

As of July 1, 2015, the Maricopa County Superior Court has a designated court for commercial litigation – appropriately called the Commercial Court.

Composed of three judges who all have backgrounds in commercial litigation, the Commercial Court is designed to resolve controversies either between business organizations or within a business organization. It will provide a specialized forum with expertise in commercial case discovery, the disclosure and use of electronically stored information, commercial case motion practice, and the other more complicated aspects of complex commercial litigation.

Under new Arizona Rule of Civil Procedure 8.1, the Commercial Court will hear cases in which (1) at least one plaintiff and one defendant are business organizations, (2) the primary issues of law and fact concern a business organization, or (3) the primary issues of law and fact concern a business contract or transaction. New cases that qualify under the rule to be filed in the Commercial Court must be designated for that court.

The rule casts a broad net over potential disputes, but there are some limitations. First, some cases – e.g., a breach of contract for the sale of goods – will require a \$50,000 amount in controversy in order to be assigned to the Commercial Court. Second, certain types of cases are not eligible for assignment to the Commercial Court, such as evictions, condemnation, or torts involving physical injury.

Commercial Court cases will likely involve active case management, with greater judicial participation in case planning and quicker and more efficient resolution of discovery disputes and scheduling issues. Regular case management conferences and other communications should enable the Commercial Court judges to ensure, among other issues, that all parties have agreed to a framework for the disclosure and production of electronically stored information and that discovery and scheduling issues are promptly addressed. Rules like this, as well as having judges with experience and special expertise in commercial litigation, should help resolve commercial disputes more efficiently.

The Commercial Court was established as a pilot program, patterned after similar courts in other states, and will operate for the next three years, after which its status will be reviewed. With its business-oriented litigation practice, our Phoenix office anticipates that it will appear regularly in the new Commercial Court.

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