

# Arizona

**Phoenix remains the state's most important legal hotspot, with the city's metropolitan area's population increasing by 45 percent from 1900 through 2000, making it the second-fastest growing state in the US in the 1990s. Now, the population is reported to be at more than 4.1 million, up from the 2000 census of more than 3.2 million. Most litigation in the state is centered on real estate and construction work, as well as a spike in intellectual property law.**

## Highly recommended firms

Although its Phoenix office boasts a majority of the firm's 190 attorneys, **Fennemore Craig** utilizes a further presence in the state with offices in Tucson and Nogales. A strong corporate practice bolsters the litigation department. The firm's commercial litigation group consists of about 30 lawyers practicing a broad range of commercial litigation.

In a recent land-fill dispute, the firm obtained a "great" settlement for their client, the amount of which is confidential. In another, three-week, jury trial, attorneys Randall Jeffries and Louis Lopez represented Desert Mountain high-end homes in a case against Liberty Mutual, resulting in a jury verdict of \$500,000. The firm represented the City of Phoenix in its largest client victory in a case where defendants argued tax breaks given to developers violated the state Constitution. Attorneys Timothy Berg and **Andrew Federhar** obtained summary judgment in favor of the city, allowing development to proceed and a ruling stating every aspect of the city's doings were appropriate. Peers frequently mention Federhar as a top-notch litigator, his practice encompassing areas of general commercial litigation, insurance coverage and government contracts. Firm clients include Allied Waste Industries, Southwest Airlines, Raytheon, PSS World Medical and Cleveland-Cliffs.

For more than 50 years, **Lewis & Roca's** broad spectrum of litigation services has grown to include securities, intellectual property, white-collar criminal defense and class-action work. The firm's white-collar practice is famous for its Indian gaming expertise. In a recent case, the firm sued Jack Abramoff and others under the Racketeer Influenced and Corrupt Organizations Act for allegedly attempting to keep the Alabama-Coushatta Tribe from obtaining the right to conduct gaming on its land. Lewis & Roca's gaming practice group and related national tribal affairs group represents clients throughout the Southwest US and Pacific Northwest.

Star litigator **Peter Baird** has taken on a variety of matters in his years of trial

experience. His commercial litigation prowess and professional liability experience range from securities and antitrust work to religious rights matters. Recently, he represented a national retailer in regional mall lease litigation. Viewed as a central figure in the state's commercial litigation market, competitors call Baird a "great lawyer" and certainly the firm's "leader."

The addition of Edward Novak, formerly of Quarles & Brady, has bolstered the reputation of **Mariscal Weeks McIntyre & Friedlander** in the Arizona legal marketplace. Novak, along with Zachary Cain, recently represented an individual charged in a healthcare fraud indictment alleging numerous insurance company victims and hundreds of thousands of dollars lost. After several federal and state agencies investigated the case, the firm was able to obtain a dismissal of all counts during the pretrial phase of proceedings. The firm also succeeded in representing landowners in a condemnation case against the Arizona Department of Transportation. The jury brought a verdict exceeding the state's \$9 million offer. Aside from healthcare and condemnation work, peers recommend the firm for its product liability, insurance and antitrust expertise. With a single office in Phoenix, Mariscal Weeks represents clients in Arizona, Utah, California, Nevada and Texas with a team of more than 30 litigators. Clients include U-Haul, First American Title Insurance Company and Cal-Am Properties.

Partner **Gary Birnbaum** is known throughout the region as a leader in commercial litigation, real estate work and alternative dispute resolution. He recently assisted the representation of a major law firm in a legal malpractice case that brought a jury verdict in excess of \$1 million. Birnbaum, along with fellow star **Timothy Thomason**, represented another firm in a \$25 million legal malpractice case. The matter resulted in a dismissal of all claims after exclusion of the adverse standard of care's expert opinion. Thomason's practice tends to focus on general commercial litigation and insurance work. With more than 22 years of litigation experience, he, along with

## Leading litigation firms

### Highly recommended

Fennemore Craig

Lewis & Roca

Mariscal Weeks McIntyre & Friedlander

Osborn Maledon

Perkins Coie

Snell & Wilmer

### Recommended

Bryan Cave

Gallagher & Kennedy

Quarles & Brady

Rusing & Lopez

Squire Sanders & Dempsey

***"Viewed as a central figure in the state's commercial litigation market, competitors call Baird a 'great lawyer' and certainly the firm's 'leader.'"***

*-Peter Baird of Lewis & Roca*



## Local litigation stars

Peter Baird  
Lewis & Roca

Gary Birnbaum  
Mariscal Weeks McIntyre & Friedlander

Paul Eckstein  
Perkins Coie

Andrew Federhar  
Fennemore Craig

Joseph Mais  
Perkins Coie

William Maledon  
Osborn Maledon

Don Martin  
Quarles & Brady

Michael Rusing  
Rusing & Lopez

Timothy Thomason  
Mariscal Weeks McIntyre & Friedlander

Birnbaum, are known as “good guys” and “the main guys from Mariscal Weeks.” Clients commend these stars, and the firm as a whole saying, “They understand our business and the results we are looking for.”

With more than 30 litigators in its sole office in Phoenix, veteran firm **Osborn Maledon** is known for its ability to maintain a boutique feel, but take on high stakes national litigation matters, especially in general commercial and white-collar arenas. The firm holds a national reputation for complex commercial litigation expertise. Recently, the firm achieved results defending Continental Airlines in a securities fraud class action in which the airline, along with several others, allegedly artificially inflated the price of America West Airlines stock. After filing a summary judgment motion, lawyers achieved a complete victory for Continental. Plaintiffs agreed not to appeal the airline’s summary judgment victory and the remaining defendants later settled.

Longtime client Honeywell International recently scored a huge victory with the firm in a case involving a breach of contract claim. The firm obtained a favorable decision from the US Court of Appeals for the Ninth Circuit in connection with a ruling in Honeywell’s favor in a multi-million dollar claim brought by a Mexico-based air transport company. The firm succeeded in a multi-national effort to seize assets from a group of individuals and companies that attempted to defraud Honeywell. In addition to complex litigation, Osborn Maledon continued to represent the company in its environmental litigation matters stemming from its aerospace facility adjacent to the Phoenix Sky Harbor Airport.

Leading the pack is marquee attorney **William Maledon**, who competitors call “a very good lawyer.” Recognized as one of the leading commercial litigation and trial attorneys in the state by peers, Maledon’s broad practice includes antitrust and securities litigation, as well as a sports law practice that saw representation of the PGA Tour among other sports entities. “We will go to Bill Maledon if it’s an especially high-profile case,” says one client. In a recent matter, he represented longtime client WL Gore & Associates in a defense of a patent infringement claim brought by a large competitor. In an ongoing matter, Maledon represents AstraZeneca in a large antitrust class action brought against the pharmaceutical industry as the client alleged the industry agreed on a common pricing scheme for its prescription drugs. He also acts as liaison counsel on behalf of all defendants in the suit. The case is expected to last for several years. Keeping busy in the firm is David Rosenbaum, who was active in the firm’s matters for Honeywell and Continental. Clients commend him on his client relations, expertise, timeliness and initiative in managing litigation. Other firm clients include Arizona State University, Boeing and Monitronics International. “Osborn is at the top of its game,” says one client. “They are smart, very practical and efficient.”

In Arizona, Perkins Coie goes by **Perkins Coie**

**Brown & Bain** after the 2004 merger with local firm Brown & Bain. A nationally recognized presence known by peers for its complex litigation abilities, commercial work and labor and employment practice, the firm’s Phoenix office is equipped to take on a full range of cases. Peers agree that the firm has certainly “increased its profile in commercial litigation.” Intellectual property, with an emphasis on patent work, antitrust and securities are some of the office’s specialties. Peers praise **Paul Eckstein**, the “dean of the litigation bar,” for being at the top of his game. Recognized by sources for his broad practice focused on civil litigation, Eckstein worked on matters ranging from legal malpractice to Indian law. His clients include Honeywell International and the Colorado River Indian Tribes.

Also recognized by peers as a leader in the Southwestern legal market is **Joseph Mais**, the firm’s former managing director for the past nine years. Now a member of the firm’s management and executive committees, Mais handles matters related to general commercial work, securities, corporate governance and intellectual property. Peers also commented on Michael Clyde, a partner with more than 30 years antitrust, securities, professional liability and complex litigation expertise. As co-chair of the firm’s securities and corporate governance practice, Clyde currently works on cases pending for Del Monte and Deloitte & Touche, the latter involving a derivative action alleging breach of fiduciary duties and other misconduct.

**Snell & Wilmer**, with more than 400 attorneys and six offices, has remained the largest firm in Arizona and one of the largest in the west for quite a while. With its two state offices in Phoenix and Tucson, the firm is able to exercise authority within the state’s legal marketplace. Since its inception in 1938, Snell & Wilmer involves itself in the state’s most significant litigation matters. Now, the firm has offices throughout the region, in states such as Utah, Colorado, California and, most recently, Nevada. While boasting a full-service litigation practice, the firm is known for its strength in securities work. One peer said the firm is “competing strongly” in commercial litigation.

Managing Partner John Bouma is hailed as a “very fine lawyer” by competitors. His practice concentrates on complex commercial litigation, including work on antitrust, commercial and business torts, as well as alternative dispute resolution. Also recognized as a strong presence in the firm is partner Daniel McAuliffe, whose complex commercial litigation practice focuses on antitrust, construction and lender liability matters. Peers refer to him as a “very solid litigator.” A select few of the firm’s practitioners are described as “gentlemen, but tough competitors as well.”

### Recommended firms

Missouri-based **Bryan Cave** established its presence in Arizona with the introduction of its Phoenix office in 1987. A team of more than 50 litigators populate an office equipped to handle

## Future stars

Brian Cabianca  
Squire Sanders & Dempsey

Spencer Cashdan  
Mariscal Weeks McIntyre & Friedlander

George Chen  
Bryan Cave

Scot Claus  
Mariscal Weeks McIntyre & Friedlander

Gerald DaRosa  
Bryan Cave

Timothy Eckstein  
Osborn Maledon

Kelly Flood  
Shughart Thomson & Kilroy

Rebekah Francis  
Shughart Thomson & Kilroy

Mark Hummels  
Osborn Maledon

Theresa Vella  
Taft Stettinius & Hollister

a broad range of litigation matters, with specialists in general commercial work, insurance and environmental issues. Managing partner Lawrence Scarborough is known in the area for his antitrust, class-action and contract litigation work, while partner Steven Hirsch established himself on the commercial and real estate litigation fronts. Clients praise Scarborough as a “great, great lawyer.” The firm has strengthened its team with the recent addition of partner Jay Zweig, a lateral hire from Gallagher & Kennedy. Zweig now heads Bryan Cave’s labor and employment practice group. Peers note Alex Grimsley with a “very good and successful” appellate practice.

Hirsch and Rodney Ott recently represented Miller Park in a condemnation case resulting in an award of more than \$6 million. At issue was the value of a 15.6 acre corridor taken across a 200-acre parcel owned by their client in Buckeye, Ariz. In 2005, a jury awarded Miller Park \$4.71 million for taking of the land. Miller Park also sought recovery of its expert fees and double costs. The US Court of Appeals for the Ninth Circuit and the Arizona Supreme Court upheld the sanctions and awards, a rarity in the Arizona legal system. Another recent case of note includes the office’s representation during the trial and successful defense of appeal in which an unidentified client was awarded a \$4.7 million verdict against an electrical transmission utility company in the state. Other firm clients include Boeing, State Farm Insurance and the Arizona Water Company.

Southwestern firm **Gallagher & Kennedy** is known as the “longtime local firm” in the area for its white-collar and environmental work. Founded in 1978 by Michael Gallagher and Michael Kennedy, the firm has grown over the years into a full-service business law group with offices in Phoenix, Prescott and Santa Fe, NM. Clients range across the spectrum of business areas, with the firm representing PetSmart, Discount Tire Company and the Arizona Diamondbacks. Kennedy is known by sources for frequently representing the Diamondbacks and Arizona Cardinals in high-stakes litigation, as well as recent multidistrict work for an Arizona-based national retailer regarding defective product claims.

In recent litigation, Brian LaCorte and Donna Catalfo scored a major victory in their intellectual property representation of the National Football League. Early in 2008, the attorneys obtained a temporary restraining order from the Maricopa County Superior Court allowing the NFL and its investigators to seize knock-off or counterfeit Super Bowl XLII merchandise during Super Bowl weekend. Under the order, the NFL is allowed to prevent wide-scale trafficking of counterfeit Super Bowl merchandise. Another case of note was the firm’s representation of Yakima Company in its counterclaim against La Paz County. In 2002, La Paz County and Yakima entered into a 25-year contract as Yakima used the county’s landfill to process biosolids received from wastewater treatment plants in the Southwest. Soon after the county’s Board

of Supervisors wanted to terminate the contract, it filed suit against Yakima and sought a preliminary injunction and repeat summary judgment motions. These suits led to the termination of Yakima’s business, resulting in its counterclaim against the county. A jury recently rejected all of the county’s claims regarding alleged breach by Yakima and the alleged right to terminate the contract. The jury also awarded Yakima a majority of its claimed damages.

**Quarles & Brady** may keep a stronghold on the Midwestern legal marketplace, with offices in Chicago, Milwaukee and Madison, Wisc, but the firm is able to keep ties to the Southwestern marketplace as well, with Arizona offices in Phoenix and Tucson. With more than 30 litigators in the state, Quarles & Brady is able to excel in the fields of real estate, securities and antitrust litigation. Firm clients include Capital One, New Vision USA, Ernst & Young and Fidelity National Title.

Phoenix attorney **Don Martin** is repeatedly recognized by peers as a leader in the field. With a practice focusing on professional liability, securities and real estate litigation, Martin is also a member of the firm’s Strategic Planning Committee. He recently served as lead trial counsel in a “Big Four” accounting firm’s defense of a \$400 million audit malpractice case in the state, as well as acting as co-lead counsel in the defense of the same firm’s securities class action seeking more than \$100 million in damages. A global settlement of all claims against the firm was reached on the sixth day of trial.

With just more than 10 attorneys, small shop **Rusing & Lopez** continues to pack a punch in the Arizona marketplace. Comfortably nestled in the Phoenix legal community, founding partner **Michael Rusing**, whose experience ranges from across the spectrum, leads the firm, handling matters from commercial and class-action litigation to insurance defense and employment law. Rusing recently – and successfully – defended the University of Arizona in a case against the Apache Survival Coalition over the Mt. Graham telescope. Rusing also recently settled a wage and hour class action against American Airlines, the results of which remain confidential. In a locally publicized case, he represented the University of Arizona again in a matter involving a local Native American tribe’s allegations that university researchers had misled them on research that would be conducted on their blood and fingerprint samples. A judge eventually threw the case out of court. Also noted among peers is partner Cynthia Kuhn, who recently received favorable results in two toxic mold cases involving more than 100 different plaintiffs. Kuhn is known in town for resolving civil litigation matters, especially those involving toxic torts. Also noted at Rusing & Lopez is Sean Brearcliffe, who is garnering quite a bit of acclaim for his construction litigation work. Other major clients for the firm include Tidal Security Agency, Research Institution Technology and McDonalds.

