



## BEN HATHAWAY

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### SHAREHOLDER

Ben Hathaway is a trial lawyer. For over 35 years Ben has represented folks and businesses in resolving complex commercial disputes through litigation, arbitration, mediation and general legal counseling. He has practiced at Kirton McConkie since 2002 where he has twice chaired its Litigation Section and has served on its Board of Directors.

Ben has been "AV Preeminent Peer Review" rated by Martindale-Hubbell since 2002 and is among America's Top 100 Bet-the-Company Litigators.

### EXPERIENCE

Trial and general counsel for: (1) counties, cities, improvement districts, and special service districts, (2) healthcare management organizations, hospitals, healthcare facility owners and physicians, (3) state-wide public employees association and (4) developers, general contractors, subcontractors and suppliers.

In areas of: (1) commercial litigation including contract enforcement, breach of commercial covenants, restraint of trade, unfair competition, fraud and business torts, (2) federal and state agency regulatory compliance including environmental, housing, finance and real estate sales investigations, enforcement actions and citizens suits, (3) constitutional claims, including First Amendment, Equal Protection, Title VII and civil rights claims and (4) Fair Hearing Proceedings, privileging, licensure and other administrative hearings.

Appearances before the Utah Federal District Court, Tenth Circuit Court of Appeals, all districts of the Utah State Court system, the Ute Tribal Court, the Utah Supreme Court, the Utah Court of Appeals and the Eastern District of Michigan. In addition, appearances pro hac vice in Federal District Courts of California, New Jersey, Virginia, and Idaho, and in the State Courts of California, Nevada, Idaho and Wyoming.

Over 25 years of experience in Alternative Dispute Resolution including Arbitration, Mediation and Negotiation.

### HONORS & AWARDS

AV Preeminent Peer Review Rated, Martindale-Hubbell since 2002

Top 100 Bet-the-Company Litigators (2019)

Distinguished Service Award, Utah Chapter Federal Bar Association (2015)

Utah State Bar Committee of the Year (Civics Education Committee) (2014)

*Utah Legal Elite*: Civil Litigation (2018), Business Litigation (2014)

*Super Lawyers National*: Business Litigation (2013)

*Mountain States Super Lawyer*: Business Litigation (2012 - 2018)

*Best Lawyers*: Commercial Litigation (2013 - 2021) and First Amendment Litigation (2015 - 2021)

### EDUCATION

University of Puget Sound, JD, 1983

University of Utah, BA Humanities, *cum laude*, 1981

### ADMISSIONS & AFFILIATIONS

*Bar Admissions*: Utah, 1984

*Other Admissions*: United States Court of Appeals for the Tenth Circuit

United States District Court for District of Utah, United States Circuit Court for the Tenth Circuit, U.S. Court of Claims, United States District Court for District of Eastern Michigan

*Affiliations*: Utah Chapter Board Member, Federal Bar

Association, 2004-present. President, 2011

Salt Lake County Bar Association, DSA Member

### PRACTICE AREAS

COMPLEX COMMERCIAL  
LITIGATION

CONSTRUCTION, SURETY  
& DESIGN PROFESSIONALS  
LITIGATION

ADMINISTRATIVE  
PROCEEDINGS

ENVIRONMENTAL  
LITIGATION

ENVIRONMENTAL  
REGULATION AND  
LICENSING

### INDUSTRIES

GOVERNMENT & UTILITIES

HEALTHCARE

PUBLIC SCHOOLS

### LANGUAGES

DUTCH