



→ Keeley A. McCarty

Associate

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Keeley McCarty is an associate in the Governmental Practice in the firm's Washington, D.C. office.

Areas of Practice

Keeley's practice spans the spectrum of government contracting issues, with a focus on the False Claims Act, government investigations, construction and healthcare as they intersect with government procurement. She enjoys litigating before federal and state courts, as well as before the Armed Services Board of Contract Appeals and GAO. Her experience includes *qui tam* FCA defense, prime-sub disputes, bid protests and AAA arbitration. She also helps healthcare companies and other government contractors respond to federal subpoenas and civil investigative demands, including managing active-learning document review and associated document production.

Keeley has experience litigating *qui tam* FCA claims in multiple courts across the country, from the motion to dismiss stage through summary judgment. She closely follows developments in the False Claims Act legal landscape.

Keeley also has a growing interest in the other compliance implications of selling healthcare to the federal government. She currently represents healthcare providers, biomedical innovators and medical device manufacturers on matters ranging from commercial contract counseling to a bid protest appeal before the Federal Circuit. Keeley regularly attends industry events held by the Coalition for Government Procurement and is tracking the ongoing procurement overhaul by the Department of Veterans Affairs and the Defense Health Agency.

In the construction arena, Keeley represents both federal and state government contractors in all stages of the dispute process, from submitting Requests for Equitable Adjustment through mediation and trial before the Armed Services Board of Contract Appeals or courts. She has worked with damages experts to develop schedule and cost overrun analyses, and with geotechnical experts opining on site conditions, all in the context of Federal Acquisition Regulation requirements.

Honors

Recommended Lawyer, Government Contracts, *Legal 500*, 2020

Experience

Ongoing Matters:

- Defending software manufacturer in *qui tam* False Claims Act litigation
- Managing criminal healthcare subpoena response for pediatric dental provider
- Leading internal investigation of government contractor in response to *qui tam* complaint
- Representing Alaska Native Corporation in a pass-through claim to Air Force for increased pension costs

Previous Representative Matters:

- Defended reseller of personal protective equipment sold to the government under GSA Schedule contract that was among 40+ defendants in *qui tam* FCA case, resulting in voluntary dismissal following motion to dismiss
- Represented small business prime contractor terminated for default for failing to complete two potable water wells on an Air Force base due to differing site conditions, culminating in a four-day hearing before the ASBCA and ultimate settlement with the Air Force
- Settled constructive changes claim against GSA by an IT-related services provider through Court of Federal Claims-sponsored mediation
- Represented prime contractor in AAA arbitration against subcontractor under USAID construction contract, including five-day arbitration

Articles

- 11th Circ. Ruling Misinterprets FCA Materiality Standard
Law360, 10.08.2020
- Why the Health Care Industry Should Be Concerned About Section 889 of the 2019 National Defense Authorization Act
AHLA Weekly, 01.17.2020
- Making The Granston Memo Work For FCA Defendants
Law360, 03.04.2019
- Co-Author, "The ASBCA's Raytheon Decision: Expressly Unallowable Cost, Directly Associated Cost, and Performance Restricted Stock," 104 *Federal Contracts Report* 1088, October 27, 2015
- Co-Author, "Discovery of Documents and Things and Entry on Premises" chapter, *Discovery Deskbook for Construction Disputes*, Second Edition, 2015
- "Flip the Coin to the Fed: The Dysfunctional Relationship Among the Federal Reserve System, Congress, and the United States Mint," 64 *Administrative Law Review* 315, 2012

Labor & Employment Law Blog Posts

- "U.S. Supreme Court Lifts Preliminary Injunctions on Healthcare Worker Vaccine Mandate," January 14, 2022

False Claims Act Defense Blog Posts

- "Upswing in DOJ Qui Tam Dismissals," January 15, 2019

FDA Law Blog Posts

- "Pharmaceutical Manufacturers Ask EDVa to Allow Cost-Sharing Under the AKS," November 21, 2022
- "Navigating FDA Policies for PPE, and Liability Protections," June 12, 2020

Government Contracts and Investigations Blog Posts

- "Organizational Conflicts of Interest – Part 3: The Next Target for FCA Enforcement," October 26, 2022
- "Supreme Court Enjoins OSHA Emergency Temporary Standard; Keeps CMS Rule Alive," January 18, 2022
- "MSPV 2.0 Is Dead – Long Live MSPV," November 16, 2021
- "Duck Hunt – The VA Cannot Escape The Medline Protest, And Takes A Few Shots In The Process," June 29, 2021
- "Ducks (Not) in a Row – VA Agrees to Take Corrective Action in Transitioning MSPV 2.0 Requirements to DLA," June 3, 2021
- "'Buy American' Update: Essential Medicines May Continue to Come From Abroad (For Now)," April 28, 2021
- "Authorized Government Contractors Now Covered Persons Under the PREP Act," February 24, 2021
- "'Would You Rather...?' – Escobar's Demanding Materiality Standard or Actual Causation?" January 27, 2021
- "'Buy American' in the Twilight Zone: Executive Order Strengthening the U.S. Public Health Industrial Base," August 10, 2020
- "Not So Fast – FDA Retracts Authorization for Some Respirators Made in China," May 15, 2020
- "PREP Act Update: All NIOSH-Approved Respirators Now Are Covered Countermeasures Eligible for Immunity," April 20, 2020
- "COVID-19 Changes Contracting at the VA," April 20, 2020
- "Families First Coronavirus Response Act: Face Mask Manufacturers and Distributors Protected from Liability for Coronavirus Deaths," March 31, 2020
- "MSPV 2.0 Is Alive," September 27, 2019
- "What's the VA Got to Do With It? Military Medical Procurement Changes Reach the VA," August 28, 2019
- "VA Begins Seeking MSPV 2.0 Partners," June 26, 2019
- "Veterans Are First at the VA Following New Class Deviation Implementing Recent Federal Circuit Mandate," May 29, 2019
- "VA Vendors Beware: Mind the Company You Keep; It's Time for a Compliance Checkup," March 29, 2019
- "VA Streamlines MSPV-NG Acquisition through Distribution and Supply Agreements," April 30, 2018
- "Presumption of Declination with Voluntary Disclosure, Cooperation, and Remediation of FCPA Violations," January 12, 2018
- "GAO Declines to Apply GAO Civilian Task and Delivery Order Protest Authority Act Retroactively to Lapse in Jurisdiction," April 10, 2017
- "UPDATE: GAO Jurisdiction over Task Order Protests Valued at More Than \$10 Million Restored," December 21, 2016
- "GAO Loses Jurisdiction Over Task Order Protests Valued at More Than \$10 Million," November 30, 2016

Healthcare Law Blog

- "The Government Seeks FCA Liability for Off-Label Use of Medical Devices," August 3, 2022
- "FDA Releases Guidances on Transition Plan for Devices Distributed Under Emergency Use Authorization (EUA) or Enforcement Policies During COVID-19," January 12, 2022
- "Health Law Policy Heading Into 2022 At The ABA Health Law Summit," December 13, 2021
- "The Granston Memo in 2019: Recent Cases Highlight the Granston Memo's Effectiveness as a Tool to Dismiss False Claims Act Cases," December 5, 2019
- "The Military Health Care Fraud and Abuse Prevention Program: The Department of Defense Issues Proposed Regulations regarding TRICARE and Civil Monetary Penalties," May 3, 2019
- "TRICARE: Defense Health Agency Issues Request for Information Regarding Formulary Management – Submission Deadline: February 5, 2019," January 25, 2019

Speaking Engagements

"Pushback on P3s," ABA Section of Public Contract Law, State & Local Procurement Division Meeting, February 28, 2014

Events

Prescription Drug Pricing, Purchasing and Coverage: A Look At 2023 and Beyond
Webinar, 02.16.2023

Memberships

Former Committee Chair, Section of Public Contract Law, Young Lawyers Division, American Bar Association, 2014-2015

Member, Board of Contract Appeals Bar Association

Practices

Construction

Governmental Practice

False Claims Act

Healthcare

White Collar Defense and Corporate Investigations

Government Contracts

Industries

Government Business

Education

J.D., American University Washington College of Law, 2012, *cum laude*, Executive Editor, *Administrative Law Review*

B.A., University of Florida, 2006

Clerkships

Law Clerk, Department of the Treasury, United States Mint

Admissions

District of Columbia

Virginia

U.S. Supreme Court

U.S. Court of Appeals for the Federal Circuit

U.S. Court of Federal Claims

U.S. District Court for the District of Columbia