

Government Contracts Litigation

For more than 30 years, Quinn Emanuel has been one of the most successful government contract practices in the country. Dispute resolution of government contract controversies depends on specialized forums and a particularized body of law; yet success depends on litigation strategies used in commercial litigation. In other words, winning government contracts litigation should involve an experienced blend of knowledge and general litigation expertise. Our firm is an expert in both skills.

Our representations of government contractors have involved virtually all the substantive issues arising out of doing business with governments. Such issues come into play both in lawsuits involving government agencies directly and in disputes between commercial parties, such as subcontractors and prime contractors, in which the relationship derives from a government contract and its use of "flow-down" provisions. We have substantial expertise in government accounting, cost allowability, defective pricing, claims identification and analysis, intellectual property protection, bid protests, debarment and suspension, contract terminations, and contract changes. Our experience also covers all key industry sectors – aerospace and defense, electronics, IT, communications, technical services, financial, construction, transportation, health care and the life sciences fields. We have tried cases in all of the major government contract forums.

A significant portion of our work in this area relates to matters alleging criminal or civil fraud. Those matters typically involve complex accounting issues springing from the regulatory overlay peculiar to government contracting. We represent industry leaders as well as small and emerging companies and organizations. Many of our partners are former assistant U.S. attorneys who bring to bear their extensive experience in trying criminal and civil False Claims Act cases. Additionally, we have been significantly involved in international procurement disputes, appearing before the International Chamber of Commerce, the London Court of International Arbitration and, in one long trial, the Federal Court of Australia.

No matter what the client's needs were – from an equitable adjustment claim to defense of a civil or criminal fraud allegation – Quinn Emanuel offered the litigation experience to achieve a successful outcome.

RECENT REPRESENTATIONS

- Quinn Emanuel represented **Allwyn Entertainment Ltd** and **Allwyn International a.s.**, interested parties in proceedings brought by Camelot UK Lotteries Ltd against the Gambling Commission. Camelot was seeking to overturn the Commission's decision to name Allwyn as the winner of the competition for the 4th licence to run the UK National Lottery. Camelot has been the incumbent licence holder since the first licence in 1996 and the 4th Licence is estimated to be worth £6.5 billion. The National Lottery is also the largest annual donor of charitable funds nationally, and

has raised over £46 billion for good causes since its inception. The victory turned on persuading the Court that the automatic suspension of making the award to Allwyn that occurred upon Camelot issuing proceedings should be lifted before there is a full trial of the matter. The Commission and Allwyn successfully argued that the suspension should be lifted so that the award to Allwyn can be made, the Judge finding that damages would be an adequate remedy for Camelot if it won at trial and, further and in any event, the balance of convenience lay in lifting the suspension.

- Quinn Emanuel successfully settled criminal and civil litigation venued in the Northern District of Georgia for client, **Agility**, a Kuwaiti multi-billion dollar logistics company. The litigation arose from allegations that Agility defrauded the federal government in the performance of Prime Vendor Contracts to supply food to United States troops during the Iraq war from 2003-2010. Despite Agility's near perfect performance of the mission to feed the U.S. troops, the government alleged that Agility engaged in a \$10 billion fraud on the government. In 2017, Agility announced a global settlement. The criminal fraud action, involving an alleged \$10 billion fraud was resolved with a single count misdemeanor plea in connection with a single invoice valued at \$551. The misdemeanor, unrelated to any of the original criminal charges, required Agility to pay a maximum of \$551 in restitution, but no criminal fine. As part of the global settlement, Agility and its subsidiaries around the world were removed from the list of entities suspended from contracting with the U.S. government.
- We currently represent South African mining company **AngloGold Ashanti** in ICSID arbitration proceedings against the government of Ghana. We have accused the government of Ghana of withdrawing military protection from the Obuasi gold mine and permitting hundreds of illegal miners to access the mine and carry away gold ore, with cumulative losses of millions to date.
- We also represented **AngloGold Ashanti Limited and its subsidiaries** in a London-seated, UNCITRAL arbitration against the United Republic of Tanzania. The claims arose out of legislation passed by the Republic of Tanzania, purporting to force mining companies to list their shares and subjecting their agreements to review and renegotiation by the Government, in breach of stabilisation and other provisions contained in our clients' development agreement with the Government, which was governed by Tanzanian law.
- We represented **DP World** in an international arbitration before the London Court of Arbitration concerning allegations by the Republic of Djibouti that DP World had paid bribes to obtain a suite of contracts under which DP World designed, built, and was operating a state-of-the art container terminal in Djibouti in exchange for 33% ownership of the terminal and a management fee. Djibouti initiated the arbitration in an effort to rescind or terminate the contracts and either take full ownership of the terminal or receive hundreds of millions in damages. The Tribunal completely exonerated DP World, rejected all of Djibouti's claims, and ordered Djibouti to pay DP World's legal and other costs on an indemnity basis.

- We are advising **Acacia Mining** in relation to international arbitration proceedings under certain Mining Development Agreements, and a potential bilateral investment treaty dispute against the Republic of Tanzania following the Government of Tanzania's decision to ban certain mineral exports as well as to require mining companies to mandatorily offer certain percentage of their shares to the public.
- We represent **Janus Global Operations** in a complaint alleging breach of contract, trade secrets, and conspiracy claims related to a prime-subcontractor dispute where Janus is accused of trying to sabotage the prime contractor's relationship with the government client. We prevailed – with all counts and all claims for relief denied - in initially defending against a motion for TRO/preliminary injunction. We then obtained a dismissal from federal district court; the matter is now pending in arbitration.
- The firm recently obtained a terrific settlement on behalf of its client, **ACADEMI Training Center, LLC (f/k/a/ Blackwater USA)**, resolving a False Claims Act case that had been ongoing for seven years. The case, originally filed in 2011, arose out of allegations that ACADEMI submitted invoices to the State Department for payment that contained false and misleading statements about the services that the company provided pursuant to a defense contract it had with the State Department.
- We advised **DP World** ("DPW") in negotiating an optimal settlement with the Republic of Yemen and its state-owned company the Yemen Gulf of Aden Ports Corporation ("YGAPC"), whereby the U.A.E.-based port operator recovered 80% of the value of its claims and divested its entire interests in the troubled joint venture company established with Yemen and YGAPC to develop, operate and manage two container terminals in Aden, Yemen.
- We achieved the complete abandonment of an investigation by the Justice Department into claims potentially valued at more than half billion dollars against a major U.S. **aerospace and defense contractor**. We were engaged midway through a seven year investigation after the U.S. government had contended that the contractor was negligent and had committed violations of the False Claims Act amounting to potentially more than \$600 million in damages. After multiple presentations by our attorneys arguing that the government's case was not supportable under the False Claims Act, government contract regulations or negligence law, the government decided to drop the investigation without taking any action.
- We obtained complete dismissal of all claims in a *qui tam*/False Claims Act case on behalf of **Northrop Grumman**. Relator sought over \$1 billion arising out of alleged wrongful billings in connection with \$4.5 billion satellite project for the U.S. government. After a complete internal investigation and subsequent presentation to the government, we persuaded the Dept. of Justice to decline to intervene and the relator to voluntarily dismiss.
- We successfully defended **Roche Molecular Systems** against claims of infringement of Stanford HIV patents related to viral load and therapy decisions. Stanford

challenged Roche patent rights, asserting that Stanford, rather than one of its researchers, owned patent rights resulting from government-funded research. At the trial court, we obtained summary judgment of invalidity due to obviousness, and a favorable ruling on appeal to the Federal Circuit regarding standing to enforce the patents-in-suit. The United States Supreme Court affirmed the Federal Circuit in a 7-2 decision, confirming a complete victory for the firm's clients. Quinn Emanuel's client, Roche, now owns a portion of the patent rights asserted against it by Stanford, allowing Roche to continue to make and sell its life-saving HIV kits free from Stanford's claims. The Supreme Court upheld Roche's position that universities must adhere to their contracts and not rely on the Bayh Dole Act to void their prior commitments.

- We represented **Mammoth Lakes Land Acquisition, LLC** in a two-week jury trial resulting in a verdict finding breach of contract against the Town of Mammoth Lakes. Our client obtained a judgment of \$30 million, along with an award of attorneys' fees. This was the largest jury verdict in the history of Mono County, California and the 67th largest verdict in the nation in 2008. Defendant appealed, and the firm's appellate attorneys successfully persuaded the California Court of Appeal to affirm the judgment in full.
- We represented **Hughes Aircraft** in a breach of contract and tortious interference action against GEC, one of the largest industrial concerns in England. We tried the case before the London Court of International Arbitration which awarded our client \$23 million in damages. The award was based on the tribunal's evaluation of the business opportunity Hughes lost when GEC cut Hughes out of a joint venture for proposing a radar system for the European Fighter Aircraft program.
- We represented **The Parsons Corporation** in a "whistle-blower" *qui tam* lawsuit--one in which the federal government did not intervene--in which issues of proper accounting under Cost Accounting Standards 410 and 418 are in play. The case was favorably settled.
- We represented a **major aerospace company** in a federal lawsuit brought by a large European aerospace conglomerate involving a dispute over solar arrays used in satellites. We obtained summary judgment and a complete dismissal of the \$133-million negligence, negligent misrepresentation and fraud claims.
- We represented **Dayton T. Brown** in two separate protests, one at the Government Accountability Office and the other at the U.S. Court of Federal Claims, successfully defending bid protests against award of testing facilities contracts to the company.
- We represented **The Parsons Corporation** in a cost allowability dispute before the Armed Services Board of Contract Appeals, which was successfully resolved upon undertaking extensive depositions of the government's contracting officials.
- We represented **Hughes Aircraft** in federal litigation in Australia, leading to a \$25 million settlement upon a published opinion by the Federal Court that Australia had

breached its contract with the U.S. company and committed fraud. The court, for the first time in Australia, found that the contract included an implied obligation of good faith and fair dealing.

- We have represented a **number of major government contractors** in evaluating instances of alleged mischarging and reporting findings to the federal government, with resulting administrative resolution of the issues.
- We represented **Raytheon** in a case brought against it by an individual who claimed that he was entitled to millions of dollars in commissions on the sale of the Patriot missile system to Saudi Arabia. As a result of our extensive negotiations with the Saudi government, a Saudi minister submitted an answer to a written interrogatory disavowing the plaintiff's right to any recovery. We then obtained a voluntary dismissal during trial.
- We represented a **major government contractor** with respect to alleged mischarging issues that were the subject of a grand jury investigation and resolved the matter administratively through contract modification.
- We have counseled the **California Institute of Technology** over time concerning its contract with NASA for operation of the Jet Propulsion Laboratory.
- We represented **Hughes Aircraft** in obtaining a dismissal against both the United States government and the relator in a *qui tam* False Claims Act case alleging mischarging under government contracts.
- We represented an **international engineering firm** against allegations that it violated the False Claims Act and over-billed the federal government by allegedly engaging in improper intercompany cost transfers. On the eve of trial, the case was settled for little more than nuisance value.
- We represented an **international** engineering firm and its joint venture partners against allegations of accounting fraud and over billing by the government in connection with a long-term infrastructure construction project. We obtained dismissal of the fraud claim and are awaiting the result of a six-month bench trial.
- We represented an **international engineering firm** in a dispute with the federal government over the manner in which environmental clean-up services were accounted for and charged. The engineering firm was accused of overbilling millions of dollars. The government agreed to settle the dispute without the engineering firm having to pay any allegedly over billed amount to the government.
- We represented an **international construction and engineering firm** against federal *qui tam* action brought by former employee alleging various over billing and improper billing on government projects. Won on motion to dismiss.

- We represented **Litton Systems** in a *qui tam* case, joined by the government, alleging misallocation of overhead costs for data processing services. Obtained a favorable settlement.
- We represented **Fluor Daniel Corp.** in a *qui tam* claim by former employee overseeing cleanup of former Department of Energy nuclear fuel processing facility north of Cincinnati, challenging cost and schedule estimates for project. Obtained a favorable settlement.
- We represented **Jacobs Engineering Group** in a *qui tam* action, joined by the government, alleging improper charging of rental costs after sale and leaseback of headquarters building. The case resulted in a favorable settlement.
- We represented **Shell Oil Company** in state and federal actions alleging underpayment of royalties on government oil leases; the matters ultimately settled.
- We represented **Loral** in its defense of a derivative lawsuit related to one of the first direct broadcast satellite permits.
- We represented a **number of satellite manufacturers** in disputes with the federal government relating to acquisition and performance disputes, including prosecuting and defending disputes before the Armed Services Board of Contract Appeals and the U.S. Claims Court, and obtained favorable outcomes.
- We represented **Northrop Grumman** against multiple employment and *qui tam* suits brought by former employee in a *qui tam* matter alleging flaws in circuitry for guidance system for MX Missile. The representation included a jury trial and appellate proceedings in the Ninth Circuit and the Supreme Court. All *qui tam* claims were dismissed and plaintiff received no monetary recovery after payment of sanctions award and attorneys' fees.