



TIMOTHY J. BERG

Director

Business Litigation

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Don't fight the problem, solve it.
-George Catlett Marshall



TIMOTHY J. BERG

Formerly the managing partner of our firm, Tim Berg is a distinguished attorney in our business litigation practice group, focusing primarily in the areas of civil appeals, state constitutional and public law, public records law and public utilities regulation. Throughout his career as an appellate attorney, he has participated in the briefing or argument of more than 800 appeals before the United States Courts of Appeals for the Ninth Circuit, the Tenth Circuit, the Second Circuit, the Fourth Circuit, the Fifth Circuit, the Eleventh Circuit, the Federal Circuit, the Supreme Court of Arizona and both divisions of the Arizona Court of Appeals. His appellate practice spans a broad field of substantive areas, including Arizona constitutional and public law, public records law, insurance coverage, medical malpractice, product liability, environmental, state and local taxation, business torts, real property and mineral rights, bankruptcy, public lands and public utilities. He represents state and local governments and agencies, as well as companies and individuals in disputes with the government.

As an appellate attorney, Tim enjoys working with his clients to solve their problems, working with a wide variety of people in different industries. He represents business and government clients in litigation arising under Arizona and other states' public records law, and regularly assists clients in protecting their personal, proprietary or confidential information from improper disclosure as a result of public records requests. Tim also represents clients before the Arizona Legislature and state agencies. In his role as an Arizona Uniform Laws Commissioner, he serves on drafting committees for projects involving uniform state laws and model acts for adoption by Indian tribes. Tim clerked for Judge Richard H. Chambers, Chief Judge of the United States Court of Appeals for the Ninth Circuit.

Tim serves as the firm's general counsel. He served for 21 years on our Management Committee, including 10 years as chair of the committee.

EDUCATION

J.D., University of Arizona, James E. Rogers College of Law, with highest distinction

B.A., Arizona State University, with high distinction

Order of the Coif

Associate Editor, *Arizona Law Review*

AREAS OF PRACTICE

OTHER EXPERIENCE

Appeals

Indian Law

Public Records

Business Litigation

Natural Resources

Government Relations & Regulatory

REPRESENTATIVE CASES

Served as legal counsel to the City of Chandler in *City of Chandler v. Roosevelt Water Conservation District*, No. CV-24-0267-PR, 2026 WL 1141802 (Ariz. Apr. 28, 2026), where the Arizona Supreme Court declared that the one-year statute of limitations in A.R.S. § 12-821 does not apply to claims by a government-entity plaintiff against another government entity, helping secure a ruling that preserves flexibility for public entities to resolve disputes without the pressure of a strict one-year deadline.

Successfully defended Proposition 123 providing for distributions to schools of monies from the State Land Trust in both state and federal court against challenges under the Enabling Act. *Pierce v. Ducey*, No. 1CA-CV 22-0007 (Arizona Court of Appeals October 25, 2022); *Pierce v. Ducey*, 965 F.3d 1085 (9th Cir. 2020).

Successfully represented Governor Ducey in a challenge to his order with respect to Covid era unemployment benefits. *Unemployed Workers v. Ducey*, 254 Ariz. 95 (App. 2022)

On behalf of the Arizona Tourism and Sports Authority, successfully defended the constitutionality of a tax on the business of leasing vehicles against challenges under the Dormant Commerce Clause of the United States Constitution and the Anti-Diversion provision of the Arizona Constitution. *Saban Rent-A Car LLC v. Arizona Department of Revenue*, 246

Ariz. 89 (2019)

Represented the Arizona Health Care Cost Containment System in the successful defense in the Arizona Supreme Court of an assessment authorized by the Arizona Legislature to fund Medicaid restoration against a challenge that the assessment violated the supermajority requirement of Article 9, section 22 of the Arizona Constitution. *Biggs v. Bettlach*, 404 P.3d 1243 (2017)

Represented the City of Phoenix in a lawsuit brought by various taxpayers challenging the constitutionality of a \$100 million retail sales tax incentive agreement between the City and developer NPP CityNorth, LLC. The taxpayers alleged that the subject agreement violated the Gift, Special Law, and Privileges and Immunities clauses of the Arizona Constitution ("Gift

Clause"). The trial court rejected each of the taxpayers' claims, and the Court of Appeals of Arizona reversed, holding that the agreement violated the Gift Clause. The Arizona Supreme Court granted review. After hearing the case, it issued a decision early in 2010 that allowed the City of Phoenix sales tax incentive agreement between the City and the developer to stand and vacated the Court of Appeals decision on Gift Clause compliance because the existing legal framework was unclear. It adopted a clear view of public purpose and set a

framework for the courts to decide whether a transaction will pass muster under the Gift Clause. *Turken v. Gordon*, 223 Ariz. 342, 224 P.3d 158.

Obtained decision from Court of Appeals vacating a \$25 million punitive damage award in an action against a mental health provider accused of negligent failure to treat. *Graham v. ValueOptions*, 2010 Ariz. App. Unpub. LEXIS 75.

Represented a homebuilder on appeal in a coverage action against the homebuilder's insurer. Decision resulted in new coverage law favorable to business insureds. *Desert Mountain Properties Limited Partnership v. Liberty Mutual Fire Ins. Co.*, No. CV-10-0339-PR (Ariz. May 12, 2011).

Represented a major homebuilder in a successful appeal reversing a summary judgment that the homebuilder's and its contractors' insurers did not have a duty to defend a construction defect lawsuit under a general liability insurance policy. *Lennar Corp. v. Auto-Owners Ins. Co.*, 151 P.3d 538 App. 2007.

Represented a public official in an appeal resulting in an Arizona Supreme Court opinion establishing that personal emails of a public employee located on his or her employer's computer are not public records unless related to the public business of the employee. *Griffis v. Pinal County and Phoenix Newspapers*, 215 Ariz. 1, 156 P.3d 418 (2007).

Represented an incumbent telecommunications company in a appeal to the Arizona Supreme Court establishing that all telecommunications providers in the state are subject to the state constitution's fair value requirement. *US West Communications, Inc. v. Arizona Corporation Commission*, 201 Ariz. 242, 34 P.3d 351 (2001).

Represented Arizona Governor Jane Dee Hull in a special action to the Supreme Court concerning the constitutionality of a statute adopted to deal with the court's mandate concerning funding of construction of school facilities. *Hull v. Albrecht*, 192 Ariz. 34, 960 P.2d 634 (1998).

AWARDS AND HONORS

Top Lawyer – Appellate Law, *Phoenix Magazine*, 2026

Best Lawyers in America®, Lawyer of the Year, Appellate Practice, Communications Law, 2025

Best Lawyers in America®, Lawyer of the Year, Litigation-Regulatory Enforcement (SEC, Telecom, Energy), 2012, 2015, 2017, 2020 & 2024

Best Lawyers in America®, Lawyer of the Year, Litigation – Municipal, 2014, 2016, 2024

Best Lawyers in America®, Appellate Practice, Communications Law, Energy Law, Litigation – Municipal, Litigation – Regulatory Enforcement (SEC, Telecom, Energy), Utilities Law, 2003-2027

Chambers USA, Leading Lawyers for Business, 2012, 2020-2026

Southwest Super Lawyers®, Top 50 Arizona Super Lawyers, 2012-2013, 2015-2016, 2020, 2023 and 2024

Southwest Super Lawyers®, Appellate and Utilities, 2007-2026

Top Lawyers, Phoenix Magazine, 2025

Top 100 Lawyers in Arizona, *AZ Big Media*, 2020, 2022-2023

Best Lawyers in America®, Lawyer of the Year, Appellate Practice, 2011, 2021

Best Lawyers in America®, Lawyer of the Year, Communications Law, 2020

Best Lawyers in America®, Lawyer of the Year, Appellate Practice, 2011, 2018

Top 100 Lawyers, *AZ Business Magazine*, 2020

Benchmark: Appellate, Leading Appellate Practitioner, Ninth Circuit, 2012-2013

Most Admired CEO Award recipient – *Phoenix Business Journal*, 2012

Arizona's Best Lawyers, Appellate Practice and Commercial Litigation, 2011

Distinguished Citizen Award, University of Arizona Alumni Association, 2001

Selected, AZ Business Leaders – Law – Environmental, *AZ Big Media*

AV® Preeminent™ Peer Review Rated (the highest rating available), by Martindale-Hubbell

ARTICLES AND PRESENTATIONS

Co-Author, "[Treasury Suspends Enforcement of Corporate Transparency Act & Proposes Narrowed Scope](#)," Fennemore Blog, March 5, 2025

Co-Author, "[An ounce of prevention goes a long way to avoid wire hacking schemes: 4 tips for businesses](#)," Phoenix Business Journal, March 1, 2025

Co-Author, "[Client Alert: Corporate Transparency Act Compliance – New Filing Deadline & Compliance Tool](#)," Fennemore Blog, February 20, 2025

Interview, "[Arizona ranchers appeal water rights case involving Gila River Indian Community](#)," KJZZ, February 10, 2025

Quoted, "Judicial Retention Becomes Political in 2024," Arizona Capitol Times, December 30, 2024

Co-Author, "[Nationwide Injunction Temporarily Halts Corporate Transparency Act BOIR Filing Requirements: What You Need to Know](#)," Fennemore Blog, December 5, 2024

Presenter, "Arizona Merit Selection and Retention Elections: A Nonpartisan Discussion," Christian Legal Society student chapter at the Sandra Day O'Connor College of Law at Arizona State University, October 3, 2024

Co-Author, "[Their Take: Merit Selection – A Respected Arizona System of Judge Selection Worth Preserving](#)," Greater Phoenix InBusiness Magazine, June 5, 2024

Co-Author, [Fennemore Notice To Clients – Corporate Transparency Act](#), Fennemore Client Alert, December 29, 2023

Featured, "Write a Better Legal Brief in Less Time," Bloomberg Law, August 11, 2023

Featured, "Bench Bar Breakfast (State Bar of Texas Annual Meeting 2023)," Legal Talk Network, July 3, 2023

Presenter, "Uniform Laws and the Uniform Law Commission," Bench Bar Breakfast, State Bar of Texas Annual Meeting, June 22, 2023

Featured, "Top 100 Lawyers in Arizona for 2023," AZ Big Media, January 19, 2023

Quoted, "What Is the Purpose of the Preamble to the Constitution," *UpJourney*, April 19, 2021

Quoted, "What is the Electoral College and how does it work?" *Today*, October 8, 2020

Quoted, "Supreme Court Refuses to Hear Arizona Rental Car Tax Lawsuit," *Phoenix Business Journal*, October 7, 2019

Quoted, "Judge Denies State's Request to Let 'Dark Money' Law Stand During Appeal," *Arizona Capitol Times*, August 5, 2019

Speaker, "Splitting Circuits: Past Results and Present Prospects," 2018 AAAL Fall Meeting, October 5, 2018

Co-author, "Be Aware of Changes to Phoenix's Rules for Lobbyists," *The Arizona Republic*, October 25, 2017

Co-author, "Uniform Law Commission," *Arizona Attorney*, November 2016

Author, "Attorneys' Fees on Appeal, Chapter Nine," *Arizona Attorneys Fees Manual*, 3d Ed.

Author, "Attorneys' Fees," Chapter Eleven, *Arizona Appellate Handbook*, Vol. I, 3d and 4th Edition

PROFESSIONAL AND COMMUNITY ACTIVITIES

Member, State Bar of Arizona

Former President, Uniform Law Commission (One of only two presidents from Arizona to have held this position)

Co-Chair, Arizona Equal Justice Campaign

Member, Greater Phoenix Leadership

Chair, Arizona Commission on Uniform State Laws

Member, Appellate Handbook Committee, State Bar of Arizona

Member, Board of Directors, Arizona Law College Association

Past Chair, Board of Directors, Herberger Theater Center

Past President, American Academy of Appellate Lawyers

Past Member, Executive Committee, National Conference of Commissioners on Uniform State Laws

Past Member, Board of Trustees, Maricopa County Bar Foundation

ADMISSIONS

Arizona

Arizona Supreme Court

U.S. District Court, District of Arizona

U.S. Court of Appeals, D.C. Circuit

U.S. Court of Appeals, Federal Circuit

U.S. Court of Appeals, Second Circuit

U.S. Court of Appeals, Fifth Circuit

U.S. Court of Appeals, Ninth Circuit

U.S. Court of Appeals, Tenth Circuit

U.S. Court of Appeals, Eleventh Circuit

United States Supreme Court