



## Jason W. Hardin

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### Practice Areas

-  Litigation, Trials & Appeals
-  Energy & Utilities
-  Environmental & Natural Resources
-  Real Estate
-  Government Investigations & White Collar Criminal Defense
-  Administrative & Regulatory Compliance

## Biography

Jason Hardin is the President of Fabian VanCott. He has first-chaired more than seventy-five civil and administrative trials and private arbitrations through decision and second-chaired many others, often in large-scale, complex cases with multiple parties, numerous expert and fact witnesses, and novel legal and factual issues. Jason knows how to aggressively resolve a case and, if necessary, how to efficiently manage a team and take a case to trial. Jason has significant experience in commercial and business disputes, mine safety (MSHA, FMSHRC), occupational safety (OSHA, UOSH, Cal/OSHA), industrial and mining accidents, catastrophic events, mass torts and class actions. He also has considerable experience in real estate and development disputes, construction defect cases, and warranty claims. Jason is licensed to practice in Utah and Nevada and has appeared in numerous courts, arbitrations and mediations across the country: in Utah, Nevada, California, Alabama, Colorado, Illinois, Indiana, Kentucky, Massachusetts, Missouri, New York, Ohio, Pennsylvania, Washington D.C., and West Virginia. Jason received his law degree from the University of Utah S.J. Quinney College of Law, where he was Editor-in-Chief of the Journal of Land, Resources and Environmental Law. He earned his bachelor's degree in physics (with an emphasis in geophysics) from Rice University. Prior to practicing law, Jason was a U.S. Navy nuclear submarine officer and Department of Energy certified Naval Nuclear Engineer.

## Professional

**Fabian VanCott:** President, 2018; Director, 2008-2009, 2011, 2014-Present; Shareholder, 2004-Present; Chairperson, Energy & Utilities Practice Group, 2010; Recruiting Director, 2005-2007; Associate, 2000-2004

**Courts:** Admitted to the Utah State Bar, 2000; U.S. District Court for the District of Utah, 2000; Nevada State Bar, 2006; U.S. District Court for the District of Nevada, 2008; United States Court of Appeals for District of Columbia Circuit, 2015; Practiced before the Federal Mine Safety Health & Review Commission, 2009-Present

**Legal Awards:** Legal Elite in the field of Business Litigation, Utah Business, 2006-Present; Rising Star, Mountain States Super Lawyers, 2008-2009 (with 2008 edition featuring unpaid article on Jason entitled "He Works While You Sleep"); Super Lawyer, Mountain States Super Lawyers, 2010-2016; Future Star, Benchmark Litigation, 2013-Present

**United States Navy:** Special Security Officer and Intelligence Officer, Submarine Squadron Eleven, San Diego, California, 1996-1997; Nuclear Submarine Submarine Officer, USS Pogy (SSN 647), San Diego, California, 1993-1996; Certified as Nuclear Power Plant Engineer by Naval Reactors Division of Department of Energy, 1995; Cleared for Top Secret Information and granted access to Sensitive Compartmented Information based on Single Scope Background Investigation (SSBI) completed on September 2, 1992 under Case Control Number (CCN) 92136-0542

## Representative Projects

Successfully represented and currently represents numerous mine operators throughout country in: (1) Mine Safety and Health Administration (MSHA) accident investigations, (2) MSHA special investigations seeking to impose individual civil and criminal liability, (3) administrative contest and civil penalty proceedings before administrative law judges of the Federal Mine Safety and Health Review Commission (FMSHRC), (4) appeals before the FMSHRC, (5) mine safety related appeals before the United States Court of Appeals for the District of Columbia Circuit, and (6) litigation challenging unlawful MSHA regulations and related regulatory actions.

Successfully represented and currently represents numerous businesses throughout country in Occupational Safety and Health Administration (OSHA) accident investigations and OSHA-related administrative contest and civil penalty proceedings before administrative law judges and appeal boards.

Successfully represented nationwide class of distributors against Herbalife International in class action alleging consumer fraud and deceptive business practices, among other claims, and obtained \$17.5 million court approved settlement on behalf of class, in *Bostick, et al. v. Herbalife International of America Inc., et al.*, Case No. 2:13-cv-02488, in the U.S. District Court for the Central District of California.

Successfully represented and currently represents numerous businesses in defense of civil lawsuits involving workplace accidents and fatalities.

Successfully acted as trial consultant in patent licensing dispute in case that resulted in favorable verdict and award of close to \$1 million in attorneys' fees from opposing party.

Successfully represented co-owner, operator and parent entities of the Crandall Canyon Mine near Huntington, Utah in three civil lawsuits stemming from the multiple deaths and injuries arising out of the collapse of the Mine and failed rescue in August 2007; played key role in investigating and mastering complex facts, in negotiating with numerous plaintiffs and insurance companies, and in reaching highly publicized global settlement of all claims from all plaintiffs against all defendants in less than two years following the accidents.

Successfully represented co-owner, operator and parent entities of the Crandall Canyon Mine near Huntington, Utah in investigations by the Mine Safety and Health Administration, several Congressional committees, the Department of Labor, the Utah Mine Safety Commission, and the U.S. Attorney's Office for the District of Utah in relation to the August 2007 accidents at the Crandall Canyon Mine.

Successfully represented electric utility in baseball-style arbitration involving coal company's assertion of force majeure under a long-term coal supply agreement because of allegedly "unanticipated geologic conditions" encountered at mine; was responsible for large part of discovery and arbitration preparations; deposed several fact witnesses and all opposing expert witnesses, including rock mechanics specialist, geo-statistician, and two geologists.

Successfully represented electric utility in three-week baseball-style arbitration involving utility's assertion of force majeure under long-term coal supply agreement because of breakdown of one of its turbine generators; was responsible for large part of discovery and arbitration preparations; examined and cross-examined all expert witnesses during hearing, including two metallurgists, two generator specialists, and fracture mechanics and finite element analysis expert.

Successfully represented large industrial linen supply company in several jurisdictions in defense of national and state class action lawsuits involving antitrust and consumer fraud claims; assisted in preparation of successful motion in opposition to class certification in federal court (reported at 223 F.R.D. 506 (2004)); responsible for managing complex discovery, involving over twenty depositions and well over fifty thousand pages of documents.

Successfully represented millwork installer (a sub-subcontractor during the construction of a large five-star hotel) in two-and-a-half week arbitration in Boston, Massachusetts against millwork supplier; was responsible for large part of discovery and arbitration preparation; examined key fact witnesses and cross-examined key fact witnesses during hearing.

Successfully represented contractor against owner in construction defect arbitration in Salt Lake City, Utah.

Obtained preliminary injunction in federal court on behalf of nation's fourth largest alarm monitoring service provider in action alleging Lanham Act and consumer fraud violations; largely responsible for drafting memorandum in support of motion for restraining order and injunction.

## Education

University of Utah S.J. Quinney College of Law: J.D., 2000; Editor-in-Chief, Journal of Land, Resources & Environmental Law; Semi-Finalist (out of 63 universities), National Environmental Law Moot Court Competition, Pace University, 1999; William H. Leary Scholar; Legal Writing Teaching Assistant

Naval Nuclear Prototype Training Unit, Idaho Falls, Idaho: Graduated 1st in Class, 1992-1993

Naval Nuclear Power School, Orlando, Florida: Graduated in top 10% of Class, 1992; graduate level courses in Atomic and Nuclear Physics, Health Physics, Fluids and Fluid Systems, Material Sciences and Metallurgy, Thermodynamics, Water Chemistry, Mechanical Engineering, Reactor Kinetics, Electrical Engineering, Mathematics and Power Plant Systems

Rice University, Houston, Texas: B.A., Physics, emphasis in Geophysics, 1992; Naval ROTC; Rice Rugby Club

## Publications & Presentations

Panel Member, Handling Investigations—HR and OSHA, Fabian VanCott Employment Law Seminar, 2017

Cost-Effectively Resolving MSHA Citations, Second Annual Safety Conference, Utah Mining Association and Utah Manufacturers Association, 2013

Being Unsafe Isn't Worth It, First Annual Safety Conference, Utah Mining Association and Utah Manufacturers Association, 2012

The Management of a Large Case Document Review, Orange Legal Technologies Intermountain e-Discovery Conference, 2009, <http://tinyurl.com/lxm6rx>

Tipping the Scales: Why Congress and the President Should Create a Federal Interim Storage Facility for High-Level Radioactive Waste, 19 J. Land Resources & Env'tl. L. 293 (1999)

## Community Service

Big Brothers Big Sisters of Utah: Chairman, Board of Directors, 2005-2007, Treasurer, Board of Directors, 2004-2005, Member, Board of Directors, 2003-2009

Community Service Committee, Young Lawyers Division, Utah State Bar, 2001-2003

Hearts & Hands Award, Utah Philanthropic Society, 2007