Holland & Hart



PRACTICES

Business Litigation
Finance

INDUSTRIES

Energy and Resources
Healthcare

EDUCATION

University of Utah S.J. Quinney College of Law, J.D., 1990

University of Utah, B.S., 1986

BAR ADMISSIONS

Utah

Blaine Benard

Partner

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Blaine Benard delivers results for clients with matters involving business disputes, healthcare, False Claim Act litigation, professional liability, and protection of intellectual property.

Blaine provides sound counsel to companies from Fortune 500 and international companies to local businesses and entrepreneurs.

Blaine advises a wide array of clients, including an international aerospace and defense contracting company, an international commercial airline, energy, mining and natural resources companies, manufacturers, financial institutions, professional service providers, technology, and other businesses.

Blaine previously chaired the litigation department of a large regional and international law firm.

Trusted advisor to hospitals, pharmacies, and healthcare providers: For over 20 years, Blaine has represented dozens of hospitals, pharmacies, hospital associations, and other healthcare providers. Blaine's solution-oriented approach helps providers address significant issues, strategic objectives, and the delivery of quality care. Blaine's team counsels on regulatory compliance, government investigations, Medicare and Medicaid reimbursement, False Claim Act investigations and litigation, healthcare transactions, physician contracts, litigation, construction contracts, employment counseling, and development projects. He also works with skilled nursing facilities and advises on Medicaid upper payment limit programs for nursing homes.

EXPERIENCE

Litigation

Blaine works with clients in all phases of dispute resolution from pre-dispute strategy and early resolution, to litigation, mediation, arbitration, and trial. Blaine wisely and skillfully guides clients through their challenges helping to find business and other practical solutions.

- Business Disputes
- Complex Litigation
- Healthcare
- False Claim Act Litigation

- Professional Liability Defense
- Early Dispute Resolution

Healthcare

Blaine and his team of healthcare lawyers provide guidance to providers in the highly regulated healthcare industry.

- Healthcare Disputes and False Claim Act Cases
- Regulatory Compliance for hospitals and pharmacies
- Government Investigations
- Medicare/Medicaid disputes and reimbursement
- Upper Payment Programs for nursing facilities
- Physician Contracts
- Affordable Care Act
- Stark; Anti-Kickback Act, HIPAA, HiTECH, Fraud and Abuse
- Medical Staff Issues

CLIENT RESULTS

Commercial Litigation

Successfully defended a precast concrete company in a week long, multi-million dollar trial, resulting in no cause of action against our client.

Represented an electric utility in a two-week arbitration dealing with long-term power contracts and cogeneration facilities with claims in excess of $300 million.

Represented an international airline in a case brought by a publishing company for claims in excess of $36 million. The case settled on the eve of trial on very favorable terms.

Defended an international airline in a negligence and product liability class action. Class action claims were dismissed and individual claims were resolved for pennies on the dollar.

Represented an international shipping company in a two-week jury trial regarding breach of contract claims in excess of $50 million.

Represented an international jet engine manufacturer in litigation in the Western District of Texas arising from the crash of a jet in Canada. Claims were favorably resolved on the eve of trial.

Represented an international defense contractor in a False Claim Act investigation brought by the Department of Justice and Department of the Navy. Claims of $45 million plus treble damages were all dropped with no payment being made.

Defended a large regional law firm in a malpractice case with claims in excess of $300 million. A significant portion of the damages claims were

dismissed before trial and the case settled on the eve of trial on very favorable terms.

Defended a law firm in a malpractice case with claims in excess of $30 million. All claims were dismissed during pretrial proceedings.

Defended a medical device supply company in cases brought by nine plaintiffs claiming products liability and negligence resulting in carbon monoxide poisoning. Resolved all nine cases on favorable terms.

Defended the owner and operator of a data center in a products liability/negligence case where a defective fire suppression system failed causing a catastrophic explosion that caused tens of millions of dollars in damage to the building and millions of dollars in damage to the computer systems housed in the data center. Also prosecuted claims in the case against the architect, general contractor, and specialty contractor. The case was resolved before trial on favorable terms.

Worked on the trial team for several years on a large products liability case dealing with failed coal mining equipment that caused a fire resulting in the death of 27 coal miners and the complete loss of the mine. Hundreds of millions of dollars at issue. The case was tried to a Utah jury for 11 weeks. Our client, the mine management company, paid zero of the judgment.

Defended tobacco company in products liability cases brought by state attorneys general in Utah, Colorado, and Kansas.

Defended a tire retread manufacturing company against products liability claims after a semi-truck tire exploded when being mounted on a truck. Injuries were significant and included a broken neck, broken leg, broken arm, and numerous lacerations. The matter was resolved on very favorable terms.

Represented a mining company in three separate products liability/negligence cases arising from two separate catastrophic events. All three cases were successfully mediated.

Defended an international aerospace company in a patent infringement case in the Eastern District of Texas dealing with internet parts ordering software. Claims were dismissed prior to trial.

Defended an international aerospace company in a patent infringement case in the Eastern District of Texas dealing with internet systems and software. Claims were dismissed prior to trial.

Defended a national food and entertainment franchisor in trademark infringement litigation in the Central District of California. Claims were resolved by the parties shortly before trial.

Represented a technology development company in an arbitration arising from an asset purchase agreement, where the defendant acquired patents and technology for state-of-the-art online fraud detection equipment used by online retailers. Claims were resolved on very favorable, but confidential

terms.

Correction of inventorship litigation dealing with electronic bend sensor technology. The case was resolved favorably prior to trial.

Defended a national bank in a patent infringement case involving technology for cash reward programs used with credit cards. The case was resolved before trial on very favorable, but confidential terms.

Healthcare

Established and counsels a rural hospital network made up of nine independent hospitals.

Coordinated more than 60 hospital and skilled nursing facility transactions, including acquisitions, divestitures, change of ownership, management agreements, and Medicaid upper payment limit program transactions.

Advised six hospital pharmacies through a government compliance investigation dealing with state and federal rules and regulations. Extensive work with sterile compounding compliance.

Secured a jury verdict in favor of a hospital client against multi-million dollar claims for breach of contract.

Secured a jury verdict in favor of a hospital client and surgeon against claims of defamation and wrongful termination.

Won pretrial dismissal of a False Claim Act case where claims were in the tens of millions of dollars.

Favorably resolved several False Claim Act cases on behalf of healthcare providers.

Won pretrial dismissal of all claims against a hospital relating to the credentialing process and hospital privileges of a physician.

Won pretrial dismissal of all claims brought by 10 plaintiffs against a hospital and its board. Claims were in excess of $24 million. Affirmed on appeal by Tenth Circuit.

Secured the dismissal of a Department of Health recovery action for Medicaid reimbursement on behalf of a pharmacy.

SPEAKING ENGAGEMENTS

"Representing Hospitals During a Pandemic: The Wild, Wild West of Health Law in 2020," *The 8th Annual Law and Biomedicine Colloquium, S.J. Quinney College of Law*, January 18, 2022

RECOGNITION

- *The Best Lawyers in America*® Commercial Litigation, 2012-2027; Litigation – Regulatory Enforcement (SEC, Telecom, Energy), 2013-2027; Health Care Law, 2023-2027

- Martindale-Hubbell®, AV Preeminent® Rating
- *Chambers USA*, Litigation: General Commercial, 2005-2026
- *Benchmark Litigation*, Local Litigation Star, 2013-2026
- *Utah Business Magazine*, Utah Legal Elite, Civil Litigation, Healthcare, Government; Litigation, General Commercial
- Mountain States Super Lawyers®, General Litigation, 2007-2026
- Corporate Counsel – Ranked 5th in the nation of Top 10 Healthcare Industry Law Firms
- *Business Today*, Top 10 Most Influential General Commercial Litigators in Utah, 2023