



Mark Jackson

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Mark Jackson is a partner at Jackson Rosenfield LLP where he focuses his practice on government contracts, construction and commercial litigation.

He has been involved in Federal procurement counseling and litigation for more than 30 years, first as a contract negotiator and later as a legal advisor and trial attorney on the Air Force Contract Litigation Team, where he defended the Air Force against contractor claims, prosecuted defective pricing claims and directed audits and investigations. In private practice since 1997, Mark represents prime contractors, subcontractors and suppliers in disputes arising from the award and performance of government contracts, as well as related government audits and investigations.

In his construction litigation practice, Mark represents contractors, subcontractors, sureties and owners in public and private construction disputes. On behalf of contractors, he has successfully prepared and prosecuted through trial a variety of construction claims, including those involving defective specifications, changed conditions, superior knowledge, acceleration and delay, and loss of productivity. On behalf of owners and sureties, Mark has successfully defended against similar claims brought by contractors and subcontractors.

Education

J.D., Southern Methodist University Dedman School of Law, 1988

Law Review 1986-1988

Outstanding Graduate in Trial Advocacy

B.S., United States Air Force Academy, 1983

Brosman Award, Outstanding Graduate in Law

Admissions

Washington

U. S. Courts of Appeals: Federal Circuit

U. S. District Courts: Western District of Washington, Eastern District of Washington, Northern District of Florida, Court of Federal Claims

Representative Matters

Bid Protests

IAP-Leopardo Construction, Inc., B-408890: represented intervenor in protest challenging sufficiency of discussions in negotiated procurement, resulting in denial of protest.

Medical Consultants Network, Inc., B-407895: represented disappointed offeror in procurement to provide medical second opinion services, resulting in agency decision to take corrective action.

RAMS Specialized Security Services, Inc., (Bonneville Power Administration): represented disappointed offeror in procurement to provide armed and unarmed guard services at, resulting in agency decision to take corrective action.

Atherton Construction, Inc., B-296599: represented disappointed offeror in military family housing construction procurement, resulting in a settlement and payment to client of \$325,000.

Medical Consultant's Network, Inc., B-296452: represented disappointed offeror in procurement to provide medical second opinion services, resulting in agency decision to take corrective action.

Canyon Electric Company, Inc., B-288301: successful protest of agency decision to permit acceptance of late bid.

Atherton Construction, Inc., B-291428.4, B-291428.5 and B-291428.6: represented disappointed offeror in military family housing construction procurement, resulting in payment to client of \$162,500.



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Mark Jackson (page 2 of 4)

Siemens Building Technologies, Inc. v. United States, No. 01-22C (Fed. Cl.): in a negotiated, design-build procurement of hospital, protested sole-source designation of direct digital control system, resulting in re-procurement by agency.

Puglia Engineering, Inc., B-295066: represented disappointed offeror in Navy ship maintenance and repair contract, resulting in corrective action by agency.

Giant Campus, Inc., B-297167: represented disappointed offeror in procurement to provide computer access and training to military installation in Florida, resulting in cancellation of initial award and new award to client.

Litigation & Dispute Resolution

Avant Assessment, ASBCA No. 58897 (in a commercial item contract that was terminated for cause, obtained an order granting our motion for summary judgment that the termination for cause was improper and converting it into a termination for convenience).

Procon-Fayz-VKS, JV v. Louis Berger Group/Black & Veatch JV, Case 50-20-1200-0679 (ICDR) (represented Afghan joint venture against prime contractor on USAID construction project in the Uruzgon province of Afghanistan, resulting in a settlement requiring multi-million dollar payment to client).

Oregon Iron Works, Inc., ASBCA Nos. 58356 et al (prepared and prosecuted breach of contract claims under commercial item contract for the construction of a caisson for the U.S. Navy, resulting in a stipulated judgment for the client in excess of \$1 million).

Alutiiq International Solutions, Inc. v. United States (11-569) (Fed. Cl.) (after the GSA issued a deductive modification to the contract and demanded repayment of more than \$400,000, used a constructive termination for convenience theory to obtain a \$2.8 million payment to client).

A&T Systems, Inc. v. United States (12-179C) (Fed. Cl.) (recovered funds withheld by government on a commercial items contract for medical coding services, settling a case pending before the Court of Federal Claims).

A-1 Hortons, ASBCA No. 57750 (On behalf of a small, woman-owned moving company, recovered lost profits on a failure to order services theory of recovery, settling a case pending before the ASBCA).

Sadaf Petroleum Kabul, Ltd., ASBCA No. 58353 (converted a default termination into a termination for convenience, settling a case pending before the ASBCA).

Alutiiq Global Solutions, LLC v. United States (13-854) (Fed. Cl.) (recovered funds for extra services ordered and provided but not paid for by FEMA under an emergency services contract, settling a case pending before the Court of Federal Claims).

IXL World Class, LLC v. United States (12-906) (Fed. Cl.) (negotiated conversion of default termination of VA construction contract into termination for convenience, settling a case pending before the Court of Federal Claims).

Persuaded SAF/GCR to withdraw proposed suspension and debarment, which had been based on an AFOSI Report of Investigation alleging fraudulent invoicing under a series of contracts, by conducting internal investigation and refuting AFOSI's evidence.

Laudes Corporation v. United States, No. 08-121C (Fed. Cl.) (prepared and prosecuted Tucker and Contract Disputes Acts claims against US government for work performed by client in support of the Second Battle of Fallujah, resulting in a multi-million dollar settlement).

Mark Jackson (page 3 of 4)

In re Litigation regarding the Clear AFS Radar Upgrade Project, No. A99-0634-CV (HRH) (D. AK) (prepared and prosecuted Miller Act claims arising from construction of military radar facility, resulting in multi-million dollar recovery for client).

Laudes Corporation v. United States, No. 07-4C (Fed. Cl.) (prepared and prosecuted Tucker and Contract Disputes Acts claims against US government for work performed by client at the Baghdad Police Services Academy, resulting in multi-million dollar settlement).

M.A. Mortensen Co., ASBCA Nos. 50716, 51241 and 51257, 99-1 B.C.A. 30,270 (1999) (established contractor's entitlement to an equitable adjustment for defective specifications in construction of hospital).

United States ex rel. Matia Contractors, Inc. v. Atherton Construction, Inc., No. C00-991P (W.D. WA.) (defended general contractor in Miller Act litigation, settled through mediation).

Crest Incorporated v. Costo Wholesale Corporation, No. 02-2-00324-5 (Whatcom County) (defended owner and general contractor against breach of contract claims by subcontractor, resulting in judgment for clients, including award of fees and costs), aff'd Crest Incorporated v. Costco Wholesale Corporation, 115 P.3d 349 (Ct. App. Wash. 2005).

Waterjet Technology, Inc. v. Flow International Corporation, 996 P.2d 598 (Wash. 2000) (established employer's right to assignment of employee's invention, overruling Machen, Inc. v. Aircraft Design, Inc., 828 P.2d 73 (Wash. Ct. App. 1982)).

Elsag Bailey v. City Electric, Inc., No. A99-0034 CV (D. AK) (defended general contractor on Federal construction project against claim by subcontractor, settled prior to trial).

Prepared and negotiated request for equitable adjustment for constructive changes to Air Force services contract, resulting in multimillion-dollar payment to client.

United States ex rel. Uresco Construction Materials, Inc. v. Across Alaska Insulation, et al., No. A00-299 CV (D. AK) (defended general contractor in Miller Act claim, settled prior to trial).

Prepared and negotiated claims arising from construction of military hospital, resulting in multi-million dollar recovery for client.

CH2M HILL, Inc. v. McAdams Technologies, Inc., No. C01-0402P (W.D. WA) (represented plaintiff in breach of contract action against prime contractor on DOD contract, resulting in judgment for client in excess of \$1 million).

Represented FAA contractor civil False Claims Act litigation, resulting in settlement without suspension or debarment.

The Boeing Company, ASBCA No. 52256, 02-1 B.C.A. ¶ 31,811 (established mutual mistake in final release, permitting contractor to recover costs omitted from contract close-out modification).

Prepared and negotiated claims arising from construction of military family housing, resulting in recovery of 90% of claimed amount.

Represented subcontractor in private arbitration of Miller Act claims on fuel transfer project in Alaska, resulting in award to client of all amounts sought including the award of attorney fees and costs.

Represented Department of Defense contractor regarding alleged violations of the False Claims Act, resulting in settlement without suspension or debarment.

Representative Publications & Presentations

“Protecting Intellectual Property in Government Contracts,” Oregon Law Institute, Portland, OR (June 10, 2011)

Co-Author, “Rethinking Abuse of Discretion Claims,” Construction Briefings, No. 2006-07 (2006)

Presentation, Government Contract Law, Federal Publications, LLC, Seattle, WA (June 6-8, 2006)

Presentation, Advanced Topics in Government Contract Law, Federal Publications, LLC, Menlo Park, CA (May 4, 2006)

Co-Author, “Interest In & On Claims,” Briefing Papers, No. 06-4 (2006)

Presentation, Government Contract Law, Federal Publications, LLC, Seattle, WA (June 7-9, 2005).

Presentation, Government Contract Law, Federal Publications, LLC, San Diego, CA (May 14-17, 2004).

Co-Author, “Recognizing and Challenging Out of Scope Changes,” Briefing Papers, No.03-13, (2003).

Co-Author, “Using Industry Studies to Quantify Lost Productivity,” Construction Briefings, No. 2001-12 (2001).

Presentation, “Increasing and Protecting Profits on Federal Construction Projects,” Alaska Construction Law Seminar, Anchorage, AK (April 9, 2001).

Author, “A Dispute Resolution Strategy for Federal Construction Projects,” Construction Briefings, No. 2000-6 (2000).

Presentation, “Application of the False Claims Act to Construction Projects,” New and Emerging Issues in Construction Law, Seattle, WA (December 8, 2000).

Presentation, “Preparation of Construction Claims,” Alaska Construction Law Seminar, Anchorage, AK (November 17, 2000).

Co-Author, “Selected Procedural Issues at the Boards of Contract Appeals,” Briefing Papers No. 98-7 (1998).