

PHILIP D. DRACHT

Attorney / Of Counsel | Salt Lake City

Licensure: UT, CA

Biography

Phillip D. Dracht has over ten years of experience in a practice focused on banking and consumer finance litigation, including complex litigation and class action lawsuits. He has successfully defended lenders in real property cases and has extensive experience with litigation involving the Truth in Lending Act, Home Equity Protections Act, Home Affordable Modification Program and Real Estate Settlement Procedures Act.

Phil earned his law degree at the University of Michigan, and obtained his bachelor's degree from Calvin College. He is licensed to practice in the state and federal courts of Utah and California.

Practice Areas

LITIGATION, TRIALS & APPEALS

| COMMERCIAL LITIGATION

Professional History

- Rodgers v. American Brokers Conduit, et al., No. 2:09-cv-715, 2009 WL 3584323 (D.Utah). Phil represented a lender in obtaining a dismissal of a lawsuit brought by a borrower seeking to invalidate the loan on a Utah property on a variety of theories, including negligence, misrepresentation, breach of the covenant of good faith and fair dealing, and unfair lending practices. Phil successfully argued for the case to be dismissed both because of legal and factual shortfalls in the complaint.
- D.M. Johnson Family Trust v. Countrywide Home Loans, Inc., et al. No. 2:09-cv-00317, 2009 WL 3615690 (D.Utah). Phil represented a lender and servicer in obtaining a dismissal of a complaint alleging third party rights arising from a "straw purchaser" scheme of a Salt Lake City property that went awry. Phil obtained a dismiss of the complaint alleging fraud, negligence, violations of the Truth in Lending Act (TILA) and the Home Equity Protection Acts (HOEPA).
- Southam v. Lehman Bros. Bank FSB, No. 2:10-CV-45 TS, 2010 WL 3258320 (D.Utah,2010)
- August 17, 2010. Phil defended a lender and servicer in a complaint alleging violations of the Real Estate Settlement Procedures Act (RESPA), TILA, and fraud. The Court dismissed the complaint in favor of Phil's client.



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Education

J.D., University of Michigan

B.A., Calvin College

Professional History (con't)

- Estrada v. Aurora Loan Services, LLC, NO. 2:10-CV-1009 TS, 2010 WL 4869093, (D.Utah, November 23, 2010). Phil defended a loan servicer against claims that the servicer had entered into an oral modification of the mortgage loan. The Court dismissed the complaint in favor of Phil's client, finding that there was no meeting of the minds on the alleged modification and that plaintiff's claims for promissory estoppel did not allege reasonable reliance.
- Andersen v. Homecomings Financial, LLC, NO. 2:11-CV-332-TS, 2011 WL 2470509, (D.Utah, June 20, 2011). Phil moved to dismiss claims against his client arising out of the mortgage modification process, which included claims for fraudulent inducement, HAMP based claims, and negligent misrepresentation. The Court agreed with the arguments presented and dismissed the case.