



## FELICIA B. CANFIELD

### FABIAN & CLENDENIN

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### AREAS OF PRACTICE:

- Complex Litigation
- Real Property

### PRACTICE SUMMARY

Felicia Canfield is a shareholder attorney with Fabian & Clendenin who practices business and commercial litigation, real property and entertainment law, as well as mediation and arbitration.

She brings a broad and distinguished educational background to her legal practice. Her diverse academic experience along with the intense self-discipline, life and people skills she developed in national and world class athletic skeleton sled competition give Felicia a unique ability to deal with and resolve complex legal issues and litigation, and give her, when necessary, a tough-minded, practical approach to controversy and conflict.

Felicia has extensive experience in all aspects of civil litigation, managing cases from start to finish – including initial case strategy, fact discovery, expert witness discovery, dispositive motions and oral arguments, settlement and alternative dispute resolution, and trial and appellate work. Felicia also mediates and arbitrates, utilizing her two master's degrees and mediation training at Pepperdine University, as well as skills gained in litigation negotiations and settlements.

Felicia was recognized as a Rising Young Star by Mountain States Super Lawyers in 2009, 2010 and 2011, and has been named in Utah Business Magazine as one of Utah's legal elite in Civil Litigation & Trial in 2008, 2009 and 2011.

### PROFESSIONAL

- Admitted to Utah State Bar and U.S. District Court, District of Utah, 2003
- Member, American Bar Association; Member, ABA Subcommittee on Foreclosure Mediation, 2009-current
- Utah State Bar Association, Litigation, Real Property and Dispute Resolution sections member; Treasurer, Dispute Resolution Section
- Member, Utah State Bar Fee Dispute Resolution committee, 2010; Chair, Arbitration Panel, Dec. 2010
- Recognition: Mountain States Superlawyers, Rising Star,

2009, 2010 and 2011

- Recognition: Utah Business Magazine, Utah's Legal Elite in Civil Litigation & Trial, 2008, 2009 and 2011
- Traynor Moot Court Semi-Finals judge, S.J. Quinney College of Law, 2009
- Legal Writing, Oral Arguments judge, S.J. Quinney College of Law, 2010
- Member, Board of Trustees, Pinebrook Master Association, 2008 – current
- Member, Salt Lake Homebuilders Ass'n, VIP Night & Government Affairs committees, 2010

## EDUCATION

- Juris Doctor Degree, University of Utah, S.J. Quinney College of Law, 2002
  - Recipient: CALI Excellence for the Future Award, 2002
  - Recipient: S.J. Quinney College of Law Outstanding Achievement Award, 2002
  - Recipient: Stephen Pierre Traynor Outstanding Legal Writing Award for the best legal research paper of 2001-2002, "Amateur Athletes and Antitrust Laws."
  - Externship with Chief Justice Christine Durham, Utah Supreme Court, 2002
  - Winner: Traynor Moot Court Competition, Best Brief & Oral Arguments, 2000-2001
  - Featured: Res Gestae, University of Utah College of Law alumni magazine; cover and article, Autumn 2001
- Pepperdine University Law School: Mediating the Litigated case, 2009
- Master of Arts, International Relations, Syracuse University, 1995
  - Recipient: Academic Merit Scholarship
  - Thesis: "African Refugees and Local Integration: A Durable Solution?"
- Masters of Social Work, Syracuse University, 1995
  - Recipient: Academic Merit Scholarship
- Bachelor of Science, Sociology, Northern Arizona University, 1986
  - Award: Dean's List for Outstanding Scholarship
  - Award: Outstanding General Sociology Student

## PUBLICATIONS & PRESENTATIONS

- Co-Authored "Rumor Has It-Getting Ahead of the Economic Rebound", published in the January 11-17, 2010 edition of The Enterprise.
- Interviewed as a subject matter expert on Davencourt case in "Landmark Ruling Requires Developers to Establish Sound Fiscal Basis for HOA, Utah Real Estate News, May

25, 2010”.

## COMMUNITY SERVICE

- Athlete, National Skeleton Team 2000 - 2007
  - World Championships
  - World Cup Circuit
  - America's Cup Circuit, 2 gold, 2 silver, 4 bronze medals
  - Europa Cup Circuit
  - Challenge Cup, 2 bronze medals
  - U.S. National team trials, 1 gold, 2 bronze medals
  - Champion, Western Regionals, 3 gold medals
  - Champion, Empire State Games, gold medal
- Volunteer coach, Junior National Skeleton Team, Development Team
- Hospice Social Work, Brevard Hospice, Rockledge, Florida, 1997-99
- Income Tax Preparation, H&R Block, Melbourne, Florida, 1996-97
- Refugee Resettlement Program Internship, Syracuse, New York, 1994-95
- Refugee Resettlement Internship, United Nations High Commissioner for Refugees, Washington D.C., 1994

## REPRESENTATIVE PROJECTS

- Felicia Canfield practices business and commercial litigation, real property and entertainment law, as well as mediation and arbitration. She has successfully represented clients in many industries on a wide range of legal issues. The following is just a sampling of her current and past representative cases.
- **CONSTRUCTION LAW AND LENDER LITIGATION**  
Felicia represents lenders, contractors and subcontractors, and developers in defending and prosecuting mechanics lien and related cases. Ms. Canfield has experience in a variety of construction litigation matters.

Bank - General Contractor, subcontractors:

Currently represents a lender in a complex consolidated mechanics lien action, in which she is defending the priority of trust deeds securing a \$1.8 million construction loan, from claims asserted by the general contractor and numerous subcontractors.

In December, 2010 Felicia single-handedly won a significant summary judgment against the general contractor, which resulted in all its claims against the bank being released and its lien declared invalid. Felicia's summary judgment further resulted in the court awarding the bank its attorney's fees and costs by finding

enforceable the completion and performance guarantees signed by the general contractor.

**FDIC:**

**Lenders**

Currently represents the FDIC as receiver for lenders in numerous complex consolidated mechanic lien actions in which she is defending the priority of trust deeds securing multi-million dollar loans for subdivision developments and other construction projects against priority claims asserted by original contractors and numerous subcontractors in connection with claims of nonpayment by the owner.

**Homeowner - Buyer**

Successfully defended homeowner against plaintiff buyer's claims for fraud, unjust enrichment, equitable lien and constructive trust arising from a failed purchase of the homeowners' property. Involved simultaneous prosecution of third party claims against the general contractor for breach of a construction contract to build a luxury home, leaving the construction unfinished and several subcontractors unpaid. Successful representation of owner before Utah's Residence Lien Recovery Fund, triggering a statutory requirement for all subcontractors to release their mechanics liens from the property. Prevailed in a motion for summary judgment against the contractor, clearing title for the owner, and achieved favorable settlement of the remainder of the case in mediation.

• **COMMERCIAL, BANKING, AND REAL ESTATE LITIGATION**

Felicia has experience in a variety of commercial, banking, and real estate litigation, including in matters involving commercial sales, real estate development, foreclosures, quiet title, lender liability, leasing and landlord/tenant disputes, fraud, breaches of contract, members' derivative suits, and breaches of duties of directors, officers, and managers.

**Subdivision Developer - Neighboring Property Owners:**

Currently represents subdivision developer as intervenors in district court action, on appeal from decision by Alpine City Board of Adjustment, against claims made by neighboring property owners that Alpine City improperly and illegally approved preliminary plan that otherwise would have required developer to build \$7M road for sole benefit of neighboring property owners.

**FDIC:**

Currently represents the FDIC in connection with several judicial foreclosure and deficiency actions on multi-million dollar loans.

**Homeowner - Former Lender:**

Currently represents a homeowner whose residential real property was the subject of an unauthorized foreclosure by

a prior lender. Case involves defenses, cross-claims and counter-claims for fraud and forgery made by lenders, buyers and sellers involved in the various transactions at issue.

**Lender - Various Homeowners:**

Currently represents lender in numerous quiet title actions alleging lender lost any enforceable interest in the underlying note and trust deed when it securitized the loans.

**Convenience Store - Utah Department of Transportation:**

Currently represents national convenience store chain in a variety of condemnation actions brought by Utah Department of Transportation. In one such case she prevailed on a motion for summary judgment affirming lease, resulting in favorable settlement to apportion condemnation proceeds between client and landowner. In other cases, Felicia has been able to successfully negotiate resolutions with U-DOT, landowners and other affected parties.

**Homeowner - Seller:**

Currently represents homeowners asserting against sellers, real estate agent and brokerage, claims for fraudulent nondisclosure of mold in a residence.

**Entities - Former Entity Partners/Developers:**

Successfully defended, as part of litigation team, several business entities against plaintiff's claims for members' derivative action, judicial dissolution, fraudulent transfer, alter ego claims, breaches of contract and quiet title to a large residential development in Santaquinn, Utah. The plaintiff had claimed \$40,000,000 in alleged actual damages, and \$100,000,000 punitive damages and entitlement to real property. After bringing and prevailing on two motions dismissing Plaintiff's quiet title and derivative claims, the case settled favorably.

**Buyer - Commercial Office Building Owner:**

Represented, as part of a litigation team, a commercial real estate buyer's in bringing action for specific performance of a \$10,000,000 purchase contract on the grounds of breach of contract and a breach of duty of good faith and fair dealing. Buyer claimed the seller failed to timely cooperate with the buyer's assumption of seller's loan. Achieved a favorable resolution in mediation following the filing of a motion for summary judgment on the buyer's behalf.

**Debtor - Creditor:**

Defense of debtor in deficiency lawsuit filed by creditor who failed to foreclose on real property collateral before bringing deficiency lawsuit. Settled case favorably.

**Lender - Commercial Borrower:**

Successfully represented lender in breach of contract

lawsuit for enforcement of exclusive loan agreement. Prevailed on motion for summary judgment, resulting in favorable settlement.

**Commercial Tenant - Landlord:**

Defended dentist, who terminated commercial lease upon discovering the property needed remediation for mold and water damage, against claim for breach of lease. Successfully defended and argued against two motions for partial summary judgment brought by landlord. Successfully resolved case through mediation.

**Commercial Tenant - Landlord:**

Defended dental practice against claim for breach of a commercial lease for office space and for conversion based upon dentists' taking their dental equipment with them upon termination of the lease. Settled case favorably

**Lender - Residential Borrower:**

Defended national mortgage company against half a million dollar fraud claim brought by borrowers. Following substantial discovery, filed motion for summary judgment which led to successful mediation of all claims before motion was heard.

- **ENTERTAINMENT LAW**

Currently represents an independent publishing company, handling all its legal needs including copyright, trademark, contract and related entertainment legal issues.

- **APPELLATE WORK**

Felicia's work has included successful appeals before the Utah Supreme Court and the Utah Court of Appeals. Reported decisions include:

*Al-Ali v. Countrywide Home Loans, Inc*, 2007 UT App 156 :

Successfully represented lender in foreclosure action and on appeal before the Utah Court of Appeals. Prevailed on summary disposition.

*Sill v. Hart*, 2007 UT 45:

Part of appellate team that successfully defeated property owner's appeal, thereby upholding a favorable trial court ruling and raising an issue of first impression under Utah's mechanics lien statutes, which was resolved in client's favor.