



→ Emily S. Theriault

Associate

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Emily Theriault is an associate in the Government Contracts, Investigations and International Trade Practice Group in the firm's Washington, D.C. office.

Areas of Practice:

Emily's practice includes Contract Disputes Act litigation before the Court of Federal Claims; False Claims Act and Administrative Procedure Act litigation before the U.S. District Courts; bid protests before the U.S. Government Accountability Office and the Court of Federal Claims; size and status protests before the Small Business Administration Office of Hearings and Appeals; internal investigations; and government contract counseling.

She counsels clients on compliance with federal procurement regulations, including FAR and DFARS provisions relating to the Contractor Code of Business Ethics and Conduct, the Trade Agreements Act, the Price Reductions Clause, small business requirements, and commercial item contracting.

Experience

Representative Government Contracts Investigations

Emily often handles matters involving government contracts investigations, Office of Inspector General subpoena responses and mandatory and voluntary disclosures. Her experience includes investigations on the following topics:

- Price Reductions Clause
- Defective pricing
- False Claims Act
- Procurement Integrity Act
- Organizational Conflicts of Interest
- Small business compliance, including issues relating to service-disabled veteran-owned small businesses, veteran-owned small businesses, woman-owned small businesses, and small disadvantaged businesses
- Foreign Military Financing
- FAR and DFARS provisions

Government Contracts Compliance

Emily counsels clients regarding compliance with federal procurement statutes and regulations. Her experience includes:

- developing and implementing, as well as assessing and updating, government contracts compliance programs;
- drafting Contractor Codes of Business Ethics and Conduct;
- drafting government contracts policies, including policies addressing Organizational Conflicts of Interest; gifts, gratuities, bribes and kickbacks; human trafficking; mandatory disclosure; non-retaliation; labor qualifications; procurement integrity; Foreign Military Financing; and truth in bidding and negotiations;
- counseling clients on commercial item contracting, small business requirements, and FAR and DFARS compliance
- merger and acquisition due diligence;
- training contractors on federal procurement compliance; and
- researching government contracts questions related to statutes and regulations.

Government Contracts Litigation & Bid Protests

Emily represents contractors before the U.S. District Courts as well as the Court of Federal Claims. She also represents protesters and intervenors in numerous bid protests filed at the Government Accountability Office and Court of Federal Claims.

- Successfully defended a large government contractor from a multi-billion dollar False Claims Act *qui tam*. She assisted with researching case law, interviewing and deposing witnesses and drafting motions. The company obtained a complete victory on summary judgment.
- Successfully challenged the Department of Veterans Affairs application of the Veterans Benefits Act, ensuring that service-disabled veteran-owned small businesses and veteran-owned small businesses are afforded the appropriate priority. The Court of Federal Claims' bid protest decision was affirmed by the Federal Circuit and the Supreme Court denied a writ of certiorari.
- Successfully intervened in and defended an Administrative Procedure Act challenge before the U.S. District Court for the District of Columbia.
- Currently representing a major government contractor in ongoing litigation before the U.S. Court of Federal Claims involving large, complex claims and government counterclaims related to the performance of an \$874 million contract with the U.S. Postal Service.

Small Business Size and Status Protests

- Emily represents contractors before the Small Business Office of Hearings and Appeals. She has successfully defended numerous size and status protests.

Articles

- Vet-Owned Biz Is Always VA Contract Priority, Fed. Circ. Says
Law360, 10.17.2018
- Cross Your Heart and Hope to Die – New DFARS Clauses Target Counterfeit Electronic Parts
Westlaw Journal, 10.24.2016

- 7th Circ. Rejects FCA Implied False Certification Theory
Law360, 07.01.2015

Government Contracts and Investigations Blog Posts

- "Women-Owned Small Business Self-Certification Ends October 15, 2020 When SBA Begins Requiring Formal Government-Issued Or Third-Party Certifications for Awards," September 29, 2020
- "Government Small Business Contracting Continues to Increase: Creating Opportunities and Potential Pitfalls," August 18, 2020
- "New Executive Orders Aim to Eliminate Unfair Surprise in Civil Enforcement Actions by Formalizing Guidance Documents," October 30, 2019
- "Federal Circuit Affirms Veteran-Owned Small Businesses Are the VA's First Priority," October 30, 2018
- "While Protests and the Sustain Rate Decrease, the Effectiveness Rate Continues Its Upward Climb – A Brief Review of GAO's FY 2017 Bid Protest Statistics," December 1, 2017
- "Cross Your Heart and Hope to Die – New DFARS Clauses Target Counterfeit Electronic Parts," September 22, 2016
- "DoD Proposes Cost Allowability Rule for Correcting Counterfeit Electronic Parts," April 25, 2016
- "Seventh Circuit Rejects FCA Implied False Certification Theory," June 23, 2015
- "SCOTUS: No Unlimited Suspension of the Statute of Limitations Under the False Claims Act; "First-to-File" Doctrine Does Not Bar Related Suits in Perpetuity," May 27, 2015
- "Suspensions and Debarments on the Rise – A Brief Review of the ISDC's FY 2014 Stats," April 30, 2015
- "What's New Out There? Highlights from the Federal Register," September 29, 2014

Media Mentions

Administration Imposes Sweeping Limits on Federal Actions Against Companies
The New York Times, 02.10.2018

Memberships

Member, State Bar of Virginia

Member, Bar of the District of Columbia

U.S. Supreme Court

U.S. Court of Federal Claims

U.S. Court of Appeals for the Federal Circuit

U.S. District Court for the District of Columbia

Executive Mentee, ABA Section of Public Contract Law

Member, Publications Board, ABA Section of Public Contract Law

Practices

Government Contracts, Investigations & International Trade

Bid Protests

Claims

Multiple Award Schedule Contracting

False Claims Act

Intellectual Property Rights Under Government Contracts

Education

J.D., George Washington University Law School, 2013, *with high honors, The George Washington Law Review*

B.A., Middlebury College, 2007, *magna cum laude*

Clerkships

Intern to the Honorable William K. Sessions, III, of the U.S. District Court for the District of Vermont

Admissions

District of Columbia

Virginia

U.S. Supreme Court

U.S. Court of Federal Claims

U.S. Court of Appeals for the Federal Circuit

U.S. District Court for the District of Columbia