



## W. Bruce Shirk

### Special Counsel

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### PRACTICE AREAS

- Government Contracts, Investigations & International Trade

### INDUSTRIES

- Aerospace and Defense
- Healthcare

## OVERVIEW

W. Bruce Shirk is special counsel in the Government Contracts and Regulated Industries Practice Group in the firm's Washington, D.C. office.

### Areas of Practice

Mr. Shirk focuses his practice in the areas of Medicare and Medicaid contracting and related areas of law including Medicare coordination of benefits and data sharing requirements, government and construction contract law and litigation, including cost accounting issues, and defense and aerospace contracting.

Mr. Shirk's litigation experience includes numerous Medicare Contract termination proceedings with The Center for Medicare and Medicaid Services, the conduct of trials and appeals, including bid protests and other complex litigation and related discovery proceedings, before Boards of Contract Appeals, various federal administrative tribunals and state courts, Federal District courts, the U.S. Court of Federal Claims and the U.S. Court of Appeals for the Federal Circuit. Mr. Shirk has represented both state and federal government entities in litigation and has served as an arbitrator in a number of construction arbitration proceedings under the rules of the American Arbitration Association.

His experience as a counselor includes review of contracts and provision of advice to clients in both the public and private sectors in negotiation and administration of contracts and grants; administrative prosecution of claims against the government and defense of civil claims and criminal proceedings brought or instituted by the government, including claims arising under the Medicare statutes and regulations; defense of claims against public sector entities; conduct of internal inquiries related to contract and regulatory compliance, the latter including government claims for reimbursement of Medicare payments. He has conducted assessments of the practical impact of the law on the conduct of business with the government for clients, working closely with experts in related fields such as cost accounting and data analysis to formulate recommendations for managers responsible for corporate decision-making and resolution of disputes; the establishment of compliance programs and advice and counsel to clients regarding pricing and cost accounting issues. Mr. Shirk has a special interest in the principles and implementation of internal controls in the context of performance of government contracts and grants.

Before joining Sheppard Mullin, Mr. Shirk was a partner at Powell Goldstein, where he was chair of Powell Goldstein's Government Contracts practice. Prior to joining Powell

Goldstein, Mr. Shirk was a partner in the firm of Seyfarth, Shaw, Fairweather & Geraldson (1979-1996), concentrating in construction litigation, government contracts counseling and litigation and health care contracting.

**Military Experience**

United States Marine Corps  
Lieutenant  
Active Duty: August 1962- August 1966

**EDUCATION**

- J.D., Harvard Law School, 1969
- B.A., Harvard College, 1962, *cum laude*

**ADMISSIONS**

- U.S. Supreme Court, 2006
- U.S. Court of Appeals for the Sixth Circuit, 1997
- U.S. Court of Appeals for the Federal Circuit, 1996
- U.S. District Court for the District of Columbia, 1996
- U.S. District Court, Western District of Texas, San Antonio, 1977
- U.S. Court of Federal Claims, 1976
- U.S. Court of Appeals for the District of Columbia Circuit, 1972
- District of Columbia Court of Appeals, 1970
- U.S. District Court for the District of Columbia, 1970
- U.S. District Court for Massachusetts, 1969
- Supreme Judicial Court of Massachusetts, 1969

**MEMBERSHIPS**

- Chairman, Public Contract Section, Health Care Procurement Law Committee, American Bar Association, 1994-1997
- Co-Chairman, Government Contract Section, Research and Development (R&D) Committee, Federal Bar Association, 1992-1994
- Chairman, Public Contract Section, Debarment and Suspension Committee, American Bar Association, 1985-1991
- Chairman, Public Contract Section, Socio-Economic Policies and Regulations Committee, American Bar Association, 1983-1985

**ARTICLES**

- "Responding To Gov't FAPIIS Postings," *Law360*, January 12, 2012
- "FAPIIS: Update on Government FAPIIS Postings: Quick Contractor Reaction Required," January 11, 2012
- "Small Business Savvy? Senate Bill Would Undercut New SBA Regulations," October 24, 2011
- "COFC Still Beckons To Protesters," *Law360*, July 28, 2011
- "Who's In Charge? The GAO, the FAR Council, and Jurisdiction Over Task Order Bid Protests," July 15, 2011
- "'Give Me Your Huddled Masses': COFC Still Beckons To Protesters," July 15, 2011
- "OFCCP's Proposed Equal Employment Opportunity Rules: More On-Site Investigations, More Data Collected From Contractors, Closer Scrutiny of Contractor Affirmative Action," June 16, 2011

- Terminations For Convenience And Creedence Clearwater Revival: "Bad Moon Rising," April 18, 2011
- "FAPIS: An Update On The Integrity Database For Government Contractors," March 16, 2011
- "Rush To Judgment - FAR Councils Propose Daily Compounding Of Interest For TINA Violations," November 11, 2010
- "Department Of Labor Attempts To Extend The "Christian Doctrine" To Subcontracts," August 17, 2010
- Let's Just Eliminate All Pretense of Balance, *Westlaw Journal*, July 12, 2010
- "DCAA's Promises Of A "New Mode of Operation" Leading To "Mutually Beneficial Relationships" Evaporate Within Less Than Three Months," June 14, 2010
- "Federal "In-Sourcing": New Rules For Inherently Governmental Functions," June 14, 2010
- "DCAA Implements Federal Circuit Decision Requiring Interest Compounded Daily On Adjustments For CAS Noncompliances," June 14, 2010
- PPACA Medicare Contracting Reforms Enable Random Prepayment Review, But Implementation Faces Obstacles, *BNA's Healthcare Fraud Report*, June 2, 2010
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- "DOD Director of Industrial Policy Assails Bid Protest Process -- "Don't Confuse Me With the Facts", December 8, 2009
- "Recovery Act Update - U.S. Stimulus: "Buy American"; PRC Stimulus: "Buy Chinese"; Canada and WTO: "Not Pleased"" , July 7, 2009
- "Working Like a Highway Road Crew -- Government Finally Amends SF 1443 to Eliminate References to "Paid Cost Rule," a Mere *Seven Years* After the Fact", July 7, 2009
- ""There You Go Again' - Does the Fourth Estate Even Try to Get it Right When it Comes to Government Contracts?," May 29, 2009
- "FAR Councils Issue Final Rule for Human Trafficking", February 17, 2009
- "New DCAA Guidelines Severely Restrict Auditor Authority To Exercise Judgment In Audit Of Internal Controls", January 12, 2009
- "California's Proposition 35: State Contracts for Professional Architectural and Engineering Services and the Federal Model for Competitive Sourcing," *Andrews Litigation Reporter*, Vol. 21, Issue 11, September 24, 2007.
- "Compliance Risk, Recognition, Analysis and Assessment: A Theoretical Framework," *Health Care Compliance Association Magazine*, October 2006
- "Unintended Consequences: Is CMS April 5 Directive an Invitation to Carriers, Intermediaries to File Claims Under Contract Disputes Act, Stop Work, or Both?" *BNA'S Medicare Report*, Vol. 17, No. 21, May 26, 2006.
- "Workers' Compensation Coverage of Deployed Personnel Under the Defense Base Act," *Andrews Litigation Reporter*, Vol. 8, Issue 5, July 7, 2004.
- "Carriers, Intermediaries Need to Assess Benefits, Risks of Being MACs," *BNA'S Medicare Report*, Vol. 15, No. 20, May 14, 2004.
- "Homeland Security Update: The SAFETY Act Interim Regulations," *Government Contract*, May 10, 2004.
- "When Does A Contractor Claim Become A Receivable?" *Construction Claims Monthly*, Vol. 25, No. 2, February 2003.

- "Limitations on Government Contractor Liability After 9/11: Emerging Issues in the Context of Homeland Security," *Andrews Litigation Reporter*, Vol. 17, Issue 8, 2003.
- "Opportunity and Risk: Securing Your Piece of the Homeland Security Pie," *LJN's Equipment Leasing*, Vol. XXI, No. 9, September 2002
- "Terminations For Convenience More Difficult to Overturn in District of Columbia," *The Procurement Lawyer*, Vol. 33, No. 4, Winter 1998
- "Medicare Carriers Able to Recover Termination Costs, Even if They Terminate Contract," *The Procurement Lawyer*, Vol. 33, No. 3, Spring 1998.
- "The Health Care Financing Administration's Contracting Authority Under the Medicare Statute: An Overview," *Federal Contracts Report*, Vol. 67, No. 26, June 30, 1997
- "D.C. False Claims Act – A Comparison to the Federal Statute," *The Procurement Lawyer*, Vol. 32, No. 3, Spring 1997
- "Legal Ramifications of the Government Shutdown," *Government Contractor*, Vol. 37, No. 44, November 1995
- "The Looming Budget Crisis And Its Effect On Government Contracts," *Government Contractor*, Vol. 37, No. 35, September 1995
- "Technology Transfer and Technology Reinvestment," *Federal Bar News & Journal*, Vol. 41, No. 1, January 1994
- "The Medicare Secondary Payer (MSP) Program: How To Meet Your Legal Obligation To Minimize Your MSP Demand Payments," , November 1993
- "Allowability of Unsettled Overhead & Accounting System Review Costs," *Government Contract Costs, Pricing & Accounting Report*, Issue 91-9, September 1991.
- "Truth or Consequences: Expanding Civil and Criminal Liability for the Defective Pricing of Government Contracts," *Catholic University Law Review*, Vol. 37, No. 4, Summer 1988
- "Mergers and Acquisitions," *Government Contractor Briefing Papers*, September 1985

## EVENTS

- Health Care Contracting