



David J. Bodney

SENIOR COUNSEL

bodneyd@ballardspahr.com

Phoenix

tel 602.798.5454

fax 602.798.5595

Services

Litigation | Media and Entertainment Law | Appellate | Commercial Litigation | Government Relations and Public Policy | Political and Election Law | Intellectual Property Litigation | Privacy and Data Security | Gaming | State Attorneys General

David J. Bodney, a litigator focusing on media and constitutional law, is founder of the firm's Media and Entertainment Law Group. For over 40 years, David has defended print, broadcast, and electronic media in defamation, privacy, and related First Amendment litigation. In addition, he has significant experience litigating complex commercial disputes; handling matters involving intellectual property, American Indian law, and governmental affairs issues; and briefing several high-profile cases in the U.S. Supreme Court.

David's practice covers a range of constitutional law issues, including prosecuting actions to secure open government, blocking prior restraints and subpoenas of reporters by government and third parties, and handling advertising, commercial speech, intellectual property law, and voting rights issues. In addition, he is regularly called upon to lobby and testify in legislative proceedings involving proposed legislation in a wide variety of issues.

David has co-authored the Arizona sections of the Media Law Resource Center's *50-State Surveys* on privacy and employment privacy law since their inception. He has lectured on media law and litigation at conferences internationally, including presentations on extreme speech, libel, and mass media law in Cambridge, London, and Moscow, respectively.

For over four decades, David has worked to secure open government legislation on behalf of the publishing industry. In 1999, together with *The Arizona Republic*, he earned the Arizona Newspapers Association's Freedom of Information Award for his work in federal court on behalf of Phoenix Newspapers, Inc. He co-authored a monograph on freedom-of-information laws for the ABA's Central and East European Law Initiative to assist emerging democracies in the former Soviet Union with the enactment of FOI laws. David is a former legislative aide to U.S. Sen. John V. Tunney.

On the commercial side of his practice, David has litigated numerous complex disputes in the banking, education, publishing, retail and high-tech industries. He has handled securities, trademark, trade secrets, copyright, product liability, and contract actions, including AAA and other arbitrations. In addition, he has argued various appellate cases in both state and federal court.

David's practice of constitutional law extends to Indian law matters, and he advises clients on such issues as tribal governance, membership, sovereignty, taxation, gaming, and water rights. On behalf of one Indian tribe, he worked with U.S. Sen. John McCain to secure passage of a landmark Indian water rights settlement act. His work on Indian law encompasses government relations and litigation in federal, state, and tribal courts, including a voting rights case pending in the U.S. Supreme Court. In addition, David regularly represents clients on legislative and related public policy matters before governmental bodies, ranging from the U.S. Congress to local municipalities and regional transportation authorities.

Professional Highlights

Pro Bono and Community

For the Lawyers' Committee for Civil Rights Under Law, David serves as a member of the national Board of Directors and has overseen its election protection efforts in Arizona. On behalf of the City of Phoenix, he negotiated the City's acquisition of a historic school building in downtown Phoenix to house the Children's Museum of Phoenix. He has served as Chairman of the Board of the Children's Action Alliance and as Board Chair of the Arizona Center for Law in the Public Interest. In 2008, David received the prestigious Judge Learned Hand Award for his service to the community.

Professional Activities

American Bar Association, Past Chair, ABA Forum on Communications Law; Member, Forum's Governing Committee; Member, Editorial Advisory Board of ABA's Communications Lawyer

State Bar of Arizona, former member, Professionalism Committee, Task Force on Access to Justice

National Commission of the Anti-Defamation League, 2008-2016; Honorary Lifetime Member, 2017-present

Arizona Supreme Court's Committee on the Impact of Wireless, Mobile Technologies, and Social Media on Court Proceedings

Arizona Supreme Court's Committee on Time Periods for Electronic Display of Court Records

Arizona State University's Sandra Day O'Connor College of Law and Walter Cronkite School of Journalism and Mass Communication, Adjunct Faculty (teaching media law), 1988-present;

Arizona Chief Justice's Commission on Juvenile Justice, past member

Arizona Judicial Council's Committee to Study Public Access to Electronic Records, past member

Civil Liberties Adviser to the White House Commission on Aviation Safety and Security (appointed by Vice President Al Gore, 1997)

Ballard Spahr's Diversity, Equity, and Inclusion Council

Recognition & Accomplishments

Recognized in *AzBusiness* Leaders magazine under Native American Law, 2019

Named to the Top 100 Lawyers, *Arizona Business* magazine, 2015

Chambers USA, First Amendment litigation (nationwide), 2013, 2015-2017, 2019, 2020-2021, "Senior Statesman," 2021

The Best Lawyers in America, advertising law, First Amendment litigation, media law, 1995-2022

Southwest Super Lawyers, First Amendment, media, and advertising, 2007-2020

The Legal 500, Media and Entertainment: Litigation, 2020

Named as one of *Arizona Capitol Times* Leaders of the Year in Public Policy, in the area of open government, 2014, 2020

Named among *Arizona Business Magazine's* Arizona's Top Lawyers, intellectual property, 2013

Who's Who in American Law and Who's Who in America, 1995-2020

Recipient, Arizona Region of the Anti-Defamation League's Torch of Liberty Award, 2013

Recipient, Valle Del Sol's Arizona Public Service Peacemaker Award, 2011

Recipient, American Jewish Committee's Judge Learned Hand Award for Community Service, 2008

Speaking Engagements

"Hearings in the Headlines: A Panel Discussion about the Relationship between the Media and the Courts, First Amendment Implications and What is 'Newsworthy'," 2018 Maricopa County Judicial Education Day, Mesa, AZ, October 26, 2018

"Fake News, Enemies of the People and Freedom of the Press: Not Exactly What the Founders Had in Mind?" State Bar of Arizona CLE, October 23, 2018

"Press, Politics and the Public: President Trump and the First Amendment," Walter Cronkite School of Journalism and Mass Communication, Phoenix, Arizona, January 31, 2017

"Technology, Social Media and Public Records in the Lobbying Context: Navigating the Legal, Ethical and Practical Considerations," Faculty, State Bar of Arizona CLE, "A Funny Thing Happened on the Way to the Capitol," June 1, 2016

"Balancing National Security and Religious Liberty in the United States," The Melikian Center: Russian, Eurasian and Eastern European Studies, Arizona State University, October 9, 2015

"Free Speech, Privacy & Technology," Arizona State University Sandra Day O'Connor College of Law, Scottsdale, Arizona, May 27, 2015

"Newsgathering and Reporting in the Year 2015," ABA Forum on Communications Law, Las Vegas, April 12, 2015

"Current Trends in Discovery, Disclosure, ADR, and Expert Witness Preparation and Testimony," State Bar of Arizona CLE by the Sea, July 20, 2013

10th Annual Labor Relations Conference, co-sponsored by the Arizona Society for Human Resources Management and *Az Business Magazine*, May 3, 2013

"Higher Education and Creating a Culture of Philanthropy," Yale Global Alumni Leadership Exchange, New Asia College, Hong Kong, July 30, 2011

"Wikileaks, Free Speech and National Security, Center for Law and Global Affairs," ASU's Sandra Day O'Connor College of Law, February 11, 2011

Board Memberships & Community Service

University of Arizona, James E. Rogers College of Law, Board of Visitors

First Amendment Coalition of Arizona, Board of Directors

Lawyers' Committee for Civil Rights Under Law, Director, 2006-present

Arizona State University's Walter Cronkite School of Journalism and Mass Communication Endowment Board; Chair, 2013-2015

Anti-Defamation League, Arizona Region, former Board Chair

Children's Action Alliance, former Board Chair

Arizona Center for Law in the Public Interest, former Board Chair

Publications

Contributor, *Extreme Speech and Democracy*, Oxford University Press, 2009

"A Persuasive Colloquy: Book Review of *Making Your Own Case: The Art of Persuading Judges*," *Arizona Attorney*, July/August 2008

"War, Wisdom, and Freedom of the Press," *Communications Lawyer*, December 1, 2002

Related Insights

- "Bill Would Mandate Redactions on Body Camera Footage," Media Coverage, February 4, 2021
- "Providing Security to Journalists," Webinar, December 8, 2020
- "Congratulations to the 2020 Leaders of the Year!," Media Coverage, September 25, 2020
- "Ballard Spahr's David Bodney Among Arizona Capitol Times' 2020 Leaders of the Year," Awards and Rankings, September 1, 2020
- "Experts: Arizona Officials Unlawfully Holding COVID-19 Information," Media Coverage, April 27, 2020
- "Chambers USA Names Ballard Spahr Leading Lawyers and Practices for 2020," Awards and Rankings, April 23, 2020
- "Stephanie Grisham's Turbulent Ascent to a Top White House Role," Media Coverage, August 22, 2019
- "Media and Entertainment Group Joins Ballard Spahr in Los Angeles," Press Release, August 19, 2019
- "Ballard Spahr Announces Arrival of Noted IP and First Amendment Litigation Team in Los Angeles," Press Release, July 9, 2019
- "InfoWars, PayPal Spat Set to Go Down in Arbitration," Media Coverage, November 4, 2018
- "Ballard Spahr Named National Law Firm of the Year for Media Law and Copyright Law by *U.S. News & World Report-Best Lawyers*," Press Release, October 31, 2018
- "After 47 Years in Practice, Tom Kelley Recognized with First Amendment Leadership Award," Press Release, September 26, 2018
- "Maricopa County Recorder Adrian Fontes Releases Report He Said He Wouldn't," Media Coverage, September 20, 2018
- "Arizona Passes New Law to Bolster Campus Free Speech," Legal Alert, May 4, 2018
- "Child Sex Abusers Left Off Online Court Database," Media Coverage, February 20, 2018
- "Arizona Republic Editor Nicole Carroll Named USA TODAY Editor in Chief," Media Coverage, February 14, 2018
- "Arizona Court of Appeals Declares Trial Court's Media Restrictions Unconstitutional," Legal Alert, February 6, 2018
- "Appeals Court Rules Against Judge Who Blocked Media From Using Prosecutor's Name," Media Coverage, January 22, 2018
- "Ballard Spahr's Consumer Financial Services, Media Law Groups Earn *Law360* "Practice Group of the Year" Honors," Press Release, January 15, 2018
- "Ninth Circuit Rules California "No Credit Card Surcharge" Law Violates First Amendment," Legal Alert, January 8, 2018

Credentials

Education

University of Virginia School of Law (J.D. 1979, M.A. Foreign Affairs 1979)
Senior Editor, *Virginia Journal of International Law*

Yale University (B.A., *cum laude*, 1976)
Recipient, Thatcher Memorial Prize for Extemporaneous Debate

Admissions

Arizona

California (admitted *pro hac vice*)

U.S. District Court for the District of Arizona

U.S. District Court for the Southern District of Florida (*pro hac vice*)

U.S. District Court for the Northern District of Illinois (*pro hac vice*)

U.S. District Court for the Eastern District of Michigan (*pro hac vice*)

U.S. District Court for the Eastern District of Missouri (*pro hac vice*)

U.S. District Court for the Eastern District of New York (*pro hac vice*)

U.S. Court of Appeals for the Second Circuit

U.S. Court of Appeals for the Ninth Circuit

U.S. Court of Appeals for the Tenth Circuit

U.S. Supreme Court