

# ARIZONA

## Local 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

## Local litigation stars

### Peter Baird

Lewis & Roca

Commercial Litigation, Professional Liability

### Floyd Bienstock

Steptoe & Johnson

Insurance

### Gary Birnbaum

Mariscal Weeks McIntyre & Friedlander

Alternative Dispute Resolution, Commercial Litigation, Eminent Domain, Legal Malpractice

### James Braselton

Mariscal Weeks McIntyre & Friedlander

Complex Commercial Litigation, Eminent Domain

### Paul Eckstein

Perkins Coie

Civil Litigation

### John Everroad

Fennemore Craig

Civil Litigation

### Susan Freeman

Lewis & Roca

Bankruptcy Litigation

### Tom Henze

Gallagher & Kennedy

White Collar Crime

### Joseph Mais

Perkins Coie

Intellectual Property, Securities

### William Maledon

Osborn Maledon

Antitrust, Civil Appeals, Complex Commercial Litigation, Trade Regulation

### Michael Manning

Stinson Morris & Hecker

Antitrust, Business Litigation

### Don Martin

Quarles & Brady

Complex Commercial Litigation, Professional Liability, Securities

### Robert McKirgan

Lewis & Roca

Bankruptcy, Business Litigation

### David Rosenbaum

Osborn & Maledon

Complex Commercial Litigation, Officer and Director Liability, Sales and Use Tax Litigation, Securities

### Michael Rusing

Rusing & Lopez

Commercial Litigation, Environmental Litigation

### Timothy Thomason

Mariscal Weeks McIntyre & Friedlander

General Commercial Litigation, Insurance, Products Liability

### William Thorpe

Fennemore Craig

Personal Injury, Products Liability

## Future stars

Brian Cabianca

Squire Sanders Dempsey

George Chen

Bryan Cave

Scot Claus

Mariscal Weeks McIntyre & Friedlander

Gerald DaRasa

Bryan Cave

Timothy Eckstein

Osborn Maledon

Ronda Fisk

Osborn Maledon

Kelly Flood

Polsinelli Shughart

Rebekah Francis

Polsinelli Shughart

Mark Hummels

Osborn Maledon

Randy Papetti

Lewis & Roca

Stephanie Quincy

Steptoe & Johnson



# Arizona

**A** rizona was the first state in the nation to feel the effects of the subprime mortgage crisis, and when the Arizona real estate market dove the state's entire economy was left reeling. This resulted in a huge uptick in bankruptcy filings for developers and an increased amount of litigation aimed at debt recovery, including guarantees or loans that are now in default. Buyers that entered the market when real estate values were hyper-inflated are now suing appraisers, sellers, real estate professionals and banks for negligence or mortgage fraud. Foreclosure rates are climbing in more affluent neighborhoods like Scottsdale. Commercial foreclosure rates for golf courses, shopping centers and resorts are also climbing.

## Highly recommended firms

### Fennemore Craig

Fennemore Craig is known for its construction litigation practice, as well as real estate litigation and bankruptcy work. Peers agree that it is "one of the strongest home grown law firms in the state." Competitors observe that the firm's corporate and real estate departments did take a hit when the Philadelphia firm Ballard Spahr moved into Phoenix and hired away several Fennemore partners. One partner expresses his ambivalence about the firm: "You hate to see Fennemore Craig on the other side, because they are so talented, but you also love to see them because they are so professional and very competent."

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The city of Phoenix retained Fennemore Craig for a highly publicized case that resulted from the city's negotiations with private developers for a project in the north of town. The city granted the developer certain tax benefits that were challenged as unconstitutional under the Arizona state constitution. The suit, filed by a group of private citizens and a local think tank, concerned the extent to which public entities can support private developers with tax abatements. Fennemore argues that this is an appropriate exercise of a governmental function, especially given the change in the economic climate. The case is currently pending before the Arizona Supreme Court.

John Everroad is respected for his work in employment litigation, securities litigation, and professional negligence. His partner, William Thorpe represents BNSE, a major railway company that was involved in a break-crossing accident on an Indian reservation. Thorpe settled the case after the

Ninth Circuit accepted his argument that the tribal courts lacked jurisdiction.

### Lewis & Roca

Known for both its litigation and "its much larger insurance industry practice," Lewis & Roca remains one of the most respected broad-based general practice firms in Arizona. The firm has offices in both Tucson and Phoenix, and has an exceptionally strong bench with a roster of both established and "up and coming" talent that impresses competitors.

Peers identify Peter Baird as a talented litigator, especially with regards to his work in the professional liability context. Baird has represented corporate law firms from around the country against professional negligence

claims, including malpractice and malicious prosecution. He has appeared before the U.S. Supreme Court, Circuit Courts, and all Arizona state Appellate Courts.

Susan Freeman is commended for her work on bankruptcy matters, and has been certified by the Arizona State Bar as a specialist in that field. She has represented secured creditors committees, equity owners, debtors-in-possession, and liquidating trustees. Freeman also has particular expertise in representing aircraft lessors and secured lenders in airline bankruptcy cases. Robert McKirgan also handles business and bankruptcy litigation out of the firm's Phoenix office. Phoenix partner Randy Papetti has been nominated by peers as a rising star for his work in antitrust and complex business litigation.

### Mariscal Weeks McIntyre & Friedlander

Mariscal Weeks has earned a reputation as one of the finest commercial and real estate litigation firms in Arizona. The firm was

founded thirty years ago, and has grown to be one of the largest in the state with over fifty lawyers. The firm's speciality in real estate litigation, which includes eminent domain condemnation law, construction law, title insurance and escrow litigation, has allowed it to grow into one of the most active firms in a state that until recently experienced unprecedented growth. The recent downturn however, has been a boon to the firm's litigation group as projects go south and parties litigate over the fallout.

Mariscal Weeks is handling two condemnation cases that involve matters of first impression in the state of Arizona. The first involves an evidentiary issue regarding the admissibility of a pretrial offer to purchase by the state. The second is an issue of substantive law regarding the legal definition of the term "project" with respect to the valuation of property in condemnation cases. What is properly considered a "project" can not be considered in the final valuation of property, and therefore is determinative of how a piece of land is valued.

Clients mention that partners Gary Birnbaum and Timothy Thomason "have the expertise to represent us for title insurance and escrow matters which means we don't have to pay for someone to learn what our company and industry is all about." Peers note that Birnbaum's work in alternative dispute resolution has been steadily on the rise. James Braselton is recommended for his work in complex commercial litigation and land use. Competitors call another young partner, Scott Claus "the best young lawyer in the state."

### Osborn Maledon

Osborn Maledon's strength is general commercial litigation, and the firm handles this type of work for both local and national clients. One client reflected that they "were very strategic in their thinking and very detailed."

According to a competitor, William Maledon is "one of the most outstanding commercial litigators in Phoenix, if not the state." He is often retained by out of state clients to represent them in local matters. He was nominated to coordinate the defense efforts for all forty-five named defendants in a large class action lawsuit brought against the entire U.S. pharmaceutical industry, which alleges that the industry violated the antitrust laws by agreeing on a common pricing scheme for its prescription drugs. He has argued various motions on behalf of his main client AstraZeneca, and other defendants.

David Rosenbaum, an expert in "bread and butter" complex commercial litigation, has done significant work for Honeywell International Aerospace, which is headquartered in Phoenix. In January 2008 he and co-counsel at Gibson Dunn & Crutcher represented Apollo group and its

former chief executive and chief financial officers in a securities fraud class action. The case was decided in favor of the defendants, who avoided the \$300 million in damages which plaintiffs sought to recover. The case is now on appeal to the Ninth Circuit.

#### Perkins Coie

Perkins Coie often works with clients in the technology sector, like Apple, and has developed a good reputation in intellectual property and licensing matters. “The local office of Perkins Coie really complements the firm’s national strength,” explains a competitor. **Paul Eckstein** has been a recognizable name in the Arizona market for years. Peers mention that “Paul isn’t doing as much litigation as he once did, but when he does litigate he is at the top of the heap, and he has been for years and years.” In addition to handling all manner of civil litigation, including appellate matters, Eckstein has also developed a robust election law practice.

Peers also consider **Joseph Mais** a leader for his work in business litigation, securities, corporate governance and intellectual property litigation. He serves as the firmwide chair of the commercial litigation practice.

#### Snell & Wilmer

Snell & Wilmer is by far the largest firm in Phoenix. They are “a premiere general litigation firm” according to competitors, but Snell also offers expertise in more specialized fields including nuclear regulatory counselling. The firm is also the principal outside counsel for the Arizona Public Service, the state’s power company. Snell boasts a large products liability practice, much of which originates from the Southern California office, and in this capacity they represent some of the country’s largest auto manufacturers, like Toyota. The firm is also known for a strong bankruptcy practice. Besides their two Arizona offices, in Phoenix and Tucson, the firm has a strong network across the West, with offices in Utah, Colorado, California, and Nevada.

#### Recommended firms

##### Bryan Cave

Some competitors observe that large national firms like Bryan Cave, unlike some of the home-grown local firms in the market have “struggled to find a niche” in the Arizona market. Nevertheless, Bryan Cave remains busy with suits over failed developments, challenges against municipalities over assessments, and a number of antitrust investigations since the government has ratcheted up their scrutiny of potentially anticompetitive business practices.

**Steven Hirsch** focuses his practice on real estate and development disputes, with an emphasis on construction litigation, lien disputes, and eminent domain proceedings on behalf of developers. **Larry Scarborough** handles class action defense work, a field

which tends to be relatively unaffected by economic downturns. He also handles a lot of work outside Arizona, including intellectual property, trade secrets, and antitrust matters.

#### Gallagher & Kennedy

Gallagher & Kennedy, which spun off from Snell & Wilmer in 1978, is known among market leaders as being particularly strong in sports law; the Arizona Diamondbacks and Arizona Cardinals both look to Gallagher & Kennedy for representation. Besides offices in Phoenix and Prescott, the firm also has outposts in Santa Fe and Washington, D.C.

Competitors note that the firm has lost some partners recently, such as heavy hitter Kevin O’Malley. Still, they are vocal in their praise of those that remain. Peers mention that **Pat McGroder** is “terribly impressive in the personal injury area, and does a real nice

on behalf of a number of strippers that work at gentlemen’s clubs in the Las Vegas area. The action alleges that the women are unfairly classified as independent contractors, rather than as employees. Additionally, the firm is handling patent infringement cases out of Las Vegas. “**Michael (Mick) Rusing** is the best in Tucson” claims one competitor.

#### Squire Sanders & Dempsey

As a large firm with a national presence, the 16 litigators that work in Squire Sanders’ Phoenix office handle a disproportionate amount of out-of-state litigation compared to other local firms. The Arizona outpost was established thirty years ago to service the southwestern U.S., and the firm’s work in bankruptcy, reorganization, workout and liquidation matters is well established. The firm’s environmental practice also has a big

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job with the bigger cases in town.” **Tom Henze** “fills the white-collar crime position at the firm, and he stands out among a very good group” says a competitor.

#### Quarles & Brady

After the merger seven years ago that spawned Quarles & Brady, the firm has been growing consistently. Having gained a reputation in the local market for their representation of Arthur Anderson in the Baptist Foundation cases, Quarles & Brady continues to earn the respect of peers. “From top to bottom they hold up, with a lot of talented lawyers” notes a competitor. The firm has offices in Phoenix and Tucson, and maintains a regional presence in other areas, including the Midwest. “**Don Martin** is one of the better lawyers in town” says a peer. A large part of his practice focuses on professional liability matters, especially the defense of accounting firms against claims ranging from audit malpractice, securities class actions, conversion, and breach of fiduciary duty.

#### Rusing & Lopez

Rusing & Lopez is recognized as the strongest firm in the southern part of Arizona. The firm has only one office in the state, located in Tucson. In a toxic tort case filed in 2008, Rusing lawyers convinced the judge to award \$750,000 in sanctions against a plaintiff’s lawyer who had, on prior occasions, managed to settle many personal injury suits in the million dollar range. The firm is also handling an employment action

presence in the Phoenix office.

The litigators and mediators in the Phoenix office also have experience appearing in a number of courts around the country and international tribunals around the world. Partner George Brandon, who serves as the chair of the Phoenix litigation group, has developed an expertise in securities work, and has both bench and jury trial experience in state and federal courts in Arizona, Washington, D.C., and New York, as well as federal bankruptcy courts.

