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Richard C. Johnson

Representative Experience

Mr. Johnson has practiced for more than 35 years. Mr. Johnson provides counseling default and convenience terminations, allowable cost issues, cost and pricing data, cost accounting matters, appropriations law and contract compliance issues. He has litigated major cases in these areas, as well as bid protests, before the Boards of Contract Appeals and the Court of Federal Claims and the General Accounting Office. He was lead counsel to the plaintiff in *General Dynamics v. U.S.*, 47 Cl. Ct. 514 (2000), in which the Court of Federal Claims upheld General Dynamics' breach of contract action based on the retroactive application to existing contracts of a congressional statute limiting executive salaries as allowable costs under government contracts. In this early Winstar case in the traditional government contracts area, the court strongly reinforced the sanctity of government contracts in the face of subsequent legislative or regulatory intrusion.

Mr. Johnson's practice has included international construction contracts, as well as counseling European defense firms competing for United States defense contracts. He has worked on-site in Italy, Belgium, and Iran on major defense and construction contract matters.

Following law school, Mr. Johnson was selected for the honors program in the Office of the General Counsel of the Air Force. After serving on active duty in the Air Force three years, he remained in the Office of General Counsel as a civilian another year. During this time, he began a practice of federal procurement law that he has continued since.

In 1966, Mr. Johnson became assistant executive director, later acting executive director, of the Federal Power Commission (now the Federal Energy Regulatory Commission). He headed a study of air pollution and the regulated electric power and natural gas industries and spearheaded a program to bring a significant number of African-American professionals into the higher staff ranks, working closely with the EEOC. For this work he received the agency's Meritorious Service Award.

Mr. Johnson has a working knowledge of German, French, and Italian.

Practice Areas

- Government Contracts

Publications and Presentations

Co-Author, Richard C. Johnson, Ashley N. Amen, Daniel H. Ramish, and Zachary D. Prince, *The Most Important Cost Cases of the 2010s - Decade in Review*, Briefing Papers Issue 20-3, February 2020.

Co-Author, Richard C. Johnson & Ashley N. Barbera Amen, *Maropakis Strikes Again: ECC CENTCOM Constructors, LLC, ASBCA No. 60647*, Government Contract Costs, Pricing & Accounting Report, November 2018.

Co-Author, Richard C. Johnson and Ashley N. Barbera Amen, *Stirring the Muddy Waters: The Federal Circuit's Decision in Securiforce Thickens the Confusion Surrounding Maropakis and Upsets Settled Law on Nonmonetary Claims*, 109 Federal Contracts Report 247, March 13, 2018.

Co-Author, Richard C. Johnson & Ashley N. Barbera Amen, *Luna Innovations, Inc.: A Questionable ASBCA Decision on Stock Option Costs*, Government Contract Costs, Pricing & Accounting Report, January 2018.

Co-author, Richard C. Johnson & Ashley N. Barbera Amen, *Whose Burden Is It, Anyway?: Implications of the Federal Circuit Determination that the CDA Statute of Limitations Is Nonjurisdictional*, Government Contract Costs, Pricing & Accounting Report, January 2015.

Mr. Johnson has published many articles in scholarly legal journals, including the Cornell Law Review, The Washington and Lee Law Review, the George Washington Law Review and the ABA Public Contract Law Journal.

Co-author, Federal Publications Briefing Papers, "Tainted Contracts"(1989). Principal editor, Federal Publications' Government Contractor Compliance Handbook(1988), the 1989 supplement, 1991 second edition and the 1993 through 1995 supplements.

Author, "Beyond Judicial Activism: Federal Circuit Decisions Legislating New Contract Requirements," Public Contract Law Journal, Fall 2012.

Author (with Ashley N. Barbera), "Running Out of Time: Rapidly Developing Case Law on the CDA Six-Year Statute of Limitations on Contractor and Government Claims," Federal Contracts Report, August 2012.

Author (with Richard H. Snyder), "Payments Under T&M Contracts: A Step Backwards?" Government Contract Costs, Pricing & Accounting Report, January 2012.

Author (with Stephen D. Knight, John S. Pachter, and D. Joe Smith), "*Maropakis*: The Federal Circuit Imposes Forfeiture of Defenses to Government Claims When Contractor Fails to Certify Them as Contractor Claims," Federal Contracts Report, July 2010.

Author (with Stephen D. Knight, John S. Pachter, and D. Joe Smith), "*Geran v. Tecom, Inc.*: The Federal Circuit Creates a New FAR Cost Principle," Government Contract Costs, Pricing & Accounting Report, July 2009.

Author (with William T. Keevan and D. Joe Smith), "Stock Option Costs. Time for a New Look at Cost Allowability," Government Contract Costs, Pricing & Accounting Report, November 2008.

Author (with D. Joe Smith and Matthew L. Haws), "Allowability of Legal Costs of Third-Party Lawsuits Following *Tecom, Inc.*," Government Contract Costs, Pricing & Accounting Report, March 2008.

Author (with Erin R. Karsman), "*Strayhorn v. Raytheon E. Systems*: Determining the Government Share of Texas Sales and Use Tax Refunds To Federal Contractors." Public Contract Law Journal, Fall 2006.

Author, "A Critical Look at the Compensation Cost Principle – Stock Options and Restricted Stock," Public Contract Law Journal, Fall 2004.

Author, "Identifying 'Subcontractors' Under TINA and Access to Records Statutes: Filling an Annoying Gap in Government Contracts Jurisprudence," Public Contract Law Journal, Summer 2003.

Author, "CAS 405 and Directly Associated Labor Costs: An Historic Clash Between DoD and the CAS Board," Public Contract Law Journal, Spring 2002.

Author, "'Cash versus Credit': The Application of Federal Appropriations Law to Refunds and Rebates in Contractor Overhead," Public Contract Law Journal, Fall 2000.

Author (with Alan M. Buie), "Taxes, Refunds, Credits, and Cash: Handling the Government's Share of Sales and Use Taxes Refunded Under *Aerospace Corp. v. State Board of Equalization*," Public Law Journal, Spring 1999.

Author, "Price Adjustment Clauses for State and Local Taxes in Federal Government Contracts: Aerospace and Taxes Charged to Contracts Through Overhead," Public Law Journal, Summer 1997.

Speaker, "Defective Pricing and the Truth-in-Negotiations Act," in-house training seminar presented to various defense contractors (2008).

Frequent lecturer for Federal Publications and other groups.

Education

Harvard College, B.A 1958, *magna cum laude*. Major in political science, minor in Asian studies and Japanese and German languages. Recipient, Detur Prize for academic excellence. Member, Harvard Varsity Fencing Team.

Fulbright Fellow 1958-59. Studied German history and political institutions at the Universities of Cologne and Bonn. University of Bonn Fencing Team.

Harvard Law School, 1962, *magna cum laude*. Member, Board of Editors, Harvard Law Review. Assistant to the Coach, Harvard Varsity Fencing.

Professional Memberships

Mr. Johnson is admitted to practice in Massachusetts, Virginia and the District of Columbia, and before the U.S. Supreme Court, the D. C. and Federal Circuits, the Court of Federal Claims and the U.S. District Courts of the District of Columbia, Massachusetts and the Western District of Texas.