

David Brnilovich

Member



Overview

Mr. Brnilovich established roots in the western part of the Phoenix metropolitan area (referred to as the “West Valley”) in 1979 and has been representing the area’s businesses and individuals for more than 30 years.

Contact

- P 602.262.5898
- F 602.495.2666
- dbrnilovich@jsslaw.com
- Peoria, AZ

Areas of Focus

- Real Estate
- Commercial Litigation
- Construction and Registrar of Contractors Issues
- General Business Transactions
- Corporate and Partnership Matters

- Licensing issues before the Arizona Department of Real Estate
- Trusts, Estates, Wills and Probate

Education

J.D., University of Pittsburgh School of Law (1979)

B.S., West Virginia University, Political Science (1975)

- *magna cum laude*

Biography

Mr. Brnilovich established roots in the western part of the Phoenix metropolitan area (referred to as the “West Valley”) in 1979 and has been representing the area’s businesses and individuals for more than 30 years. He has substantial legal experience advising business clients in the areas of real estate, construction, corporate governance, small business formation, dissolution, purchases, and asset sales.

Mr. Brnilovich’s representation of individuals includes the drafting of wills and trusts, probate, trust administration, will contests, and trust litigation.

His clients range from large national companies to small start-ups in a wide range of industries, such as engineering, manufacturing, real estate brokerage, and healthcare. Mr. Brnilovich is a graduate of Leadership West Class VIII and a member of the Westmarc’s Economic Development Committee.

Admissions

Admitted to Practice

- Arizona (1980)

Court Admission

- U.S. Court of Appeals, Ninth Circuit (1982)
- U.S. District Court, District of Arizona (1980)
- U.S. District Court, Western District of Pennsylvania (1979)

Representative Experience

- Represented an Arizona lender specializing in the purchase of auto financing contracts in a case against an auto dealer accused of selling fraudulent financing contracts. Representation resulted in the entire dealer inventory being seized through prejudgment remedies
- Successfully defended an individual selling 160 acres of West Valley real estate in a lawsuit brought by a Brazilian investor that was demanding specific performance. After trial to the Superior Court sitting without a jury, Judgment was entered in favor of our client. Plaintiff appealed to the Court of Appeals which reversed the Trial Court. A Petition for Review was

granted by the Supreme Court which vacated the decision of the Court of Appeals and reinstated the favorable Judgment of the Trial Court. *Quiroz v. Harvey*, 220 Ariz. 273, 205 P.3d 1120 (2009).

- Represented an engineering firm that faced allegations of defective subdivision design that caused flooding. During pretrial proceedings, it was established that the homeowner's association could not prove liability on the part of the engineering firm and the engineering firm was dismissed from the litigation
- Successfully represented a widow accused of financial exploitation of the elderly by the son of her deceased husband. The probate court entered summary judgment in favor of the client. The Court of Appeals reversed the summary judgment ruling In Re Estate of Wyttenbach, 219 Ariz. 120, 193 P.3d 814 (2008) holding that where there is a conflict in the statutes, the more recent statute controls. The case was remanded to the probate court, and the client was successful at trial
- Successfully represented a manufacturer of race car components in a lawsuit concerning the sale of a historic race car which was the first car to exceed 200 mph at the 1978 Indy 500 time trials
- Successfully defended the owner of a construction company against allegations of a breach of the non-compete agreement. Established that the non-compete agreement was invalid because it was too broad in time, too broad in geographic scope, and was not essential to the plaintiff's business purposes.
- Assisted national tool manufacturer with Arizona-related transactional and litigation matters
- Secured ingress and egress easements to large tracts of land on behalf of title insurance company
- Represented real estate agents/brokers in procuring cause matters before the Department of Real Estate
- Represented subdividers of 400 acres of farmland in Tonopah, Arizona in administrative proceedings before the Arizona Department of Real Estate
- Represented Saturn Retail of Arizona, Inc. which was owned by General Motors Corporation. Represented the four new car dealers in contract negotiations, employment matters, and contract litigation.
- Represented developers of medical office condos and medical buildings in building code issues which arose during construction, the creation of the CC&R's and the sales of the units
- Represented owner in the sale of a strip mall in a retirement community. Assisted in negotiations, prepared disclosures, and sales contracts
- General representation for custom homebuilders, including advising on issues relating to land use, zoning, contracts, disputes with subcontractors and suppliers
- Represented several Arizona based credit unions since 1991 and out-of-state credit unions in the formation of standardized contracts, compliance with Regulation Z, title issues on home loans, foreclosure matters, name change issues with the NCUA, employment issues, collection and bankruptcy matters
- Assisted with business dissolution proceedings for a multiple-location retail store group
- Provided general business representation for real estate brokerage with more than 1,000 agents
- Defended national auctioneer of premier houses against allegations of fraud and misrepresentations

Published Opinions

- *Queiroz v Harvey*, 220 Arizona 273
- *In re Estate of Shumway*, 198 Arizona 323
- *Snap On Tools v Rice*, 162 Arizona 99
- *Smith v Johnson*, 183 Arizona 38
- *Douglas N Higgins, Inc v Songer*, 171 Arizona 8
- *In Re Estate of Wyttenbach*, 219 Ariz. 120 (2008)
- *In re Charles*, 25 B.R. 331 9th Cir. B.A.P. (1982)

Media and Presentations

Blogs

- [“Small Business Real Estate Series, Part II: Commercial Lease Negotiations,”](#) *Real Estate Law Times* (2015)
- [“Small Business Real Estate Series – Part I: Commercial Leases,”](#) *Real Estate Law Times* (2015)

Memberships

State Bar of Arizona

- Past Member, Consumer Protection Committee

State Bar of Pennsylvania

- Past Member

West Maricopa County Bar Association

- Board of Directors
 - Member
 - Past President
 - Past Treasurer

Western Maricopa Coalition (WESTMARC)

North Valley Chamber of Commerce

- Member, Economic Development Committee
- Past President, Board of Directors
- PastMember, Board of Directors

Glendale Chamber of Commerce

- Past Member

Maricopa County Justice Courts

- Judge Pro Tem (1991-1994)

Honors and Awards

- [AV Preeminent® Peer Review Rated](#)
- Listed, *The Best Lawyers in America*® in the category of Real Estate Law (2013 - 2019)
- Listed, *Southwest Super Lawyers* in the category of Business Litigation (2015 - 2018)
- Listed, "Top 100 Lawyers in Arizona," *Az Business Magazine* (March/April 2016)

Community Involvement

City of Peoria

- Past Member, Planning and Zoning Commission (2003 - 2004)

Glendale Industrial Development Authority

- Past Member, Board of Directors (1994 - 2000)
- Past Treasurer, City of Phoenix
- Past Member, Bond Committee

City of Glendale

- Past Member, Bond Committee

Leadership West

- Graduate, Class VIII

Arrowhead Community Bank

- Past Member, Board of Directors

Deer Valley Planning Committee

- Past Member (1981 - 1985)

Interfaith Community Care

- Past Member, Board of Directors

Deer Valley Education Foundation

- Past Member

Deer Valley School District

- Past Member, Budget Committee

Glendale/Peoria YMCA

- Past Member, Board of Managers