



## DAVID BRNILOVICH

SENIOR MEMBER

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EMAIL ME

## 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 40 years. He has substantial legal experience with business clients in the areas of real estate, construction, corporate governance, small business formation, and succession planning.

## PRACTICE AREAS

- [Litigation](#)
- [Commercial Litigation](#)
- [Real Estate Transactions and Litigation](#)
- [Construction and Registrar of Contractors](#)
- [General Business Transactions](#)
- [Corporate, Limited Liability Company Formation](#)
- [Trusts, Estates, Wills, Probate, Will Contests, and Trust Litigation](#)

## INDUSTRIES

- Real Estate
- Credit Unions
- Construction
- Vehicle Finance Transactions (Lenders Only)
- Commercial Leasing

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## EDUCATION

- **University of Pittsburgh School of Law**, Pittsburgh, Pennsylvania
- J.D. - 1979
- **West Virginia University**
- B.S. - 1975
- Honors: *magna cum laude*
- Major: Political Science

## BAR ADMISSIONS

- Arizona, 1980
- Pennsylvania, 1979
- U.S. District Court District of Arizona, 1980
- U.S. District Court Western District of Pennsylvania, 1979
- U.S. Court of Appeals 9th Circuit, 1982

## HONORS

- AV Preeminent® Peer Review Rated™, Martindale-Hubbell®
- The Best Lawyers in America®, Real Estate Law (2013 – 2023)
- Southwest Super Lawyers®, Business Litigation (2015 – 2018)
- AZ Business Magazine, "Top 100 Lawyers in Arizona" (March/April 2016)

## PROFESSIONAL ASSOCIATIONS &amp; MEMBERSHIPS

- State Bar of Arizona, Former Member, Consumer Protection Committee
- State Bar of Pennsylvania, Former Member
- West Maricopa County Bar Association, Member, Board of Directors
- West Maricopa County Bar Association, Past President
- West Maricopa County Bar Association, Former Treasurer, Board of Directors
- Western Maricopa Coalition (WESTMARC), Member
- North Valley Chamber of Commerce, Member, Economic Development Committee
- North Valley Chamber of Commerce, Past President
- North Valley Chamber of Commerce, Former Member, Board of Directors
- Glendale Chamber of Commerce, Former Member
- Maricopa County Justice Courts, Judge Pro Tempore, 1991 to 1994

## REPRESENTATIVE CLIENTS

- Mediated a forced buyout of membership interest in a manufacturing business
- Negotiated buyout of a member in a commercial equipment company
- Negotiated and documented the acquisition of a membership interest in an Arizona based title company
- Represented sellers of insurance agencies' assets
- Represented sellers of commercial real estate properties with national companies as tenants
- Represented clients in the acquisition of shopping centers
- Assisted clients with the sale of an industrial building
- Represented sellers in the sale of tract of commercial land with freeway frontage
- Worked with clients and the firms' Intellectual Property department to obtain patents from the

## 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)

- City of Peoria Judicial and Public Defender Advisory Board, Chairman, Present
- Arrowhead Community Bank, Former Member, Board of Directors
- City of Glendale, Former Member, Bond Committee
- City of Peoria, Member, Planning and Zoning Commission, 2003 to 2004
- Deer Valley Education Foundation, Former Member
- Deer Valley Planning Committee, Member, 1981 to 1985
- Deer Valley School District, Former Member, Budget Committee
- Glendale Industrial Development Authority, Member, Board of Directors, 1994 to 2000
- Glendale Industrial Development Authority, Former Treasurer
- Glendale Industrial Development Authority, Former Member, Bond Committee
- Glendale/Peoria YMCA, Former Member, Board of Managers
- Interfaith Community Care, Former Member, Board of Directors
- Leadership West, Graduate, Class VIII

## USPTO

- General representation of local restaurant group
- 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
- 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

## LITIGATION

- 75%

## PRO-BONO ACTIVITIES

- City of Peoria, Planning & Zoning Commission, ...

## MEDIA AND PRESENTATIONS

Blogs

## PAST POSITION

- Maricopa County Justice Courts, Judge Pro Tem, 1991 to 1994

### Member

- City of Glendale, Bond Committee
- Glendale Industrial Development Authority, Board Member /Treasurer
- Glendale/Peoria YMCA, Board of Managers
- Glendale Chamber of Commerce, Member
- City of Phoenix, Bond Committee
- Deer Valley Planning Committee
- Deer Valley Education Foundation
- Deer Valley School District, Budget Committee
- North Valley Chamber of Commerce, Past President and Director
- Arrowhead Community Bank, Board of Directors

- "Qualifying Parties May Now Have to Face Personal Liability for Construction Company's Obligations," Author, *Jennings Strouss Blog* (February 11, 2021)
- "Does COVID-19 Impact Your Contracts? Perhaps Its Time To Review Your Agreements," Author, *Jennings Strouss Blog* (March 25, 2020)
- "Small Business Real Estate Series, Part III: Personal Guarantees to Commercial Leases," Author, *Jennings Strouss Blog* (2015)
- "Small Business Real Estate Series, Part II: Commercial Lease Negotiations," Author, *Jennings Strouss Blog* (2015)
- "Small Business Real Estate Series, Part I: Commercial Leases," Author, *Jennings Strouss Blog* (2015)
- "Housing Bust Bad Loans May Still be an Issue for Lenders," Author, *Jennings Strouss Blog* (2014)
- "Does a Real Estate Appraiser Have a Duty to Your Client?" Author, *Jennings Strouss Blog* (2013)

### Presentations

- "Highlights of Arizona's New Limited Liability Act," Entrepreneurial CPA Network (December 2, 2020)
- "The New Arizona Limited Liability Company Act (ALLCA)," West USA Realty (August 2019)

## SCHEDULE AN APPOINTMENT

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EMAIL OUR OFFICE

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