



## Douglas J. Payne

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### Practice Areas

 Bankruptcy & Receivership

 Litigation, Trials & Appeals

## Biography

Douglas J. Payne has over 25 years of experience in a practice focused on bankruptcy and complex litigation. He represents creditors and trustees in business bankruptcy actions and has helped clients successfully reorganize under Chapter 11 proceedings. He has acted as lead counsel for creditors' committees in a number of bankruptcy cases, including negotiating payment plans and blocking plans that reduce creditor rights. Doug has also negotiated favorable settlements for defendants in bankruptcy litigation, and successfully defended them in court and on appeal. As a litigator, he has represented parties in complex real property cases, where he is able to team with Fabian VanCott attorneys with expertise in the firm's core competency areas. In the community, Doug has served as a board member and chair of the Murray Education Foundation and as chair of the Murray City Planning and Zoning Commission. He earned his law degree from the University of Utah, where he was a William H. Leary Scholar and on law review. He received his bachelor's degree from Brigham Young University, where he graduated cum laude. Doug is admitted to Utah's state and federal courts, the Tenth U.S. Circuit Court of Appeals and the U.S. Supreme Court.

## Professional

Attorney and Shareholder, Fabian VanCott, 1988 - present

Attorney, Sessions & Moore, 1983 - 1988

Admitted to Tenth Circuit Court of Appeals

Admitted to U.S. Supreme Court, 1992

Admitted to Utah State Bar, 1983; Litigation Section; Bankruptcy Law Section; Real Property Section

Member, American Bankruptcy Institute

Member, Salt Lake County Bar Association

Recognized in Best Lawyers in America

Recognized in Mountain States Super Lawyers as among the top bankruptcy lawyers in the state of Utah

Recognized as among Utah's Legal Elite

## Representative Projects

### BANKRUPTCY

Doug represented a construction company in successfully reorganizing under Chapter 11 of the Bankruptcy Code. The representation included negotiations to resolve claims of taxing authorities and other creditors.

Represented a Chapter 11 bankruptcy trustee in obtained confirmation of a Chapter 11 plan that paid all creditors in full. Successfully opposed a competing Chapter 11 plan filed by the principal defendant in an avoidance lawsuit being prosecuted by the Chapter 11 trustee and obtaining court approval for a complex sale of an asset to fund the trustee's Chapter 11 plan.

Doug has been lead counsel for creditors' committees in a number of bankruptcy cases. His representation of committees has included negotiating plans to pay all creditors in full, blocking a plan that would have substantially restricted the rights of a class of creditors and representing an unsecured creditors' committee in many avoidance actions to recover significant funds for a Chapter 11 bankruptcy estate.

Doug has negotiated favorable settlements for a number of defendants in bankruptcy preference or fraudulent conveyance actions. He has also successfully defended claims in court, succeeding in dismissing claims at both the bankruptcy court level and on appeal.

Doug advised a major utility company about revising its procedures for dealing with pre-petition customer security deposits and post-petition service to bankrupt utility customers, resulting in significant savings to the utility.

Doug represented a widow with a non-dischargeability claim against a bankruptcy attorney who had filed personal bankruptcy. He prevailed for his client at two levels of appeal. His client received full payment from the defendant after Doug obtained a favorable decision from the U.S. Court of Appeals for the Tenth Circuit.

#### REAL PROPERTY

Doug represented a landowner in a dispute over the scope of an easement. Obtained an injunction limiting use of easement and barring trespass on his client's property.

Negotiated a favorable settlement for a junior lender in mechanic's lien litigation involving complex lien priority and validity issues for many mechanic's liens against an industrial facility.

Represented a seller of a parcel of land-locked property in a dispute over an access easement. Doug assisted in negotiating a consensual easement with the adjoining landowners and also worked to obtain a court order approving the easement in a bankruptcy involving one of the landowners.

#### LITIGATION

Doug obtained a temporary restraining order and preliminary injunction preventing a client's customer from transferring equipment and fixtures to a newly formed related company.

Doug represented a subcontractor in complex litigation involving numerous parties under Utah's mechanic's lien and contractor bond statute. He was able to negotiate a favorable result for his client.

Assisted in representing a title insurance underwriter in defending a claim for escrow defalcation caused by one of the underwriter's local title agents. The court dismissed a claim for statutory liability against the underwriter.

Represented a client who, although not a judgment debtor, had an investment account improperly frozen through a prejudgment writ of garnishment based on unsubstantiated allegations. Doug successfully attacked the improper garnishment based upon the denial of his client's due process rights.

## Education

J.D., University of Utah College of Law, 1983 Utah Law Review, 1981-1983 William H. Leary Scholar (Top 20) Honors B.A., Brigham Young University, 1979; Cum Laude; Dean's List

## Community Service

Served as a member and chair of the Murray City Planning and Zoning Commission

Served as a board member and chairman of the Murray Education Foundation

Was awarded the District Award of Merit for his volunteer efforts by the Granite Trails District of the Boy Scouts of America