

## **FRANCIS J. CARNEY**

### **FJC-ADR, LLC**

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### **SUMMARY**

Mediator handling many complex mediations yearly since 2006, including medical malpractice, products liability, legal malpractice, insurance bad-faith commercial matters, and other large-budget disputes.

Prior to mediation career, litigator for 28 years with emphasis on medical malpractice, legal malpractice, bad-faith law, products liability, and banking litigation. Served as a defense lawyer for 18 years, then switched to plaintiffs' work for 10 years.

### **EMPLOYMENT**

FJC-ADR, LLC  
April 2011 onward

Anderson & Karrenberg, Salt Lake City, Utah  
Partner, July 1998 to May 2005  
Of-Counsel from May 2005 to April 2011

Suitter Axland, Salt Lake City, Utah  
Associate, then Partner, 1980 to July 1998

Daniel A. Honig, P.C., Washington, D.C.  
Associate, 1978-1980

### **EDUCATION**

Boston College  
Chestnut Hill, Massachusetts  
A.B., Political Science, 1974, magna cum laude

George Washington University  
National Law Center, Washington, D.C.  
J.D., 1978, with honors

## **BAR ADMISSIONS**

- Utah (1980-present)
- District of Columbia (1978-2000)
- Maryland (1979-1983)
- Federal District and Circuit Courts in above jurisdictions

## **HONORS AND AWARDS**

- “Lifetime Service Award” in November 2011, Utah State Bar
- “Excellence in Advocacy” award in September 2009 from the Utah Association for Justice for “Outstanding Professional Accomplishments.”
- “Professionalism Award” in November 2007 by the Utah State Bar for the attorney “representing the highest standards of fairness, integrity, and civility.”
- Fellow, American College of Trial Lawyers (2000- present)
- Associate, American Board of Trial Advocates (1995-2010)
- “AV” rated by Martindale-Hubbell since 1980's.
- Naifeh and Smith, The Best Lawyers in America (personal injury, medical malpractice, and now ADR) since publication began.
- Key Professional Media, Inc., Mountain States Super Lawyers, since publication began.
- "Distinguished Service Award" (for teaching trial skills), Utah State Bar (September 2000)
- Utah Trial Lawyers' Association "Superstar" Award, 2000

## **PROFESSIONAL ACTIVITIES**

- Special Counsel (Appointed by Utah Supreme Court) to Office of Professional Conduct for investigation and prosecution of certain ethics matters
- National Jury Committee, American College of Trial Lawyers (2012- present)
- Utah Supreme Court Advisory Committee on Rules of Civil Procedure (2002-2014)

- Utah Supreme Court Advisory Committee on Model Civil Jury Instructions (2003- 2014)
- Committee of Supervising Attorneys, Office of Professional Conduct, Utah State Bar (October 2010- present)
- Co-Chair, Utah State Bar Character and Fitness Committee (1999- 2013; member thereafter)
- Utah State Committee, American College of Trial Lawyers (2005- 2009)
- Utah Supreme Court Advisory Committee on Professionalism (2000- 2006)
- National Committee on Technology in the Courtroom, American College of Trial Lawyers (2004- 2007)
- Member, Utah State Bar Admissions Committee (2000- 2013 present)
- Executive Committee, Litigation Section, Utah State Bar (1984- 2003)
- Chair, Litigation Section, Utah State Bar (1986-1987)
- Master of the Bench, *David K. Watkiss Sutherland II Inn of Court* (2000-2004)
- Director of the "Trial Academy" of the Litigation Section, Utah State Bar (A biennial instructional course on civil practice to acquaint the aspiring litigator with the basics of jury selection, trial evidence, opening statements, witness examination, closing arguments, etc.) (1996- 2002)
- Member, Screening Panel of Ethics and Discipline Committee, Utah State Bar (1987 - 1994)
- Standing Committee on Model Utah Jury Instructions (1987- 2002) (Co-Editor, medical malpractice instructions)
- Special Assistant Disciplinary Counsel for the Office of Professional Conduct, Utah State Bar (1995- 2000)
- Supervising Attorney for lawyers under practice restrictions, Office of Professional Conduct, Utah State Bar (1998-2005)
- Chairman, Nominating Commission for Administrative Law Judge, Salt Lake City (2000)
- Chairman, Mayor's Advisory Committee on Ethics, Salt Lake City (2000- 2006)

- Editor, Voir Dire Magazine (Publication of the Litigation Section, Utah State Bar) (1994 B 1999)
- Member and former Chair, Professionalism Committee of the Utah State Bar (1994 - 1996)
- Faculty, National Institute of Trial Advocacy (1993 session, "Opening Statements," and 1995 session, "Expert Witnesses.")

#### **PUBLISHED ARTICLES**

- The Trial Academy 2012. 200+ pages of course materials on civil trial practice for 2012 Utah State Bar Fall Forum.
- Treating Physicians and Expert Reports After *Pete v. Youngblood*, UTAH TRIAL JOURNAL, Winter 2008
- The Long March: MUJI 2d, published in materials for 2008 Annual Meeting of the Utah State Bar
- Lost Wages in Personal Injury Awards Are *Not* Taxable, UTAH TRIAL JOURNAL, Winter 2007
- Important Changes in Comparative Fault for 2005, Utah Trial Journal, Fall 2005
- Use of Depositions in Trial, Utah Trial Journal, Spring 2005 (Recipient, UTLA award for "Article of the Year"
- Standard 18- Deposition Conduct, Utah Bar Journal, February 2005
- Medical Malpractice- Odds and Ends, Utah Trial Journal, Fall 2004
- Arbitration of Medical Malpractice Claims, Utah Trial Journal, Spring 2004
- A Few Words of Caution About Computer Presentations, 15 Utah Bar Journal, December 2002
- The Judges' Benchbook, Utah Bar Journal, September 2002
- Beware the "Net Verdict", Utah Trial Journal, Summer 2001
- Outline of Utah Civil Jury Selection, Utah Trial Journal, Fall 2001
- Time Limitations in Medical Malpractice Actions, Utah Trial Journal, Fall 2001
- Recent Case Developments, Utah Trial Journal, Winter 2000

- Some Words of Caution About Computer Courtroom Presentations, published for Annual Meeting of Utah State Bar, San Diego, July 2000
- DeBry v. Goates: Slamming the Door on Intrusive Discovery and Ex Parte Interviews, Utah Trial Journal, April 2000, Spring 2000, at 14
- A Former Defense Attorney Views Effective Plaintiffs' Lawyers' Practices, Utah Trial Journal, Summer 1999, at 14. (Reprinted in the Arizona Trial Lawyers' Journal, Fall 1999; Nebraska Trial Journal, Spring 2000)
- Motions at Trial and After, Voir Dire, Summer 1997.
- Outline of Civil Jury Selection in Utah, (For the Litigation Section's Trial Academy, 1996, 1998, and 2000; also published as part of Utah State Bar Mid-Year Meeting materials in 1997 and 1998, as well as Annual Meeting materials in 1997)
- Voir Dire Interview: The View From the Other Side, Voir Dire, Summer 1997, at 29
- Objectionable Jury Argument, Voir Dire, Winter 1997, at 23
- Trial Basics: Using Exhibits, Voir Dire, Winter 1996, at 18
- The Basics of Jury Selection, Voir Dire, Summer 1995, at 29
- What Lawyers Want From Judges, Voir Dire, Spring 1995, at 38 (with Ross Anderson)
- The Offer of Proof, Voir Dire, Spring 1995, at 22
- Attorney Voir Dire and Jury Questionnaires: Time for a Change, Utah Bar Journal, August 1997, at 13 (with Robert Sykes)
- Loser Pays - Justice for the Poorest and the Richest, Others Need Not Apply, Utah Bar Journal, May 1995, at 18 (republished in THE MISSOURI TRIAL ATTORNEY and THE IDAHO TRIAL LAWYERS ASSOCIATION JOURNAL)

## **PRESENTATIONS**

- October 2013- Tort & Insurance Defense Seminar (Snow Christensen & Martineau-- Utah State Bar): "How NOT to Defend Your Case."
- October 2013- Utah Association for Justice- Annual Meeting: "Jury Instructions, a Neglected Skill."

- June 2013- Utah Association for Justice: Ethics and Civility Seminar (Topics: multiple representation, retainer agreements, and competence)
- November 2012- Utah State Bar's Fall Forum- Trial Academy. Featured speaker for four hour-long sessions: "Jury Selection," "Exhibits at Trial," "Making the Record," and "Motions at Trial- and After."
- May 2012- "New Rules of Civil Procedure" (Utah Board of District Court Judges.) (Panelist).
- February 2012- "Ethics and Practice" (Park City Bar Association- 17<sup>th</sup> Annual *CLE 'n Ski*)(Panelist with Chief Justice Christine Durham, Judge Gregory Orme, Billy Walker, and Sharon Donovan)
- February 2012- "The New Rules" (UAJ- *Defeating Hardball Tactics*)
- December 2011- "Introduction to the Courtroom," (with Judge Kate Toomey and Richard Burbidge) (two-hour session on the basics of courtroom practice for new lawyers.)
- November 2011- "*The New Rules of Civil Procedure*" (Sykes & Associates)
- November 2011- "*The New Rules of Civil Procedure- Expert Witnesses*" (with Judge Todd M. Shaughnessy and Robert Shelby) (Utah State Bar's Fall Forum)
- October 2011- "*The New Rules of Civil Procedure*" (Siegfried & Jensen)
- October 2011- "*The New Rules of Civil Procedure*" (At "2011 Auto Law Spectacular" (Utah Association for Justice)
- June 2011- "*Personal Injury- Beyond the Basics*" (Speaker on ethical and professionalism issues) (Utah Association for Justice)
- April 2011- "*Nibbled to Death By Ducks III- The Gotchas That Will Turn Your Hair Gray*, (Moderator and Lead Speaker) (Utah Association for Justice)
- November 2010- "Introduction to the Courtroom," (with Judge Deno Himonas and Richard Burbidge ((Two-hour session on the basics of courtroom practice for new lawyers.)
- October 2010- "The New Proposed Rules of Civil Procedure- Medical Malpractice Actions," (Presentation for UAJ medical malpractice group.)
- October 2010- "The New Proposed Rules of Civil Procedure," (with Fran Wikstrom) (Presentation for UAJ.)

- April 2010- "Do's and Don't's for Mediation" (UAJ Medical Malpractice CLE)(With Paul Felt)
- June 2009- "A Short Legal Writing Course for Lawyers"(UAJ and USB)
- May 2009- *Nibbled to Death By Ducks II*- "The Gotchas in Practice That Will Turn Your Hair Gray" (Moderator and Lead Speaker) (UTLA and USB)
- December 2008- "Combating Hardball Tactics," (Utah Association for Justice)(Speaker on Expert Reports, Subpoena Rule changes, Medical Examination rule changes, and the Notice of Intent.)
- September 2008- "Changes to Rule 35." (Presentation for Utah Defense Lawyer's Annual Meeting.) (Panelist)
- July 2008- The New MUJI 2d." (Presentation for Utah State Bar's Annual Meeting.) (Panelist)
- 2008-9 "The Mechanics of Trial with Frank Carney and Friends," (Sponsored by the Utah State Bar). A six-part trial practice course consisting of eighteen hours of lectures and demonstrations on the basics of trial practice.

-March 2008: Session One (With Judge Kate Toomey and Colin King). *An Introduction to Trial Practice/The Nuts-n-Bolts of Picking a Jury/A More Useful Pretrial Conference/Navigating the Courtroom.*

-May 2008: Session Two (With Judge Robert Hilder and Richard Burbidge). *Focus Groups- Your Secret Weapon/The Simple Way to an Effective Opening Statement/Keeping Organized at Trial/Exhibits Made Easy.*

-July 2008: Session Three (With Judge Randy Skanchy and Colin King). *The Basics of Direct Examination/Trial Objections the Intelligent Way/The Essential Skill of Making the Record.*

-September 2008: Session Four (With Judge Dee Benson, Thomas Karrenberg, and Richard Burbidge). *Demystifying Trial and Post-Trial Motions/The Basics of Cross Examination.*

-November 2008: Session Five (With Judge Deno Himonas, Jim McConkie, Pete Summerill, and Fred Silvester) *Computers in the Courtroom/Jury Instructions/Special Verdicts.*

-January 2009: Session Six (With Judge Sam McVey, Dick Burbidge, and Rich Humpherys). *The Rebuttal Case/When the Jury Speaks/The Quotient*

*Verdict/Judgment on Verdict/Interest/Costs/Recap of the Trial  
Gotchas/Closing Argument*

- November 2007- "Combating Hardball Tactics VI" (Sponsored by Utah Association for Justice) (Sections on improper argument; Rule 35 examinations; limitations on subpoena of medical information)
- November 2007- "Utah Defense Lawyers Annual Trial Advocacy Seminar- Mock Trial" (UDLA)(Presiding Judge)
- November 2007- "The Medical Malpractice Workshop- Have Your Case Valued By the Experts." (UTLA) (Panelist)
- October 2007- "Nibbled to Death By Ducks- Those Gotchas in Practice That Will Turn Your Hair Gray" (Moderator and Lead Speaker) (UTLA and USB)
- January 2007- "The New MUJI 2d." (Presentation for Central Utah Bar Association)
- December 2006- "Making Them Identify Those At Fault" and "Medical Malpractice Mediation and Arbitration."(Presentation for "Combating Hardball Tactics" seminar for UTLA)
- November 2006- "The New MUJI 2d." (Presentation for Utah State Bar's Fall Forum.
- September 2006- "Professionalism- A View for Trial Judges" (Presentation for Utah State Judicial Conference)
- September 2006- "The New MUJI 2d- Redux" (Presentation for Utah Trial Lawyers' Association Annual Meeting)
- September 2006- "Arbitration and Mediation for Trial Lawyers" (Presentation for Utah Trial Lawyers' Association Annual Meeting)
- June 2006- "The New MUJI 2d" (UTLA)
- April 2006- "Medical Malpractice Claims- The Patient's Perspective" (Presentation for University of Utah College of Medicine for 4th-Year Medical Students)
- December 2005- "Making Them Identify Those At Fault" and "Improper Jury Arguments." (Presentation for "Combating Hardball Tactics" seminar for UTLA)
- November 2005- "Jury Selection." (Presentation for Utah State Bar's Fall Forum (with Richard Burbidge)



- October 2005- "Professionalism- Improving Your Practice." (Presentation for Supreme Court's Advisory Committee on Professionalism)
- September 2005- "Learn from the Pros: Medical Malpractice Basics."(Presentation for the Utah Trial Lawyers' Association)
- September 2005- "Arbitration Issues." (Participant in Discussion Panel at Annual Meeting Utah Trial Lawyers' Association)
- September 2005- "The UTLA Listserv" (Participant in Discussion Panel at Annual Meeting of the Utah Trial Lawyers' Association)
- September 2005- "Learn from the Pros: The Nuts and Bolts of Medical Malpractice Cases" (Presentation for the Utah Trial Lawyers' Association)
- May 2005- "NITA Trial Practice Program" (Invited faculty for four-day National Institute of Trial Advocacy training session on trial techniques, Salt Lake City)
- February 2005- "The Perils of Electronic Filing- Panel Discussion" (American Bar Association's Mid-Year Meeting, Salt Lake City)
- October 2004- "The New Standards of Professionalism-- Judicial Panel Discussion" (Utah State Bar's Fall Forum)
- September 2004- "Expert Witnesses at Trial- A Judicial Panel Discussion" (Utah Trial Lawyers' Association Annual Meeting)
- July 2004- "Statute of Limitations Gotchas." (Presentation for the Utah Trial Lawyers' Association)
- November 2003- "A New Age of Professionalism." (Panel Discussion Leader) (Presentation for the Advisory Committee on Professionalism and the Utah State Bar)
- November 2003- University of Utah, Grand Rounds Lectureship Ethics Conference, John A. Moran Eye Center: "Expert Witnesses" (Panelist)
- September 2003- "Learn from the Pros: Winning Medical Malpractice Cases- Statutes of Limitation" and "Ethical Issues in Medical Malpractice Cases." (Presentation for the Utah Trial Lawyers' Association)
- May 2003- "Medical Malpractice in Utah" (Presentation for the University of Utah Medical Students Association, with David Williams)

- May 2003- "The New Supreme Court Advisory Committee on Professionalism- A Useful Exercise?" (Guest Speaker for the Weber County Bar Association's quarterly meeting.)
- April 2003- "Computers in the Courtroom" (Presentation for the Aldon Anderson Inn of Court)
- March 2003- "Learn from the Pros: The Basics of Depositions" (Presentation for the Utah Trial Lawyers' Association)
- November 2002- "Attorney-Conducted Voir Dire" (Presentation for the Rex Lee Inn of Court, American Inns of Court, Ogden, Utah)
- October 2002- "Voir Dire In a Time of Medical Malpractice 'Crisis'" (Discussion leader for UTLA plaintiff's counsel exchange.)
- October 2002- "Trial Academy 2002" (Lead presenter at two-day intensive legal education program on trial advocacy skills, sponsored by the Litigation Section of the Utah State Bar)
- September 2002- "The Ethics of Referral Fees" (Panel presentation at Utah Trial Lawyers' Association Annual Meeting)
- September 2002- "The New Professionalism Initiative" (Presentation at Utah Trial Lawyers' Association Annual Meeting)
- September 2002- "The New Professionalism Initiative" (Presentation at Utah State Judicial Conference)
- August 2002- "Power Pointless- Using and Abusing PowerPoint" (Presentation at Utah State Bar's Annual Leadership Conference)
- June 2002- "Professionalism Efforts-Do They Matter?" (Panel Presentation at Utah State Bar's Annual Meeting in Sun Valley, Idaho with Hon. John Gleeson of U.S. District Court for the Eastern District of New York; Jacob Stein, Esq., Stein & Menzies, Washington, D.C.; and Hon. Gregory Orme, Utah Court of Appeals)
- May 2002- "Professionalism for New Lawyers- Dealing with Clients" (Speaker for New Lawyer Mandatory CLE program sponsored by Utah State Bar)
- March 2002- "Legends at the Legacy Lodge" (Panel Presentation on ethics with Judge Alex Kozinski, Ninth Circuit; Judge Michael Murphy, Tenth Circuit; Judge Gregory Orme, Utah Court of Appeals; Judge Robert Hilder, Third District Court; and Richard D. Burbidge) (Park City Bar Association Annual "Ethics CLE and Ski", Park City Mountain Resort)

- January 2002 - "Avoiding Lien Disasters" (Panelist: presentation on ethical obligations in health care liens) presentation for Utah Trial Lawyers' Association
- December 2001- "Ethical Issues in Litigation" (Lead Presenter on Live Internet CLE Joint Seminar for Utah Trial Lawyers' Association and the Utah State Bar Office of Professional Conduct)
- November 2001 - "Attorney-Conducted Jury Selection" (Presentation for the Sutherland Inn of Court, American Inns of Court, Salt Lake City)
- October 2001 - "Handling the Difficult Witness" (Aldon Anderson Inn of Court, American Inns of Court, Salt Lake City)
- April 2001 - "Medical Malpractice Law for Lawyers and Paralegals" (Utah Trial Lawyers' Association, Salt Lake City)
- November 2000 - "Closing Argument" (Utah State Bar, Litigation Section, Trial Academy 2000 - Part VI, Westminster College)
- October 2000 - "PowerPoint Presentations" (Utah Trial Lawyer's Association, Salt Lake City)
- October 2000 - "Medical Records Issues" (CME presentation Midtown Community Health Center, Ogden, Utah)
- September 2000 - "Jury Instructions and Trial Motions" (Utah State Bar, Litigation Section, Trial Academy 2000 - Part V, Westminster College)
- September 2000 - "Using PowerPoint in Court" (Utah Trial Lawyer's Association Annual Meeting, Salt Lake City)
- July 2000 - "Expert Witnesses" (Utah State Bar, Litigation Section, Trial Academy 2000 - Part IV, Westminster College)
- July 2000 - "Using Computers For More Effective Courtroom Arguments" (Utah State Bar Annual Meeting, San Diego)
- May 2000 - "Examination of Witnesses" (Utah State Bar, Litigation Section, Trial Academy 2000 - Part III, Westminster College)
- April 2000 - "Cross Examination of Witnesses" (Day-long seminar sponsored by Lorman Education Services, Salt Lake City)
- March 2000 - "Opening Statements" (Utah State Bar, Litigation Section, Trial Academy 2000 - Part II)

- January/February 2000 - "What the Physician Should Expect in a Deposition" (University of Utah Medical School, Grand Rounds, Department of Family Medicine)
- January 2000 - "Civil Jury Selection in Utah" (Utah State Bar, Litigation Section, Trial Academy 2000 - Part I)
- December 1999 - "Overview of the New Discovery Rules" and "The Basics of Depositions" (Utah State Bar, New Lawyers' Mandatory CLE)
- November 1999 - "Overview of the New Discovery Rules" (Utah Trial Lawyers' Association, Salt Lake City)
- November 1999 - "An Evening With the Third District Court - The New Discovery Rules" (Litigation Section of Utah State Bar, Salt Lake City)
- July 1999 - "The New Discovery Rules - Part I" and "The New Discovery Rules - Part II" (Utah State Bar's Annual Meeting, Sun Valley)
- June 1999 - "Sweeping Changes to the Discovery Rules" (Keynote Speaker, Utah State Bar Legal Assistants' Division Annual Meeting, Salt Lake City)
- March 1999 - "Sweeping Changes to the Discovery Rules" (Utah State Bar Mid-Year Meeting, St. George)
- December 1998 - "Closing Argument and Trial Motions" (Part VI of Trial Academy 1998)
- October 1998 - "Exhibits and Jury Instructions" (Part V of Trial Academy 1998)
- October 1998 - "Attorney-Conducted Voir Dire in Medical Malpractice Actions" (Utah Trial Lawyers' Association)
- March 1998 - "Attorney-Conducted Voir Dire in Utah" (Utah State Bar Mid-Year Meeting, St. George)
- March 1998 - "Opening Statements" (Part II of Trial Academy 1998)
- January 1998 - "Civil Jury Selection in Utah" (Part I of Trial Academy 1998)
- December 1997 - "Is Discovery Ethical?" (Utah State Bar seminar on ethics issues arising in civil discovery)
- July 1997 - "Jury Selection Developments in Utah" (Utah State Bar Annual Meeting, Sun Valley)

- March 1997 - "The Basics of Jury Selection in Utah" (Utah State Bar Mid-Year Meeting, St. George)
- December 1996 - "Closing Argument" (Part VI of Trial Academy 1996)
- October 1996 - "Using Exhibits in Court" (Part V of Trial Academy 1996)
- August 1996 - "Expert Witnesses" (Part IV of Trial Academy 1996)
- June 1996 - "Fact Witnesses" (Part III of Trial Academy 1996)
- April 1996 - "Opening Statements" (Part II of Trial Academy 1996)
- January 1996 - "Jury Selection in Utah" (Part I of Trial Academy 1996)