

Snell & Wilmer



Alan L. Sullivan

Of Counsel | Salt Lake City

Tel. 801.257.1955

asullivan@swlaw.com

Main Bio

Alan Sullivan has been practicing in Utah for over 40 years. He has represented clients in litigation relating to intellectual property, real estate, natural resources development, manufacturing, securities, finance and health care. He has litigated in the courts of Utah, Wyoming, California, Oregon, Tennessee, West Virginia, New York, and Texas. He frequently represents lawyers and law firms in relation to ethical issues pending before courts and disciplinary boards.

Representative Matters

- **Constitutional Litigation:** In a variety of contexts, Alan has represented academic institutions, churches, energy producers, a public transit district, state entities, and news organizations in litigating state and federal constitutional questions before the courts. He represented the Church of Jesus Christ of Latter-Day Saints in litigation relating to the constitutionality of speech limitations on Main Street Plaza in Salt Lake City. *Utah Gospel Mission v. Salt Lake City Corp.*, 316 F. Supp. 2d 1201 (D. Utah 2004). Alan represented the University of Utah in a constitutional challenge to the Utah Legislature's prohibition of campus gun regulations. *Univ. of Utah v. Shurtleff*, 252 F. Supp. 2d 1264 (D. Utah 2003). He represented another public institution in a challenge to its compliance with federal "disadvantaged business enterprise" contracting rules in a large public works project. Alan represented a waste collection business in a constitutional challenge to a local government's "flow control" ordinances. He has represented oil producers in suits against tribal and state governments challenging the constitutionality of tribal and state production taxes on tribal lands. *Southland Royalty Co. v. Navajo Tribe*, 715 F.2d 456 (10th Cir. 1983). Alan has represented news organizations seeking access to judicial proceedings. *KUTV, Inc. v. Wilkinson*, 686 P.2d 412 (Utah 1981).
- **Intellectual Property:** Alan represents high technology companies, academic institutions, and manufacturers in trade secret, fiduciary duty, and securities litigation. In 2005, he obtained the largest jury verdict in the history of the state court system—over \$173 million—in a technology licensing case involving the production of synthetic fuel for electrical power plants. In 2003-04, Alan successfully represented a major research university in the arbitration of license claims relating to genetic testing for cancer and hypertension. He has represented software makers and medical products manufacturers in patent infringement cases. Alan has represented a major health care provider in disputes relating to the ownership of medical technology. He has represented the owners of a television station in litigation involving the ownership of program elements.
- **Real Estate:** Alan has frequently represented owners and developers in litigation relating to real

estate entitlements, zoning, and water rights. See, e.g., *Baker v. Carlson*, 2018 UT 59 (Nov. 28, 2018), involving the power of referendum to nullify municipal decisions on development of the former Cottonwood Mall site. He represented the owner of Salt Lake City's City Creek Center in obtaining development approvals. He has represented title insurance companies and their policy holders in litigation concerning title defects, access agreements, boundary disputes, and related issues. He has frequently represented title insurers in coverage disputes pending in state and federal courts. He has also represented title insurers in defending claims relating to insurance agent fraud and theft. See, e.g., *Albright v. Attorneys' Title Ins. Fund*, 504 F.Supp, 2d 1187 (D. Utah 2007).

- Securities and Financial Institutions: Alan has represented both issuers and purchasers in Rule 10b-5 litigation. See, e.g., *Serfaty v. International Automated Systems, Inc.*, 180 F.R.D. 418 (D. Utah 1998). He has represented directors, U.S. investment banking firms and a British merchant bank in securities and lender liability litigation. Alan represented the bankruptcy trustee of more than 50 related companies in securities and business tort litigation against lenders and former officers, trying two cases to successful conclusion. He has represented a variety of securities brokerage firms in litigation relating to employment of agents and violation of broker rules. Alan represented a public agency in a dispute with the Utah Attorney General over the agency's authority to stimulate business development through the purchase of equity interests in start-up companies. *Utah Technology Finance Corp. v. Wilkinson*, 723 P.2d 406 (Utah 1986).
- Health Care and Hospitals: For more than 20 years, Alan has represented a non-profit hospital network in relation to state and local tax issues, employment and wage and hour disputes, insurance regulation, intellectual property and business contract disputes, and a variety of other matters. He has successfully defended the network's property tax exemptions in 13 counties of the state, in the Utah Tax Commission, and in the Utah Supreme Court. *Howell v. County Board*, 881 P. 2d 880 (Utah 1994); *Utah County v. Intermountain Health Care, Inc.*, 709 P. 2d 275 (Utah 1985). Alan has represented other health care providers and academic hospitals in disputes with group insurers and in the investigation and reporting of alleged Medicare fraud and in insurance disputes and disputes relating to staff privileges and credentials.
- Business Torts: Alan has represented dozens of businesses in relation to fraud, interference and unfair competition claims. He successfully defended a former owner of the Salt Lake Tribune against charges of breach of contract and breach of fiduciary duties. *Salt Lake Tribune Publishing Co. v. AT&T Corp.*, 2002 U.S. Dist. LEXIS 27804 (Utah 2002). Alan represented a cable television company in consumer class-action litigation involving subscribers fees. He represented a tobacco manufacturer in cases brought by the State of Utah, labor trust funds, and purported classes of smokers. Alan successfully defended a major hotel chain in a suit by hotel investors for fraud and breach of fiduciary duties. He represented a plaintiff manufacturer in prosecuting and settling a fraud and RICO case against a refiner and seller of precious metals products for industrial and environmental uses. Alan represented a Singaporean manufacturer of electronic equipment and supplies in a fraud and breach of fiduciary duty case.
- Natural Resources: Alan has represented energy producers for 40 years. He obtained a favorable settlement for a gas processor in litigation against gas producers in Wyoming; the issue was whether conveyance of working interests voided the producers' gathering and processing obligations. Alan represented a major oil producer in litigation before the Alaska state courts challenging the validity of legislation approving oil and gas development in the Arctic Ocean. *Baxley v. State of Alaska*, 958 P. 2d 422 (Alaska 1998). In a series of cases, he represented energy producers operating Navajo tribal oil and gas properties in litigation against state and local tax authorities. Alan has advised energy and

minerals producers throughout the West on the limits of state and local taxation of production from Native American reservations. He successfully represented a major oil and gas producer in quiet title litigation against the United States and its successors concerning ownership of working and royalty interests. *Amoco Production Co. v. United States*, 852 F. 2d 1574 (10th Cir. 1988). Alan has represented oil and gas producers in administrative litigation under Utah's Oil and Gas Conservation Act. See, e.g., *Harken Southwest Corp. v. Board of Oil, Gas & Mining*, 920 P.2d 1176 (Utah 1996); *Cowling v. Board of Oil, Gas & Mining*, 830 P. 2d 220 (Utah 1991); and *Bennion v. Shell Oil Co.*, 675 P. 2d 1135 (Utah 1983). He has represented mining companies in challenges to administrative rules. *Topaz Beryllium Corp. v. United States*, 649 F.2d 775 (10th Cir. 1981).

- Environmental Litigation: Alan has represented the owners of industrial, hazardous, and radioactive waste landfills in administrative proceedings and litigation concerning environmental permits, zoning, noise, and air quality. See, e.g., *Citizens Awareness Now, Inc. v. Marakis*, 873 P.2d 1117 (Utah 1994). He represented a national explosives manufacturer in an environmental cost recovery action relating to industrial properties in five states. Alan represented a gas transmission company in actions against insurers for environmental clean-up costs incurred at sites in six states. *El Paso Natural Gas Co. v. Hartford Acc. & Indem. Ins. Co.*, 963 F. 2d 1484 (10th Cir. 1992).

Education

- University of Utah (J.D., 1974)
 - Executive Board, Utah Law Review
 - Order of the Coif
- Columbia College (B.A., with honors, 1969)

Professional Memberships & Activities

- American College of Trial Lawyers
 - Fellow (1996-present)
 - Chair, Committee on Special Problems in the Administration of Justice (2008-2013)
 - State Chair (2000-2002)
- International Academy of Trial Lawyers, Fellow (2011-present)
- American Bar Foundation, Fellow (1998-present)
- American Inns of Court, Member of Board of Trustees (2008-2011)
- Utah Constitutional Revision Commission (1992-2003)
 - Chair (1999-2003)
- Salt Lake County Bar Association, President (1986)
- Utah Supreme Court Advisory Committee on Civil Procedure, Chair (1987-1999)
- U.S. District Court, District of Utah, Advisory Committee on Local Rules of Practice (1996-2007)
- Utah Appellate Operations Task Force, Chair (1994-1995)

Representative Presentations & Publications

- "The Training and Accreditation of Lawyers in the United States and the United Kingdom," Co-Author with Antonin Scalia and Deanell Tacha, American College of Trial Lawyers Anglo-American Exchange (September 2005)

- "Strategies to Reduce the Cost and Delay of Civil Litigation in the U.S. Courts," Co-Author with Martin Feldman and Fletcher Yarborough, American College of Trial Lawyers Anglo-American Exchange (September 2004)
- "The Utah Constitution's Open Courts Provision, What does it mean?" Utah State Bar, Constitutional Law Section (June 2000)
- "Constitutional Revision Process in Utah," Rutgers University Center for State Constitutional Law (March 2000)
- "Alternative Dispute Resolution in Real Estate Litigation," Utah State Bar, Real Estate Section (February 2000)
- "Proposed Changes to Utah's Discovery Rules," Utah State Bar Mid-Year Meeting (March 1999)
- "Dynamics of a Preliminary Injunction Proceeding in a Scientific Trade Secrets Case," ALI/ABA Seminar on Antitrust/Intellectual Property Claims in High Technology Markets (March 1998)
- "Examination of Fact Witnesses," Utah State Bar, Litigation Section Trial Academy (May 1998)
- "Recent Limitations on Expert Testimony," University of Utah College of Law and Utah State Bar (May 1996)

Professional Recognition & Awards

- The Best Lawyers in America[®], Arbitration, Mediation, Bet-the-Company Litigation, Commercial Litigation (1995-2021)
- Chambers USA: America's Leading Lawyers for Business[®], Litigation: General Commercial (2005-2020)
- Mountain States Super Lawyers, Business Litigation (2007-2020)
 - Ranked No. 1 in Mountain West (2012, 2014, 2015, 2016, 2017)
 - Top 10 (2012-2020)
- Utah's Legal Elite: Civil Litigation, Utah Business Magazine (2009-2021)
- Benchmark Litigation, Local Litigation Star – Utah, Antitrust, General Commercial, Health Care, Intellectual Property (2016-2018)
- [University of Utah Founders Day Award for service to the University and Community](#) (2017)
- Utah's 100 Most Influential People, Utah Business Magazine (2011)
- Elaine R. "Boots" Fisher Award, Federal Bar Association (2011) (In recognition of exemplary community, public and charitable service)
- Alumnus of the Year, University of Utah College of Law (2009)
- Distinguished Lawyer of the Year, Utah State Bar (2001)
- Outstanding Lawyer, Federal Bar Association, Utah Chapter (2000)
- Utah Judicial Council's 1999 Amicus Curiae Award, service to the courts

Community Involvement

- Rocky Mountain Innocence Center, Board of Directors (2005-2013)
- University of Utah College of Law Alumni, Board of Trustees (2006-2011)
- Utah Community Legal Center Campaign, Co-Chair (2001-2003)
- And Justice for All campaign, Chair (1998-2001)

- Establishing on-going private funding for Utah Legal Services, Legal Aid Society of Salt Lake, and Disability Law Center

Other Professional Experience

- Van Cott, Bagley, Cornwall & McCarthy, Shareholder (1975-1998)
- United States Court of Appeals, Tenth Circuit, Law Clerk to Hon. David T. Lewis, Chief Judge(1974-1975)

Bar Admissions

- Utah

Court Admissions

- Supreme Court of Utah
- United States Supreme Court
- United States Court of Appeals, Fourth Circuit
- United States Court of Appeals, Sixth Circuit
- United States Court of Appeals, Ninth Circuit
- United States Court of Appeals, Tenth Circuit
- United States Court of Appeals, Federal Circuit