



Jonathan J. Frankel

Managing Member

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Education

J.D., Yale Law School, 1994
(*Yale Law Journal*, Articles Editor)

B.A., Harvard University, 1991
(*summa cum laude*, Phi Beta Kappa)

Bar Admissions

District of Columbia
United States Supreme Court

Clerkship

The Hon. Stephen F. Williams,
U.S. Court of Appeals for the D.C.
Circuit, 1994 - 1995

Recognitions

Chambers USA, 2017-2022
Super Lawyers, 2014-2022
Martindale-Hubbell: Judicial
AV Preeminent
Metro DC PFLAG Pro Bono
Award, 2008

Jonathan Frankel is a skilled litigator who works with government contractors and other companies to develop creative solutions to regulatory problems. Mr. Frankel has won numerous bid protests and high-profile appeals in federal court and before the Government Accountability Office. He has a particular talent for translating complicated engineering and economic concepts into arguments that judges can understand.

Chambers USA ranks Mr. Frankel as one of “America’s Leading Lawyers for Business” in government contracts, and it selected him for its Spotlight Table of the top bid protest litigators in the country. Clients interviewed said that Mr. Frankel “rolls up his sleeves and becomes an expert on the contract at issue, and efficiently and effectively protests or defends awards of contracts with great results.” Clients also told *Chambers USA* they were “impressed” by “his ability to provide the quick, quality analysis you need,” and that “his expertise is exemplary.”

Practice

Mr. Frankel helps government contractors and regulated companies do business with – and litigate against – the Federal Government. He has represented contractors in bid protests and other disputes with the Department of Defense (including each of the military services), GSA, DHS, DOE, HUD, DOL, HHS, the IRS, the State Department, OPM, the U.S. Postal Service, the FAA, and NASA. He has led internal investigations and resolved government audits for defense and civilian contractors, utilities, and NGOs. He has successfully challenged or defended many FCC and FERC decisions on behalf of carriers and utilities. He has also litigated many appeals, including the Supreme Court challenge to the Line Item Veto Act and the successful Supreme Court defense of the Family and Medical Leave Act.

Representative Work

Government Contract Litigation

Mr. Frankel defeated a competitor's attempt to disqualify client Peraton from the competition for a \$395 million contract to provide cybersecurity services to the Department of State, which Peraton ultimately won. (CSRA LLC, GAO B-418903.9)

Mr. Frankel overturned the Coast Guard's award of a \$60 million IT services contract on behalf of the small-business incumbent provider. When the Coast Guard changed the evaluation criteria but refused to let offerors revise their proposals, Mr. Frankel successfully protested the corrective action. GAO awarded attorneys' fees for both protests. (*Computer World Services Corp.*, GAO B-418287)

Mr. Frankel overturned HUD's repeated attempts to take a mortgage servicing contract away from a small business and give it to a large bank in two GAO protests and one COFC protest. The small business was awarded attorneys' fees in both GAO protests. (*Dynaxys LLC*, GAO B-414459; *Dynaxys LLC v. United States*)

Mr. Frankel successfully protested the Department of Homeland Security's award of a \$450 million financial systems modernization contract. (*Global Computer Enterprises, Inc.*, GAO B-404597)

Mr. Frankel defended Northrop Grumman's award of a \$220 million Defense Information Systems Agency contract for satellite communications services against a bid protest in the U.S. Court of Federal Claims. (*MVS USA, Inc. v. United States*)

Mr. Frankel defended the Army's award of a large airborne radar development contract to Northrop Grumman against a protest by the dominant provider of those systems. The case was highly technical and involved expert testimony on RF engineering and advanced radar design. (*Raytheon Space & Airborne Systems*, GAO B-411631)

Mr. Frankel worked with Air Force litigation counsel to defeat a pre-award protest of the Air Force's \$600 million Electronic Attack Pod Upgrade Program on behalf of intervenor Northrop Grumman. (*ITT Corp. Electronic Systems*, GAO B-405564)

Mr. Frankel successfully defended the Air Force's award of a \$113 million acquisition support services contract to a small business against a protest brought by the incumbent contract holder. (*Odyssey Systems Consulting Group, Ltd.* GAO B-412519).

Mr. Frankel successfully protested the Centers for Disease Control and Prevention's award of a large informatics and systems integration contract. (*Northrop Grumman Corp.*, GAO B-405647)

Mr. Frankel persuaded the U.S. Court of Federal Claims to enjoin the Coast Guard from transferring the work of an incumbent IT contractor to a competitor via an illegal, sole-sourced contract. (*Global Computer Enterprises, Inc. v. United States*)

Mr. Frankel persuaded a federal agency to reverse its termination for default of a software company's multi-hundred-million dollar contract.

Mr. Frankel has represented multiple defense and civilian prime contractors in disputes with their subcontractors and vice versa.

Government and Internal Investigations

Mr. Frankel completed an investigation of the procurement practices of the Kabul, Afghanistan office of an international development organization and advised the client on disclosures to USAID and the United States Treasury.

Mr. Frankel has conducted multiple investigations for defense and information technology contractors regarding allegations of mischarging, Procurement Integrity Act violations, misuse of confidential information, conflicts of interest, labor category violations, immigration fraud, and other misconduct. He has advised the companies on disclosing the matters to the relevant government agencies and with respect to subsequent audits, civil proceedings, and criminal investigations.

Mr. Frankel conducted an investigation into the fraudulent billing practices of a subcontractor to a Department of Health and Human Services contractor, and advised the client on disclosures to the HHS Office of Inspector General.

Mr. Frankel completed an investigation into an electrical grid operator's responses to attempted market manipulation by power traders.

Regulatory and Appellate Litigation

Mr. Frankel brought a successful challenge in the DC Circuit to the FCC's rules changing the protections inherent in broadcast licenses and authorizing unlicensed deployment of broadband-over-power-line equipment. (*ARRL v. FCC*)

Mr. Frankel brought a successful challenge in the Tenth Circuit to the FCC's rules for subsidizing telephone service to rural and high-cost customers on behalf of two of the Bell Companies. Winning the case turned on the effective presentation of complex statistical evidence and argument. The decision overturned the basis of a \$300 million federal program and was written up in the American Lawyer as one of the most significant litigation victories of the year. (*Qwest Communications International v. FCC*)

Mr. Frankel persuaded the DC Circuit to overturn an order of the Federal Energy Regulatory Commission purporting to replace the board of directors of an electric utility. The DC Circuit agreed that the FERC's jurisdiction under the Federal Power Act did not extend to the governing board of a public utility. (*California Independent System Operator v. FERC*)

Mr. Frankel successfully briefed and argued a suit by The Washington Post against the Governor of Maryland seeking access to the Governor's official appointment calendars and telephone records. The case was the first decision by a state supreme court in the country recognizing a public right of access to these types of documents. (*Office of the Governor v. The Washington Post Company*)

Mr. Frankel defended the Montgomery County (Maryland) Public Schools' sexual-education and sexual-orientation curricula against constitutional and statutory challenges brought by several national organizations. He and his team were awarded Metro DC PFLAG's 2008 Corporate Pro Bono Award for this work.

Mr. Frankel co-authored the Supreme Court brief successfully defending the federal Family and Medical Leave Act as a valid abrogation of the states' Eleventh Amendment sovereign immunities. The decision in *Hibbs v. Nevada Department of Human Resources* permits state government employees to sue their employers for damages for violations of the FMLA and expands the authority of Congress to adopt legislation addressing past gender and racial discrimination by state governments.

Mr. Frankel co-authored the winning Supreme Court briefs in *Rubin v. Snake River Potato Growers, Inc. and Clinton v. City of New York*, which struck down the federal Line Item Veto Act as an unconstitutional abdication of Congress' lawmaking authority to the President.

Professional Activities

Mr. Frankel serves on the Editorial Board of the American Bar Association's *Public Contract Law Journal*. He is also the former Chair of the Computer and Telecommunications Section of the District of Columbia.