

JASON W. HARDIN

Partner / Director / President | Salt Lake City

Licensure: UT, NV

Biography

Jason is a trial attorney, civil litigator, former nuclear engineer and Naval submarine officer, and the President of Fabian VanCott.

Jason is a problem solver who loves to learn. But more than anything, Jason likes getting things done, a trait he learned from being in a single-parent home his entire childhood life and also while in the Navy. Jason knows how to aggressively resolve a dispute and, if necessary, how to efficiently manage a team and take a case to trial.

In his twenty plus years of practice, Jason has first-chaired more than seventy-five (75) civil and administrative trials and private arbitrations throughout the country through decision and second-chaired many others, often in large-scale, complex cases involving multiple parties, numerous expert and fact witnesses, and novel legal and factual issues. Jason has examined and cross-examined hundreds of fact and expert witnesses at trial and many more in depositions. He also has been both a trial and appeal consultant.

Jason has significant experience in a variety of commercial and business disputes, complex contract cases, class actions (involving unfair and deceptive business practices and consumer fraud), real estate, land use, construction and development, industrial and mining accidents, catastrophic events, mass torts, mine safety (MSHA, FMSHRC), occupational safety (OSHA, UOSH, Cal/OSHA), and defective products 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, Texas, Washington D.C., Wyoming, 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 from Rice University in Houston, Texas.



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Education

University of Utah S.J. Quinney
College of Law: J.D., 2000

Naval Nuclear Prototype Training
Unit, Idaho Falls, Idaho

Naval Nuclear Power School,
Orlando, Florida; Mathematics and
Power Plant Systems

Rice University, Houston, Texas:
B.A., Physics, 1992

Practice Areas

ENERGY, NATURAL
RESOURCES &
ENVIRONMENTAL

REGULATORY COMPLIANCE

ADMINISTRATIVE
PROCEEDINGS & LITIGATION

ENERGY & ENVIRONMENTAL
LITIGATION

GOVERNMENT & AGENCIES

LITIGATION, TRIALS
& APPEALS

ANTITRUST & SECURITIES
LITIGATION

COMMERCIAL LITIGATION

REAL ESTATE LITIGATION

TRIALS & APPEALS

REAL ESTATE

Professional History

- Fabian VanCott: President, 2018-Present; 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 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; United States Court of Appeals for the Sixth Circuit, 2020; United States Court of Appeals for the Tenth Circuit, 2021; practiced before the Federal Mine Safety Health & Review Commission, 2009-Present
- United States Navy: Special Security Officer and Intelligence Officer, Submarine Squadron Eleven, San Diego, California, 1996-1997; Nuclear 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

In 2021, as lead plaintiff's counsel, obtained favorable multi-million-dollar settlement for the Utah State Board of Education following a multi-year fight with the former provider of Kindergarten through 8th Grade statewide assessments in fraudulent conveyance, breach of contract, and breach of warranty lawsuit in Utah state court involving over a hundred fact witnesses and complex technical issues. (Civil No. 200903276.)

In 2021, as co-lead counsel, obtained dismissal on forum non conveniens grounds of multi-million-dollar lawsuit in Utah federal district court alleging trade secrets misappropriation, breach of non-competition and non-solicitation agreements, and unfair business practices on behalf of large Canadian construction company, Falkbuilt Ltd., and its founder in case brought by another large Canadian construction company founded by the same individual. (Case No. 1:19-cv-144.)

In 2021, as co-lead counsel, participated in the first civil jury trial in Utah state court following the COVID-19 pandemic and obtained favorable multi-million-dollar settlement before the jury issued its verdict on behalf of business co-founder against other co-founder and their company in case involving breach of fiduciary duties and complex breaches of contract. (Civil No. 150905215.)

In 2020, helped obtain a temporary restraining order and preliminary injunction in Utah state court for Rocky Mountain Power against numerous landowners in South Jordan, Utah, requiring the landowners to allow the utility to enter upon an easement for pre-construction and construction activities related to a transmission line project. (Civil No. 200901449.)

In 2019, as lead counsel, obtained complete summary judgment for Bombardier, Inc., one of the world's largest aircraft manufacturers, in a complex commercial contract dispute concerning a claim against Bombardier for over \$3 million in allegedly due residual value payments (plus interest) in Utah federal district court. (Slip op reported at 2019 WL 4758237, Case No. 1:17-cv-00107-RJS-PMW).

Representative Projects (con't)

In 2019, as lead counsel, obtained a permanent injunction in Utah state court for a Utah mechanical contractor based in a complex breach of business sale agreement and violation of non-compete clause. (Civil No. 190700737).

In 2019, acted as an appeal consultant in a successful appeal before the Utah Court of Appeals in a case involving a complex procedural posture and novel forum non conveniens issues. (Reported at 2019 UT App 182.)

In 2019, as lead counsel, successfully resolved a complex easement dispute involving the current and former owners of the Winder Farms Dairy and addressed numerous environmental and water rights issues in the process.

In 2019, oversaw and coordinated months long negotiations and closing of the complex sale of a large Utah and Idaho based company with numerous locations throughout both states and resolved a variety of environmental, land use, and real estate issues in the process.

In 2018, as lead counsel, Jason defeated class certification and obtained an extremely favorable settlement for AlSCO, Inc., one of the world's largest linen supply companies, in Colorado state court in a complex, multi-million-dollar, nationwide class action involving breach of contract, liquidated damages and alleged deceptive business practices. (Case No. 2017CV30744, Mesa County District Court, Colorado.)

In 2018, as lead counsel, Jason won an important appeal before the Federal Mine Safety and Health Review Commission (the FMSHRC) involving a fight between the FMSHRC, the Mine Safety and Health Administration (MSHA), and the United Mine Workers Association over the FMSHRC's settlement approval process and in the process helped set administrative policy. (Reported at 40 FMSHRC 983 (Aug. 2018).)

In 2018, as lead counsel, Jason won a complex civil penalty case on behalf of a large mine operator following an administrative trial against MSHA, which

resulted in a groundbreaking, widely recognized decision that deleted MSHA's severe, rarely used flagrant designation and also resulted in an extremely large reduction in civil penalties. (Reported at 40 FMSHRC 1234 (July 30, 2018).)

In 2015, as co-lead counsel, Jason successfully represented as plaintiffs a nationwide class of former Herbalife distributors in a complex class action against Herbalife International, Inc., alleging claims of unfair and deceptive business practices, false advertising and an endless chain scheme and obtaining the widely publicized global settlement of \$17.5 million and injunctive relief. (Case No. 2:13-cv-02488-BRO-RZ Central District, California.)

Jason successfully acted as trial consultant in a complex patent licensing dispute in Utah state court in a case that resulted in favorable verdict and award of close to \$1 million in attorneys' fees from the opposing party.

As co-lead counsel, Jason successfully represented the co-owner, operator and parent entities of the Crandall Canyon Mine near Huntington, Utah in three complex civil lawsuits stemming from the multiple deaths and injuries arising out of the collapse of the Mine and failed rescue in August 2007. Jason played a key role in investigating and mastering the complex facts, in working with world renowned seismologists and rock mechanics experts, in negotiating with over 40 plaintiffs, 60 plaintiffs' counsel, and 9 insurance companies, and in reaching the highly publicized global settlement of all claims from all plaintiffs against all defendants in just 22 months following the accidents. (See *Allred et al. v. Murray Energy Corp. et al.*, Civil No. 080905510, Third District Court, Salt Lake County, State of Utah; *Day et al. v. Murray Energy Corp. et al.*, Civil No. 030902493, Eighth District Court, Carbon County, State of Utah; *Jensen et al. v. Murray Energy Corp. et al.*, Civil No. 080918250, Third District Court, Salt Lake County, State of Utah.)

As lead and co-lead counsel, Jason successfully represented multiple general contractors and subcontractors in multiple AAA arbitrations in complex construction cases involving breaches of various contracts, alleged construction defects, claims for

Representative Projects (con't)

liquidated damages, and mechanic's liens and bond claims.

Successfully represented and currently represents numerous coal, aggregate, gypsum, and silver 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 Courts of Appeals, 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 and currently represents numerous businesses throughout the country in defense of civil lawsuits involving workplace accidents and fatalities.

Publications and 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)

Educational Highlights

- University of Utah S.J. Quinney College of Law: J.D., 2000; Editor-in-Chief, Journal of Land, Resources & Environmental Law, 1999-2000; 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: 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, 1992; Naval ROTC; Rice Rugby Club

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

Peer Recognition

- Best Lawyers in America (Commercial Litigation)
- Utah Legal Elite (Civil Litigation; Energy & Natural Resources)
- Super Lawyer, Mountain States Super Lawyers (Business Litigation)
- Rising Star, Mountain States Super Lawyers (with 2008 edition featuring unpaid article on Jason entitled "He Works While You Sleep")
- Rising Star, Benchmark Litigation