

Fabian VanCott



Kevin N. Anderson

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Practice Areas:



Energy & Utilities



Litigation, Trials & Appeals



Environmental & Natural Resources



Real Estate



Government Investigations & White Collar Criminal Defense



Administrative & Regulatory Compliance



Employment & Labor

Biography

Business disputes can be very complex. Kevin Anderson has the professional experience and resources available at Fabian VanCott to assist clients in complex litigation cases when they are facing difficult problems or have already faced defeat. For example, Kevin led a team of Fabian VanCott attorneys in representing the co-owner of Crandall Canyon Mine in connection with catastrophic events at the Mine in August, 2007, in the courtroom, with the press, and with governmental authorities. As lead attorney, Kevin conducted negotiations involving multiple plaintiffs, insurance companies, and co-defendants to reach a settlement of all claims for all parties in less than two years. He also has prevailed in highly publicized cases against the NCAA and the FBI. Kevin has handled many cases in Utah, Nevada and other jurisdictions, involving employment agreements and alleged breaches of covenants not to compete. Kevin has assisted clients in matters related to the defense of reputation and corporate image, a variety of disputes dealing with contracts, force majeure, securities fraud, banking, real estate transactions, and intellectual property. Kevin is also an active mediator and arbitrator. He currently serves on the Executive Committee of the Utah Mining Association.

Kevin graduated from Georgetown University Law Center and is admitted to practice in Utah, Nevada, the District of Columbia, Ohio, the 9th, 10th and District of Columbia U.S. Circuit Courts of Appeal, and the U.S. Supreme Court of the United States.

Professional

Recognized by The Best Lawyers in America as outstanding in Litigation - Land Use & Zoning

Recognized by Mountain States Super Lawyers as outstanding in Complex Commercial Litigation since 2007

Recognized as Litigation Star in Utah in Benchmark Litigation: the Guide to America's Leading Litigation Firms and Attorneys since 2011

Rated AV by Martindale-Hubbell

Member, Utah Mining Association Board of Directors, 2007-present; Executive Committee, 2009-present; Second Vice President, 2016-present

Admitted to the Supreme Court of the United States, 2016

Admitted to the Supreme Court of Ohio, 2015

Admitted to D.C. Circuit Court of Appeals, 2013

Admitted to Ninth Circuit Court of Appeals, 2008

Admitted to D.C. Bar, 2005

Admitted to Nevada State Bar, 1992

Member, Utah Supreme Court Advisory Committee on Civil Procedure, 1991-1993

Admitted to Tenth Circuit Court of Appeals, 1985

Admitted to Utah State Bar, 1981

Representative Projects

Kevin is one of Fabian VanCott's most experienced trial attorneys with over 35 years of litigation experience in state and federal courts, arbitration, and administrative forums. Kevin has handled a variety of complex commercial disputes involving contract disputes, force majeure, eminent domain and condemnation, securities fraud, insurance coverage and benefits, banking, real estate transactions, fiduciary relationships and Indian law. Kevin has been involved in all aspects of litigation, arbitration, mediation, and settlement negotiations.

Kevin has handled numerous employment related matters including successfully defending an employer against claims of religious discrimination under Title VII by an employee who alleged he was constructively discharged as a result of his Seventh-Day Adventist beliefs, conducting a thorough investigation for an employer of allegations of kickbacks and other inappropriate conduct by suppliers and employees involved in setting standards for and purchasing millions of dollars' worth of equipment, and actions involving breach of employment contracts, breach of implied employment contracts, recovery of unpaid wages, compensation, severance pay, and other general compensatory and consequential damages.

Representative Projects (cont.)

Kevin was lead counsel representing the co-owner of the Crandall Canyon Mine in ongoing civil lawsuits stemming from the catastrophic events that occurred at the Mine in August 2007, which resulted in nine fatalities. He lead the negotiations with multiple plaintiffs, insurance companies, and co-defendants, reaching a highly publicized global settlement of all claims of all plaintiffs against all defendants in less than two years following the accidents. In addition, Kevin assisted the co-owner with investigations by the Mine Safety and Health Administration, several Congressional committees, Department of Labor, Utah Mine Safety Commission and other government agencies.

Kevin has analyzed, litigated, mediated and been a neutral and party- appointed arbitrator in cases in Utah, Nevada and other jurisdictions involving contract interpretation, market price reopeners, pricing disputes, plant construction issues and product quality related issues. He has been involved in contract negotiations and renegotiation. He represented the University of North Dakota against the NCAA's attempt to stop it from using its "Fighting Sioux" nickname and logo. Kevin prevented the FBI from gaining access to top secret government documents leaked to his father, Jack Anderson. Other cases have involved performance of technology sharing agreements, commercial lease disputes, fraud, and the enforcement of alleged verbal agreements.

Kevin has also handled Mine Safety and Health Administration special investigations seeking to impose civil and criminal liability, MSHA enforcement defense litigation, appeals before the Federal Mine Safety and Health Review Commission, and litigation challenging unlawful MSHA regulations and related regulatory actions.

Kevin has analyzed and litigated numerous claims of force majeure under fuel supply contracts involving events such as unanticipated geologic conditions, the unavailability of railroad cars and other transportation problems, earthquakes, coal frozen in railroad cars, the failure of coal processing equipment at a generating station, breakdowns of turbine generators, and other problems experienced by coal suppliers.

Education

J.D., Georgetown University Law Center, 1981

B.A., University of Utah, 1978

Publications & Presentations

Presenter, "Disaster Response - Don't Forget ESI," at the Intermountain eDiscovery 2010 conference, September 24, 2010, Salt Lake City

Presenter, "Protecting the Privilege," at the Intermountain eDiscovery 2009 conference, May 28, 2009, Salt Lake City

Presenter, "Preparing for Dispute Resolution - Protecting Privilege, Confidentiality, and Work Product," Las Vegas, Nevada, 2008

Lecturer, "Managing Risks in a Changing Market - A Legal Perspective, Coal: Volatile Markets & Risk Management," Electric Utility Consultants, Inc. (EUCI), 2005

Lecturer, "Duty to Preserve Evidence - Spoliation and Electronic Data Discovery," Corporate Counsel Section, Utah State Bar, 2004

Lecturer, "Tribal Taxation Issues," The Public Utilities and Transportation Taxation Committee, et al., 1996

Lecturer, "Coal & Transportation Strategies," Long Term Contract Consultants, Inc., 1995

Lecturer, "Coal Contracting Strategies," Long Term Contract Consultants, Inc., 1994

Lecturer, "The Role of Utility Auditors in Litigation or Arbitration," Utilities Training Conferences, Inc., 1993, 1990

Lecturer, "Coal Procurement Strategies Based on Clean Air Act Requirements," Long Term Contract Consultants, Inc., 1992

Lecturer, "Obtaining a Collection Judgment," Utah Collection Law Seminar, Professional Education Systems, Inc., 1986, 1988

Course Instructor, "Aviation and the Law," Salt Lake Community College, 1992

Panel Member, "Deposition Strategies, Tactics and Mechanics," Professional Education Systems, Inc., 1990

Panel Member, "Teamwork: Litigation, Lawyers and Legal Assistants," Legal Assistants Association of Utah, 1990

Author, "Tribal Authority to Tax, Journal of Property Tax Management," v. 8, no. 4, Spring 1997
Coauthor, "Slow Justice: Looking for Land With the Paiutes," Utah Holiday, August, 1982

Author, "Indian Employment Preferences: Legal Foundations and Limitations," 15 Tulsa Law Journal 733, 1980

Community Service

Member, Salt Lake Chamber Capitol Club, 2010 - present

Trustee, Legacy Christian Fellowship of Las Vegas, 1998

Member, Las Vegas Chamber of Commerce, 1992-1998; Business/Education Collaborative, Funding and Resources Committee, 1993-1995; Member of the Women's Council

Trustee, Friends of the Tracy Aviary, 1986-1993; One of the founders of non-profit group to help raise funds for the Tracy Aviary

Member, Salt Lake City Tracy Aviary Advisory Board, 1984-1992; Advisory Board reported directly to the Office of the Mayor on issues relating to one of two municipal owned aviaries in the United States; Chaired Capital Improvements Committee which administered over \$1 million in capital improvements