

DOUGLAS J. PAYNE

Attorney / Of Counsel | Salt Lake City

Licensure: UT

Biography

Douglas J. Payne has over 35 years of experience in a practice focused on bankruptcy, complex litigation, and water rights. 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 a member of law review. He received his bachelor's degree with honors 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 United States Supreme Court.

Practice Areas

BANKRUPTCY & CREDITOR'S RIGHTS

**ENERGY, NATURAL RESOURCES
& ENVIRONMENTAL**

WATER RIGHTS

LITIGATION, TRIALS & APPEALS

COMMERCIAL LITIGATION

REAL ESTATE

REAL ESTATE LITIGATION

Professional History

- Attorney, 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
- Member, American Bankruptcy Institute
- Member, Salt Lake County Bar Association



FABIAN VANCOTT

CONTACT

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Education

J.D., University of Utah College of Law, 1983

Utah Law Review member, 1981-1983; William H. Leary Scholar (Top 20)

B.A. (with Honors), Brigham Young University, 1979; Cum Laude; Dean's List

Professional History (con't)

BANKRUPTCY

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 prosecuted by the Chapter 11 trustee and obtained court approval for a complex sale of an asset to fund the trustee's Chapter 11 plan.

Doug has a proven track record of negotiating favorable settlements for defendants in bankruptcy "claw back" preference or fraudulent conveyance actions. He has also successfully defended such claims in court, succeeding in dismissing claw back claims at both the bankruptcy court level and on appeal.

Doug has significant experience representing creditors' committees in Chapter 11 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 represented Chapter 11 debtors-in-possession, Chapter 11 bankruptcy trustees, and Chapter 7 bankruptcy trustees with respect to a wide variety of issues. He has successfully pursued or defended lawsuits and contested matters involving property of bankruptcy estates and bankruptcy claims.

Doug assisted a major utility company in 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 in keeping her legal malpractice judgment against an attorney who had himself filed personal bankruptcy from being discharged in the attorney's bankruptcy. After Doug prevailed for his client at two levels of appeal, his client

received full payment from the defendant after Doug obtained a favorable published decision from the U.S. Court of Appeals for the Tenth Circuit.

REAL PROPERTY

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

Doug represented a landowner in a dispute over the scope of an easement. The court granted Doug's motion to enter an injunction limiting use of the easement and barring trespass on his client's property.

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 negotiated 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.

Doug successfully represented a client who, although not a judgment debtor, had an investment account frozen through a wrongfully issued prejudgment writ of garnishment based on unsubstantiated allegations without advance notice to the client. Doug prevailed in attacking the improper garnishment based upon the denial of his client's due process rights.

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

Peer Recognition

- Recognized by The Best Lawyers in America as outstanding in Bankruptcy & Creditor Debtor Rights / Insolvency & Reorganization, Litigation - Bankruptcy: 2010-2022
- Recognized by Utah Legal Elite Top Lawyers in Utah as outstanding in Bankruptcy / Workout: 2020