

CIVIL LITIGATION AND CASE PROGRESSION UNDER THE NEW “TIER SYSTEM”

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Cases filed in Arizona state courts on or after July 1, 2018 will be assigned a “tier.” Plaintiff should plead the applicable tier for the case within the complaint. Within 90 days of filing, the complaint must be served. Within 30 days of service, the complaint must be answered. Defendant should likewise plead the appropriate tier for the case within the answer.

Tier 1 cases are simple cases that involve minimal witnesses and documentary evidence and can be tried within one or two days. These cases typically have damages in the \$30,000 to \$50,000 range. Tier 2 cases are of intermediate complexity and typically have a moderate amount of documentary evidence, more than a few witnesses, and may or may not involve expert witnesses. These cases typically have damages in the \$50,000 to \$300,000 range. Tier 3 cases are logistically or legally complex and typically have substantial documentary evidence, many witnesses, expert witnesses, and may require numerous pretrial motions raising complex legal issues. These cases typically have damages greater than \$300,000.

Within 30 days of filing the answer, the parties must engage in an “early meeting.” During this required early meeting, the parties must discuss the anticipated course of the case, including the number of witnesses to be deposed, amount of written discovery to be undertaken, motions that may be necessary, deadlines to be set, and any other issue that will help to streamline the case.

The time set for completion of discovery begins from the date of the early meeting. Unless the parties stipulate to additional time, discovery in tier 1 cases must be completed within 120 days; discovery in tier 2 cases must be completed in 180 days; and discovery in tier 3 cases must be completed within 240 days.

Also within 30 days of filing the answer, the parties must serve their initial disclosures. No party can serve any discovery requests until that party has served its initial disclosures. Importantly, all defendants must collectively share in the discovery limits, so defendants should also confer about discovery to be undertaken in order to stay within the limits and avoid duplication. In the event additional discovery is needed, the parties can obtain “overlimit” discovery by stipulation or by motion to the court. A stipulation for overlimit discovery is effective upon filing, unless and until the court denies it. A stipulation or motion for overlimit discovery must be filed before the discovery limits have been exceeded.

In all tiers, the parties must engage in either a court-mediated settlement conference or private mediation before they can go to trial. The settlement conference or mediation must occur within 60 days of the completion of discovery.

Putting these deadlines all together, tier 1 cases should be ready for trial within 8 months from the time the answer was filed; tier 2 cases should be ready for trial within 10 months; and tier 3 cases should be ready within 12 months. These time frames are significantly shorter than what typically occurred under the prior form of the rules. Parties will therefore need to frontload discovery to the extent possible in order to move the cases along expeditiously. Although the parties can stipulate to overlimit discovery – including the time to complete discovery – the courts will want to see that the parties have made good faith efforts to complete discovery within the limits set by the amended rules.

For a more thorough discussion of the new rules, see The JSH Reporter Spring 2018 issue at pages 10-13. An easy-to-use tier chart is set forth below for your reference:

Tier	Value	Other Case Characteristics
1	0-50K	<ul style="list-style-type: none"> • Simple cases; can be tried in 1-2 days • Minimal documentary evidence and few witnesses • E.g., auto tort, intentional tort, premise liability, insurance coverage claims
2	50K-300K	<ul style="list-style-type: none"> • Intermediate complexity • More than minimal documentary evidence and more than a few witnesses • May include expert witnesses • E.g., multiple theories of liability, counterclaims, cross-claims, and/or request for injunctive relief
3	300K+	<ul style="list-style-type: none"> • Logistically or legally complex and/or with numerous pretrial motions raising difficult or novel legal issues • Voluminous documentary evidence, management of a large number of witnesses or separately represented parties, or require coordination with related pending actions • E.g., class actions, antitrust, multiparty commercials or construction cases, securities cases, environmental torts, construction defect, products liability, medial malpractice, mass torts