



Philip J. Davis

Senior Counsel



202.719.7044



pdavis@wiley.law



Philip serves as senior counsel to Wiley. A former clerk on the Federal District Court, Philip represents clients on a broad range of government contracts and related litigation matters, including bid protests, contract disputes, claims preparation and litigation, suspension and debarment proceedings, and internal investigations and audits. Most recently, Philip was lead counsel in prosecuting some 30 separate and consolidated claims at the Armed Services Board of Contract Appeals (ASBCA) seeking more than \$2.4 billion and defending against a Government request that the ASBCA declare the contract *void ab initio* on grounds of fraudulent inducement, conflict of interest and first material breach, and order the contractor to pay back all the money paid under the contract. This is the single largest claims litigation involving the ASBCA. Prior to these appeals, Philip represented another contractor in the then-largest claims litigation at the ASBCA involving 15 consolidated claims and a Government counterclaim that, after approximately 100 depositions and extensive motion practice, were made subject to the ASBCA Alternative Dispute Resolution (ADR) Program and eventually resolved.

Besides litigation matters, Philip has participated in several due diligence reviews in mergers and acquisitions, focusing on government contracts and litigation issues, and regularly taught a course on that subject. He served as a Vice Chair of the American Bar Association (ABA) Section of Public Contract Law's Committee on Professional Responsibility and Contracting Ethics, from which perspective he counseled clients on and conducted reviews of ethics/compliance programs, and drafted ethics/compliance policies.

Practice Areas

Government Contracts
Litigation

Credentials

Education

J.D., The George Washington University
Law School; Order of the Coif

B.A., *cum laude*, Trinity College

Law Journals

Notes Editor, *The George Washington Law
Review*

Clerkships

Law Clerk for the Honorable Bernard M.
Decker, U.S. District Court for the Northern
District of Illinois (1973-1974)

Bar and Court Memberships

District of Columbia Bar

Representative Matters

- Represented a major defense contractor as lead counsel in more than 30 claims before the ASBCA totaling in excess of \$2.4 billion, variously alleging breach of contract, failure to cooperate, and constructive changes in which the parties engaged in vigorous deposition, discovery, and motion practice, and, in the same appeals, defended against the Government's allegations that the underlying contract was *void ab initio* on the grounds of fraud, conflict of interest and first material breach and seeking return of all monies paid by the Government under the contract. The team defeated the Government's claims in their entirety, received a judgment of approximately \$140 million and continues to litigate other claims.
- Represented a major defense contractor as lead counsel in successfully-resolved litigation before the ASBCA that involved 15 consolidated claims, including a government counterclaim, alleging breach of contract, delay and disruption, and constructive changes, in which the firm successfully pursued and defended 18 substantive and procedural motions, including motions to dismiss and for summary judgment, took and defended approximately 100 depositions and, thereafter, engaged in an ADR process which involved additional requests for equitable adjustment and fact-finding, submission of 18 position papers, and three-week long oral presentations and mediation.
- Lead counsel in multi-faceted representation of an Afghani host nation contractor in (i) litigating appeals and negotiating settlements of tens of millions of dollars' worth of claims at the ASBCA, resulting in recovery of 96% of claimed quantum, (ii) reaching settlement of civil False Claims Act allegations of false and forged documents prior to Department of Justice filing court action, (iii) persuading military department's Suspension and Debarment Official to lift a proposed debarment on grounds that record presented by Government did not support allegations of false and forged documents and theft made against the client, and (iv) successfully protesting military department's non-responsibility finding against client in the U.S. Court of Federal Claims.
- Lead counsel in successful representation of leading electrical, design build and systems integration firm in bid protest before the District of Columbia Contract Appeals Board (CAB) in a challenge to the DC Department of Transportation award of eight-figure contract for upgrade and maintenance of the DC street lighting assets, and in subsequent appeal of the CAB decision to the DC Superior Court.
- Lead counsel in intervention on behalf of major defense contractor in the U.S. Court of Federal Claims to defend against protest of award of eight-figure contract for integrated security systems at the Department of Defense facilities in the Washington, DC area.
- Lead counsel in numerous bid protests on behalf of professional services contractor before U.S. Government Accountability Office (GAO), the U.S. Court of Federal Claims, and Federal agencies, including hearings and oral arguments.
- Represents clients in suspension and debarment proceedings before agencies' Suspension and Debarment Officials (SDO), including making written submissions and oral presentations. This has included lead counsel role in obtaining no action letter from military department SDO for client that had been debarred by a major international organization and persuading another military department

SDO not to debar a client that had pled guilty to a Sherman Act felony.

Professional Experience

- Past Member, Editorial Board, *Contract Management*, National Contract Management Association
- Past President, National Contract Management Association, Tysons Corner Chapter

Affiliations

- American Bar Association (ABA), Section of Public Contract Law
 - Past Vice-Chair, Ethics, Compliance & Professional Responsibility Committee
 - Bid Protest Committee
 - Past Co-Chair, Annual and Quarterly Programs
- Court of Federal Claims Bar Association
- National Contract Management Association (NCMA)

Recognitions

- Listed by *Chambers USA* as one of "America's Leading Lawyers for Business" in Government Contracts (2016-2019)
- Named by *The Legal 500 US* as a "recommended lawyer" in Government Contracts (2015-2018)