

Litigation Practice

Fennemore Craig's litigation section offers a wide range of experience in all aspects of dispute resolution and prevention. Our attorneys are proficient in alternative dispute resolution techniques, negotiated settlements, appeals, and traditional trial representation, as well as advice on the prevention of claims and avoidance of litigation. A number of our attorneys also serve as mediators, arbitrators and private judges.



For years, Fennemore Craig has been at the forefront of implementing technology for the benefit of our clients, saving them money and helping us deliver more effective and efficient legal services. In the litigation setting, technology helps us save days of trial time for our clients. Our use of the "TrialDirector®," "CaseMap®," and "MindMap®" programs help us quickly manage substantial numbers of exhibits and photos, to conduct examinations and closing arguments.

In addition, the firm has the capability to set up technology-rich, arbitrations both in-house and at external sites, that visually help drive home key points in arguments.

Antitrust Law and Trade Regulation

Fennemore Craig represents individuals, business entities, and professionals in litigation alleging unlawful restraints of trade, price fixing conspiracies, and a variety of other federal and state antitrust law violations. The firm has participated in major antitrust actions involving the cable television, consumer electronics and petrochemical industries. We assist many clients in connection with mergers and acquisitions covered by the Hart-Scott-Rodino Act of 1976, and advise clients on antitrust and trade regulation issues affecting business conduct and transactions.

Appeals

Fennemore Craig handles appellate matters in federal and state courts as well as before federal and state administrative agencies. The scope of our appellate practice covers almost all areas of civil, administrative and regulatory law.

Class Action Litigation

Fennemore Craig has a long history of representing clients in class actions and other types of high-stakes litigation. The firm's class action experience includes antitrust claims involving the cement, dairy, health care and pharmaceutical industries, various personal injury claims in the food and pharmaceutical industries and a myriad of commercial claims in fields of health care, lending, residential development, communications, securities and utilities.

Commercial Litigation

Fennemore Craig represents large and small business entities and individuals in commercial disputes in federal and state court, including cases involving fraud, RICO, derivative claims, lender liability, securities, railroad, products liability, corporate control, contracts, state and federal consumer statutes, the First Amendment, the Uniform Commercial Code and eminent domain.

Construction Disputes and Defects

Fennemore Craig attorneys have been involved in construction defect litigation for many years, representing developers, contractors and design professionals in all forms of construction defect litigation. Firm clients have included not only these entities, but their insurance carriers, on litigation that has included defective design, defective construction, mold remediation and economic loss theories.

Our attorneys have considerable experience in federal and state actions, as well as administrative proceedings before the Arizona Registrar of Contractors and the Arizona Department of Real Estate. In addition, Fennemore Craig has been at the forefront in efforts to legislatively limit the extent of the exposure for construction defect litigation in Arizona.

E-Discovery and Data Management

For more than a decade, Fennemore Craig has helped clients develop proactive and efficient solutions to address increasing demands for the preservation, management and production of electronically stored information ("ESI"). The Firm's E-Discovery and Data Management practice bridges the gap that often exists between technology and the law by formulating solutions that are tailored to the individual needs of each case. In doing so, the goal is to contain risk, minimize

cost and facilitate the overall legal strategy.

This evolving practice focuses on assisting clients with both pre- and post-litigation planning. Pre-litigation planning includes items such as document and records retention policies, litigation hold policies, and the creation of in-house e-discovery teams. Post-litigation planning involves the development, implementation and management of a strategy for collecting, reviewing and producing ESI through the discovery phase. These policies and protocols adhere to principles of reasonableness and proportionality, taking into account factors such as the cost, burden and technical feasibilities involved in each case.

With its team of attorneys, paralegals and IT and litigation support professionals, the E-Discovery and Data Management practice offers significant experience handling high volume discovery for complex litigation matters in state and federal courts throughout the country. Through this experience, the team has developed tested methods for streamlining e-discovery processes, including management of the process in-house whenever possible and the use of cutting edge technology to assist with document review and case analysis. This technology includes Summation®, CaseMap®, TimeMap®, and Clearwell E-Discovery Platform®, a tool that enables attorneys and paralegals to quickly and efficiently assess, review and manage “native” data in-house, resulting in accelerated early case assessment, increased defensibility of the e-discovery process and a significant cost savings for clients. Fennemore Craig is one of the few law firms in the Southwest that offers Clearwell® in-house, alleviating the need for clients to pay costly fees associated with vendor-hosted web solutions. Our e-discovery attorneys are skilled in designing and implementing processes that take advantage of the most appropriate, efficient and cost-effective technologies that will best serve our clients.

Fennemore Craig’s e-discovery attorneys are at the forefront of this emerging area of law and actively contribute to its development, whether through involvement in leading industry groups, speaking engagements and conferences, or publications on topics related to e-discovery. They also work closely with clients to keep them apprised of new developments in e-discovery through e-newsletters, Firm sponsored events, presentations and in-house training.

Environmental and Natural Resources

Fennemore Craig provides a significant amount of environmental counseling and representation to manufacturing, mining, forestry, high technology, petroleum, banking and other industries. The firm has represented clients before the air pollution control hearing boards, the Water Quality Control Council, administrative law judges at the Department of Environmental Quality, and in federal and state courts. Recent activity includes environmental and toxic torts, environmental policy suits, regulatory challenges, cost recovery actions, property devaluation and natural resource torts, complex water cases, general adjudication of water rights, mining title disputes, flood cases and environmental compliance actions. The firm recently obtained a court order requiring the Department of Environmental Quality to de-list a client from the Section 304(1) listing under the Clean Water Act. The firm has been involved with all of Arizona’s groundwater protection initiatives, which culminated in 1986 with the passage of the Arizona Environmental Quality Act. Members of the firm have served as special counsel to the state in *Arizona v. California* and other water law cases of statewide interest. Our attorneys serve on legislative drafting committees, advisory committees to agencies and on various ad hoc committees which affect and direct the legislative and regulatory process.

Financial Restructuring, Bankruptcy and Creditors' Rights

Fennemore Craig has a prominent and active bankruptcy practice. Our attorneys represent a diverse group of clients, including secured and unsecured creditors, financial institutions, debtors, and trustees and purchasers of financially distressed businesses, in Chapter 11 cases, debt restructuring, liquidation cases, out-of-court workouts, and other insolvency proceedings. The practice focuses extensively on creditor representation, and together with attorneys from other disciplines in the firm, the group is active in planning and negotiating complex workouts and restructures.

Government Procurement and Contracts

Fennemore Craig attorneys have broad experience in federal and state procurement law and government contract disputes. Our attorneys have litigated bid protests before the Comptroller General of the General Accounting Office and various state agencies. The firm also has represented government contractors against city, county, state and federal governments and has prosecuted claims against numerous federal agencies before the various Boards of Contract Appeals and the Claims Court.

Intellectual Property

The firm is involved in significant intellectual property litigation, including patent and copyright infringement, trade secrecy, software licenses, trade dress and trademark infringement, nondisclosure agreements, computer performance, and covenants not to compete. Client intellectual property rights are enforced through alternative dispute resolution techniques, demand letters, preliminary injunctions, and traditional trial and appellate representation.

Labor and Employment

Fennemore Craig has substantial experience in counseling clients on contract interpretation and grievance procedures and in representing employers in labor arbitrations. Our attorneys represent employers in negotiating collective bargaining agreements, in representation elections, and in defending unfair labor practice charges before the National Labor Review Board and in contested cases in the United States District Court. The firm has broad experience in employment-related civil actions alleging breach of employment contract, wrongful termination, employment discrimination and related torts. In addition, our attorneys frequently represent clients before federal and state administrative agencies, including the Arizona Civil Rights Division, Equal Employment Opportunity Commission and the Department of Economic Security. Our attorneys counsel employers on personnel manuals and procedures, drug and alcohol testing and sexual harassment policies, and compliance with specific state and federal statutes and regulations.

Legislative and Regulatory Assistance

The firm's attorneys have substantial experience in representing clients before the Arizona legislature. The firm assists in the drafting, lobbying and monitoring of legislative and regulatory proposals on behalf of clients.

Product Liability

Fennemore Craig counsels and represents producers and sellers of a wide range of consumer and commercial products, including automobiles, chemicals, cranes, earth-moving equipment, firearms, forklift trucks, heat pumps, medical instruments, motor homes, pharmaceuticals, tires, trucks, wheels, and others. Our attorneys are active in national organizations devoted to product liability research and policy, including the Product Liability Committee of the American Bar Association Section of Litigation, and the Defense Research Institute Product Liability Committee. We have broad experience in traditional representation in the trial and appellate courts, preventative consultation for design and packaging, technical and operating manuals, representation at administrative hearings, preparation of legislative proposals, and lobbying services.

Professional Liability

Fennemore Craig advises and represents accounting, law, medical, engineering, design and architectural firms on a variety of professional liability issues. The firm is particularly active in the defense of lawyers in malpractice claims and the representation of lawyers in the disciplinary process. The firm also provides counsel and representation for the Arizona chapters of the American Institute of Architects and Consulting Engineers Association.

Securities Litigation

The firm represents individuals, broker-dealers and financial institutions in a wide variety of litigation arising under federal and state securities laws. Examples include defense of customer complaints, class-action suits, and employment and discrimination claims, intra-industry disputes and regulatory, investigatory, and criminal proceedings instituted by the federal and state governments, as well as self-regulatory organizations such as the National Association of Securities Dealers, New York Stock Exchange, American Stock Exchange, and Chicago Board of Options Exchange.

Tort and Insurance Litigation

Fennemore Craig represents clients, both plaintiffs and defendants, in a wide variety of personal injury and business tort actions. These actions range from individual negligence actions, for plaintiffs on a contingent fee basis, whether auto, wrongful death or catastrophic injuries to complex multi-party litigation. Aircraft, asbestos, railroad liability, product liability, insurance bad faith and subrogation, toxic torts, and medical malpractice encompass a significant part of our tort litigation practice.

Unemployment Compensation

Fennemore Craig's unemployment compensation practice includes a full range of services relating to unemployment insurance, taxes and benefits. Our clients range from large mining and utility companies to small service and professional firms. The firm represents employers defending against claims for benefits by ex-employees in all jurisdictions, including the Appeal Tribunal, Appeals Board and Court of Appeals. We also represent employers when the adverse party is the Department of Economic Security. The firm has participated extensively in legislative revisions to the unemployment insurance statutes in Arizona and in DES rule-making proceedings to adopt or revise the voluminous set of rules that govern unemployment cases.

Utilities Regulation

Fennemore Craig represents several utilities in the telecommunications, water, sewer, and natural gas industries. We appear before the state commissions in ratemaking, certification, rule making, and financing proceedings. We also represent utilities in federal and state court actions challenging regulatory decisions.

workers' Compensation/Employee Health and Safety

The firm has extensive experience working with small and mid-size businesses and major corporations in the areas of workers' compensation and OSHA regulations. Our attorneys represent employers before the Federal Occupational Safety and Health Review Commission, the Industrial Commission of Arizona and Arizona's appellate courts. We advise clients on compliance issues and the various legal, medical and administrative issues which arise in connection with workers' compensation and OSHA claims outside the litigation arena. In addition, the firm's legislative and lobbying practice includes preparing legislative proposals, lobbying and testifying before legislative committees on workers' compensation matters.

Litigation Practice Group

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