

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?

<p>CONTRACT CLAIMS:</p>	<p>Immunity from suit of each governmental entity is waived as to any contractual obligation. Utah Code Ann. § 63G-7-301(1)(a).</p>
<p>TORT CLAIMS:</p>	<p>Except as otherwise provided in the Governmental Immunity Act of Utah, each governmental entity and each employee of a governmental entity are immune from suit for any injury that results from <u>the exercise of a governmental function</u>. Utah Code Ann. § 63G-7-201(1).</p> <p>A governmental entity, its officers, and its employees are immune from suit, and immunity is not waived, for any injury if the injury arises out of or in connection with, or results from <u>a latent dangerous or latent defective condition</u>. Utah Code Ann. § 63G-7-201(3).</p> <p>A governmental entity, its officers, and its employees are immune from suit, and immunity is not waived, for any injury proximately caused by a <u>negligent act or omission of an employee committed within the scope of employment</u>, if the injury arises out of or in connection with, or results from: (see long list from Utah Code Ann. § 63G-7-201(4)).</p> <p>A plaintiff <u>may not bring</u> or pursue any civil action or proceeding based upon the same subject matter <u>against the employee</u> or the estate of the employee whose act or omission gave rise to the claim, unless:</p> <ul style="list-style-type: none"> (I) Fraud or Willful Misconduct; (II) Driving Under the Influence; (III) Impaired from Drugs or Alcohol; (IV) False Testimony Under Oath; or (V) Intentionally or Knowingly Fabricated Evidence <p>Utah Code Ann. § 63G-7-202(3).</p>
<p>CONSTITUTIONAL CLAIMS:</p>	<p>“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.” <i>Ashcroft v. al-Kidd</i>, 131 S.Ct. 2074 (2011).</p>