



## MUNICIPAL LITIGATION DEPARTMENT



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- ❖ Civil Litigators in the areas of municipal law, personal injury, construction defect, HOA law, insurance, complex litigation, products liability.
- ❖ Stewart is a former City Councilman for the City of North Salt Lake from 2010 to 2014.
- ❖ Litigated numerous cases on behalf of municipalities throughout Utah regarding personal injury claims, water rights, land use, and federal 1983 claims.

## LAWSUITS HAPPEN—ARE YOU IMMUNE?

### CONTRACT CLAIMS:

Immunity from suit of each governmental entity is waived as to any contractual obligation. Utah Code Ann. § 63G-7-301(1)(a).

### TORT CLAIMS:

Except as otherwise provided, each governmental entity and each employee of a governmental entity are immune from suit for any injury that results from the exercise of a governmental function; for any injury if the injury arises out of or in connection with, or results from a latent dangerous or latent defective condition; or for any injury proximately caused by a negligent act or omission of an employee committed within the scope of employment, if the injury arises out of or in connection with, or results from list of identified instances outlined in paragraph 4. Utah Code Ann. § 63G-7-201(1), (3) and (4).

Plaintiff may not bring or pursue any civil action or proceeding based on the same subject matter against the employee or the estate of the employee whose act or omission gave rise to the claim, unless: Fraud or Willful Misconduct; Driving Under the Influence; Impaired from Drugs or Alcohol; False Testimony Under Oath; or Intentionally or Knowingly Fabricated Evidence. Utah Code Ann. § 63G-7-202(3).

### CONSTITUTIONAL CLAIMS:

“Qualified immunity shields [government] officials from money damages unless a plaintiff pleads facts showing (1) that the official violated a statutory or constitutional right, and (2) that the right was ‘clearly established’ at the time of the challenged conduct.” *Ashcroft v. al-Kidd*, 131 S.Ct. 2074 (2011).

## RECENT DEVELOPMENTS IN UTAH CASE LAW

### FILING A BOND

Tort suit under Governmental Immunity Act – complaint timely filed, but did not submit a bond as required by statute. The Case was dismissed and refiled beyond the statute of limitations. Claimant sought to sustain timeliness of the suit invoking the Savings Statute. Utah Supreme Court found the Savings Statute did not extend to cases within the Governmental Immunity Act. *Craig v. Provo City*, 2016 UT 40.

### NOTICE OF CLAIM

Within 60 days of a notice of claim, the governmental entity or its insurance carrier shall inform the claimant in writing that the claim is approved or denied. If no response, the claim is deemed denied and the 1 year limitation begins. *Montarrez v. UDOT*, 2016 UT 10.