seven civil cases. In comparison, through the end of year 2014, the same court reports 26,059 new civil court case filings. In 1879, the Superior Court of Arizona reports six criminal cases. In comparison, through the end of year 2014, the same court reports 39,058 new criminal court case filings. The Arizona Territorial Legislature, at the time of Statehood and for some years thereafter heard divorce (marital dissolution) cases, later by the Superior Court as part of the “civil court” case count. So, comparatively, in 1933, the Superior Court of Arizona reports 580 divorce cases. For year 2014, 33,394 new family court cases were filed.

One may always retain counsel independently, at his own expense. But as to the obligation of a court to appoint an attorney, it would falsely appear to many readers that there is always such obligation, based upon a plain read of constitutional provisions.

For example:

U.S. Constitution, Am.VI: “In all criminal prosecutions, the accused shall enjoy the right to ... have the assistance of counsel for his defense.”

Ariz.Consti., Art.2, Sec.24 also preserves this right and substantively expands protections to the accused as a matter of state constitutional right including: “.. to appear and defend in person, and by counsel, to demand the nature and cause of the accusation against him, to have a copy thereof, to testify in his own behalf, to meet the witnesses against him face to face, to have compulsory process to compel the attendance of witnesses in his own behalf...”

Again, we rely upon appellate court cases for our interpretations.

- In the criminal context there is a right to a court-appointed attorney but only in cases wherein physical liberty is in jeopardy AND if the defendant is indigent.
- In a civil context there is a right to court-appointed attorney only in very limited circumstances. Some examples may include when there will be severance by the State of a constitutional right, such as in the case of terminating parental rights or when a “civil” proceeding may result in loss of liberty, such as for a minor facing a juvenile delinquency charge or a mental health patient facing a civil commitment.



Trial by Jury

A common *misconception* is that *all* defendants, whether in a civil lawsuit or in a criminal charge, will have a right to a jury trial. Assuring fairness and due process are paramount, but this will not always include a jury trial.

For today's discussion, these constitutional sources of law should be a helpful start to our analysis:

U.S. Constitution, Am.VI: "In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law ... "

U.S. Constitution, Am.VII: " In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise reexamined in any court of the United States, than according to the rules of the common law."

Arizona Constitution, Art.2, Sec.24 also preserves the right in criminal cases to have a speedy public trial by an impartial jury of the county in which the offense is alleged to have been committed, .."

Further, constitutional grants include in the Arizona Constitution, such as **Art.2, Sec.17** grants a right to trial by jury to determine the compensation for a governmental taking of one's real property (eminent domain). **Art.18, Sec.5** grants a right to jury trial in cases whereby defenses of contributory negligence or assumption of risk are asserted.

The source of law determines whether one has a right to a trial by jury or not. For instance, sometimes a legislative provision provides a right to trial by jury; that is, based upon a law passed by Congress (federal, United States Code) or by a state legislature (such as in the Arizona Revised Statutes). Other times, the appellate courts may have found that there is a "common law antecedent" preserved at the inception of the U.S. or a state's constitution.

For some in-depth conversation on the right to trial by jury, including the historical antecedents, when there is or is not a right to trial by jury in both civil and criminal cases, and so forth, please log on for these further readings:

Arizona Attorney, Anagnost,
**"Trial by Jury and 'Common Law' Antecedents
– What hath Derendal Wrought?"** (November 2006) at:
http://www.myazbar.org/AZAttorney/PDF_Articles/1106TrialbyJury.pdf

Arizona Attorney, Weeks,
"Sure You Have a Right to a Jury Trial. You Think. Maybe." (November 2006) :
http://www.myazbar.org/AZAttorney/PDF_Articles/0410juryright.pdf

Technology

During our discussion today, we will provide an overview of these developments:

- court automation projects
- electronic filings, scanning and going paper-less
- self-service and on-line forms
- public access, interactive websites, voice recognition
- payments on line and by phone, electronic agency reporting

The Arizona Supreme Court has a Commission on Technology and dedicated staff members who are tasked with keeping up with technology. As a result of ongoing efforts and investment, the trial and appellate level courts are provided with technological enhancements so that there is uniformity among many judicial and staff computer applications. The technology also permits an array of self help centers with forms and instructions in PDF, Word, "EZ" court form (filling in fields), and so forth. You may explore several of these free databases including with translations from:

- <http://www.superiorcourt.maricopa.gov/SuperiorCourt/Self-ServiceCenter/> with forms and instructions for frequently used processes and mostly, for those who will not most likely retain an attorney. These commonly accessed areas of law include domestic violence, paternity, divorce, landlord-tenant, guardianship, conservatorship, and decedent estate cases. In legal areas wherein it is more complex to proceed without an attorney, tax and civil lawsuit forms are provided but to a lesser extent. Other choices of form are available at:
<http://www.azcourts.gov/SelfHelp.aspx>
- Several governmental cites make readily available basic formats of "powers of attorney," or documents whereby one might designate a third party to handle his/her affairs, or for a parent or guardian to delegate authority to a third party for a limited time period. For example, at:
 - <http://www.superiorcourt.maricopa.gov/SuperiorCourt/Self-ServiceCenter/Forms/PowerOfAttorney/index.asp>.
 - <http://www.superiorcourt.maricopa.gov/SuperiorCourt/Self-ServiceCenter/Forms/PowerOfAttorney/index.asp>
 - https://www.azag.gov/sites/default/files/sites/all/docs/lifecare/2015/LCP_Fillable_Packet_2015.pdf

If you wish to further your research on self-help and public access concepts, you may watch instruction in English, click on Self-Help and Educational Videos at
<http://www.superiorcourt.maricopa.gov/SuperiorCourt/Self-ServiceCenter/>

"Specialized Courts"

The Trend To Address Specialized Social Needs Through Law

The Superior Court of the State of Arizona has established some specialized courts by which criminal defendants' cases may be transferred from the general population of like-charged cases to a specialty area. The concept is to encourage successful rehabilitation while assuring that sentences imposed are served, hopefully by addressing underlying social, psychological, or mental health affliction and reducing recidivism. Here are some examples.

1. **DUI Court.** The specialty court to combat driving under the influence of alcohol or drugs ("DUI" or "DWI") was first formed with funds provided by the National Highway Traffic Safety Administration, the United States Department of Justice, and the National Institute on Alcohol Abuse and Alcoholism. Since its inception in 1988, the program has seen growth in popularity and success. It involves components such as abstaining from alcohol and drug use, counseling, attending Alcoholics' Anonymous and a DUI Victim Impact Panel program, attending court regularly and reporting to probation officers regularly, and of course, random substance abuse and alcohol testing. Read more at:
<http://www.superiorcourt.maricopa.gov/mediarelationsdepartment/docs/brochures/duicourt.pdf>
2. **Maricopa County Regional Homeless Court** began as a collaborative effort of some large cities' courts in 2006. The MCRHC may hear any case transferred to it by a municipal or justice of the peace court, with a goal of addressing misdemeanor charges and warrants for homeless residences who commit to end homelessness with assistance. "MCRHC combines punishment with treatment and services in rigorous supervised rehabilitation programs which typically exceed the sentencing requirements of similarly convicted defendants adjudicated in the normal court process." Learn more at:
<http://www.superiorcourt.maricopa.gov/superiorcourt/homelesscourt/index.asp>
3. **Maricopa County's Adult Probation Drug Court** program provides tailored methods to encourage drug treatment, educate offenders, and enforce post-conviction sentencing. To read more about this team approach to rehabilitation, please log on at:
<http://www.superiorcourt.maricopa.gov/adultprobation/adultprobationinformation/substanceabuse/drugcourtprogram.asp>
4. **Veterans' Court** began in January 2011, as the result of law enforcement, veteran groups, and other social service agencies combining efforts to assist veterans transitioning back to civilian life. More information is available at:
<http://www.superiorcourt.maricopa.gov/Search/index.asp?q=veterans+court>



Peoria Municipal Court Video on the Court System
Translation by Catherine Jiang

大家好，欢迎观看皮奥里亚法庭介绍。

在这个节目里，我们将首先简单介绍一下州法庭系统，然后介绍地方法庭审理的案件种类。首先我们介绍一下本州各级法庭系统。

跟大多数的州一样，亚利桑那拥有四级法庭系统。犹如金字塔，级别越高，法庭的法官人数越少，审理的案件数越少。亚利桑那州高级法庭是本州最高级别的法院。法庭有五位大法官组成，由州长任命，任期为六年。这种任命程序意味着，法律事务委员会首先推荐候选人，选民们可以对于推荐的候选人发表意见。当某位大法官任期届满时，由选民投票决定是否能够连任还是更换。

对于绝大多数的案件而言，亚利桑那州高级法庭是上诉庭。案件要通过复核诉求才能进入高级法庭。这就意味着高级法庭对于是否复核下一级上诉庭和初级法庭的裁决拥有自主权，而没有接受和复核案件的义务。跟大多数的州以及美国联邦高院一样，只有那些触及宪法的案件，以及需要帮助下面各级法庭澄清重复出现的法律问题时，案件才会被接受。

在一些个别情形下，比如，死刑案以及一些涉及政府部门的案件可以直接依据申诉权由高级法庭复核审理。也就是说，高级法庭必须接受和复核审理这类案件。

最后，少数情形下，当案子涉及郡政府或者州政府官员的时候，高级法庭可以直接审理整个案件。

高级法庭的下面是上诉庭。亚利桑那上诉庭是上个世纪六十年代通过修改州宪法形成的法庭，目的是为了适应越来越多的案件和提供不通过高级法庭就能澄清法律问题有效途径。这一中间级别的法庭起着过滤的作用，使得很多的案子在上诉庭得以解决，从而减少到达高级法庭的案件数。

上诉庭有两个分庭，一个坐落在菲尼克斯，另一个坐落在图森。在上诉庭，由三位法官组成的审理组称作“部门”。

拥有普遍管辖权的是初级法庭。在亚利桑那，每一个郡都有一个初级法庭。初级法庭的法官任期为四年。初级法庭对于民事，不动产纠纷，界定权益或者禁令诉求，大于一万美金的合同纠纷，刑事犯罪，呈递到初级法庭的轻罪，家庭婚姻纠纷，少年法，领养，遗产，以及税务相关的案件拥有管辖权。初级法庭也同时是有限管辖权法庭的上诉庭。

我们现在要讲的就是这四级法庭系统中的最后一个。在亚利桑那法庭系统中最下面的是有限管辖权法庭，有治安法庭和地方法庭。

有限管辖权的意思是审理案件的种类是有本州的法规条例定义的。在亚利桑那州有82个治安法庭和82个地方法庭，这些法庭审理的案件占全州审理案件的百分之八十。这些法庭所收的罚款和各种费用是整个法庭系统的主要收入来源。

治安法庭和地方法庭，或者叫市级法庭，审理的案件类似但是也有一些区别。地方法庭或者叫市级法庭对于跟城市的各种法规，交通法则，刑事轻罪，禁令等有关的案件拥有管辖权。治安法庭对于以上案件种类有管辖权以外，对一万美金以下的，合同以及房东房客间的纠纷拥有管辖权。治安法庭还可以对重罪进行预审听证，之后将能够以重罪起诉的案件移交给初级法庭。

亚利桑那州的州法同时也设立了另一种通常称为行政法庭和行政法官的法庭和法官。行政法庭审理工伤法，以及跟各类职业执照，和产业安全标准有关的案件。依据不同的本州法规，一些行政法庭审理的判决结果可以在初级法庭或者上诉庭要求进一步的司法复审。

了解法官任命的方式会有助于对治安法庭和地方法庭的理解。治安法庭所在的地区称为选区，法官由选区的选民选出，任期为四年。地方法庭的法官一般由市长或市议会任命，一般任期为两年。

最后，说明一下州法庭和联邦法庭之间的关系。美国宪法设立了双轨式联邦制度。这意味着存在两个平行的管辖权系统。一个系统是，如果联邦议会允许州法庭拥有并行的管辖权，州法庭依据州法审理，联邦法庭依据联邦法审理。

另一个系统是，联邦法庭依据美国宪法或者联邦议会立法而制定的联邦法审理。一些联邦法特别明示联邦法庭对于某些类型的案件拥有全部的管辖权。州法庭判决的案子可以通过一个更复杂的，类似于州法庭司法复核的程序，以诉状移送令的方式呈递到联邦最高法院，由联邦高院自主决定是否接受审理。

我们观看了亚利桑那州从上到下的最高法庭，上诉庭，初级法庭，和有限管辖权法庭。现在我们再看皮奥里亚地方法庭所审理的案件。

如前面所讲，皮奥里亚地方法庭对民事，刑事，交通违规，轻罪，违反城市法规，以及禁令等的案件有管辖权。为了提供一个顺畅的案件管理和更好的服务，法庭将第一次出庭，庭审前程序，民事听证一般安排在一周的前半部分，庭审和偶尔的陪审员审理安排在一周的后半部分。同时，法庭每天对于那些在晚上被捕的，或者依据皮奥里亚地方法庭所签发的逮捕令而被带到马里克帕郡拘留所里的嫌疑犯进行预审听证。

总而言之，皮奥里亚地方法庭辛勤地为社区服务，同时为协助所有参与在法庭系统的各方尽其之力。谢谢您观看。希望对您有帮助。

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<http://youtu.be/ghoHRHzBq5g>