



John D. Bond III

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Areas of Practice

Litigation / Trial Practice | Construction Contract Drafting | Construction Dispute Resolution | Construction Project Counseling | Construction for Manufacturing | Construction for Residential | Government Procurement | Mediation

John Bond is Counsel in the Litigation and Construction Practice of Smith, Gambrell & Russell, LLP.

Mr. Bond is a highly experienced business attorney focusing on construction and government contracting. He has litigated, arbitrated, mediated and counseled project owners and developers, general contractors, engineering firms, subcontractors, steel fabricators and specialty contractors throughout the U.S. and internationally on a wide range of private and governmental projects and contracts. Private projects include high-rise office buildings, hotels, casinos, multi-family housing projects, large EPC co-gen power plants, EPC solar projects, LNG production facilities, power industry service contract projects, airports, hospitals, NFL stadiums, sports arenas, aircraft manufacturing plants, coal mines, and mission critical data centers. His government contracts experience involves counseling, claims, mediation and litigation on U.S. embassies, prisons, court houses, government hospitals, Job Order and IDIQ contract projects, service contract projects including military base operations and maintenance contracts, aerospace supply contracts, large complex steel bridges and highway projects, lock and dam projects, and DOE nuclear facilities. Internationally, Mr. Bond has represented clients in the UK, Germany, Iraq, Saudi Arabia, Egypt, Guam, Marshall Islands, Australia, Guyana and Chile.

Mr. Bond served as general counsel and president for an ENR Top 10 U.S. general contractor, constructing large high-profile projects such as U.S. embassies in Africa, and Europe, one of the 88-story Twin Petronas Towers in Kuala Lumpur, Atlantis II Resort in the Bahamas and the World War II Memorial in Washington DC. Mr. Bond was on the board of directors for the American Arbitration Association.

Admissions

North Carolina

Washington, D.C.

Alabama

Representative Experience

Power/Energy

- Represented an electric power developer on multi-party EPC contracting disputes litigation involving a large, 788 MW gas-fired combined-cycle power plant. Claims in excess of \$250MM arose between the client project developer, the project general contractor and designer. After two years of intense litigation our client won a summary judgment ruling on a pivotal case issue involving claims exceeding \$200MM against the client. The case was settled successfully through party negotiations shortly after that ruling.
- Represented a general contractor on impact and delay claims preparation on an EPC gas-fired combined-cycle power plant project. The contractor's impact and delay claims were successfully resolved through party negotiations after claim submission.
- Represented a general contractor in contract disputes litigation involving wrongful termination litigation on large DOE nuclear facility. The case, filed in the US District Court for the District of Idaho in Boise, Idaho, was satisfactorily resolved through party negotiations with the termination of the client rescinded.
- Advised large general contractor on matters involving overall arbitration strategy, dealing with opposing consortium members' arbitration counsel, and project issues primarily involving design and construction on and Australian LNG facility. In that role I provided technical and legal perspective on alleged defective workmanship, changes administration, contract interpretation, witness interviews, a domestic bank guaranty dispute, termination damages analysis and HRSG fabrication and installation issues on the project power plant.
- Represented a contractor/engineer joint venture on contracts disputes and risk analysis involving the design and construction of a nuclear waste reduction facility.
- Represented a bankrupt general contractor through the secured creditors committee, to prosecute a non-payment claims for materials and labor provided, wrongful suspension of funding and a deceptive trade practice claims on a refuse derived energy project in North Carolina against a large Japanese bank. The matter involved an adversarial action filed in the US Bankruptcy Court for the Eastern District of North Carolina. The action was resolved with the client's satisfactory recovery of several \$MM through mediation administered by a US Magistrate Judge at the Bankruptcy Court in Raleigh.
- Represented the project general contractor on a waste-to-energy power facility involving defective design, delay and non-payment claims against the Virginia municipality project owner. This matter was successfully resolved through party negotiations after claim submission.

- Represented a solar energy developer on EPC contract formation initially retained to advise the company on upgrading its standard EPC and O&M contracts. Subsequently, we advised this client on contract drafting and contract formation negotiation strategy for a solar EPC contract and a confidential contract for “arm length” dealings to be used with prospective EPC project investment partners. We provided contract formation counseling on solar projects CM agreements and subcontract agreements and counseling regarding a general liability insurance issue on a project in South Carolina.

Government Contracts

- Represented various general contractors on contract formation, contract administration, design-build risk analysis, claims preparation, and CDA litigation on U.S. Embassy projects in South America, Europe, Middle East, and Canada.
- Represented a US general contractor on a very large, multi-national and international antitrust investigation involving DOJ and USAID bid rigging and antitrust claims concerning USAID projects in Egypt. Claims involved direct dealings with the USAID Inspector General and the DOJ Antitrust Division on investigation cooperation matters and negotiation of settlement and plea agreement conditions. The company avoided prosecution.
- Represented an embassy specialty contractor on FCPA issues involving a bribery and kickback scheme investigation in which a foreign general contractor solicited bribes and kickbacks in procuring construction services for a Department of State project in Baghdad. This was resolved successfully in favor of the client.
- Represented a large national general contractor/program manager on subcontract disputes on a program management contract with a public school system on projects located in Charlotte, NC. The claims were settled through party negotiation.
- Represented an aerospace manufacturer in claims analysis and CDA claims preparation on a testing and acceptance dispute relating to military aircraft electronic components. This claim was successfully settled following submission.
- Represented a general contractor and specialty subcontractor in an ASBCA appeal involving construction of a HEMP shielded U.S. Army facility at Ft. Belvoir, VA. The underlying CDA claims and appeal involved defective specifications and impact/delay claims related to unanticipated thermal expansion and contraction in the facility’s steel HEMP shielding system covering the facility’s entire external veneer. The contractor and specialty contractor both obtained successful ASBCA rulings.
- Represented a large general contractor in defense of a government FCA investigation involving overstated billings and a related kickback scheme on a federal JOC project at Fort Leonard Wood, Missouri. Through structured self-reporting and cooperation with FBI and US Army investigators, criminal prosecution and threatened termination and debarment were avoided.

- Advised a large international power turbine manufacturer on legal analysis for the preparation of Requests for Equitable Adjustment involving disruption and delay claims on a USAID Infrastructure Reconstruction contract for the reconstruction of a power plant in Baghdad, Iraq during active hostilities.
- Represented large JOC contractor on an ASBCA appeal filed in relationship to a JOC contract disputes at an army base in Missouri. There were several CDA claims on the JOC project, with several ASBCA appeals filed for claims involving discrete job orders. The matter was tried and won on the first ASBCA appeal, involving changes pricing disputes on several job orders, causing all other JOC claims to satisfactorily settle under precedent set in the first appeal.
- Represented a reclamation specialty contractor on disputes involving encapsulation, clean up, and reclamation on a large DOE nuclear weapons production facility. The matter involved impact and delay claims against a program manager on a cleanup and reclamation contract at the Weldon Springs nuclear facility in St. Louis, Missouri. This was success successfully settled through party negotiations after claim submission.
- Represented a prime contractor in an agency (DOS-OBO) bid protest involving contractor responsibility issues on a Department of State project in Iraq.
- Represented a specialty contractor in an agency bid protest against the US Army Department of Engineering and Housing at Aberdeen Proving Ground, Maryland.
- Represented a specialty decommissioning, reclamation, cleanup, and containment contractor, on a cleanup and containment project at the Rocky Mountain Arsenal in Denver, CO. The matter involved a differing site conditions claims, involving encounter with buried nerve gas munitions. Client claims were successfully settled through party negotiations after claim submission.
- Represented a large US operations and maintenance services contractor in the preparation and submission of CDA claims on a IDOQ base operations and management contract for the US Navy at the Naval Air Facility at El Centro, California, which settled after by ADR with the Navy in San Diego.
- Counseled a large US services contractor, as general counsel, regarding JOCs, Simplified Acquisition of Base Engineer Requirements (SABER) contracts with the US Air Force and Saber, and BOS JOCs with the US Navy involving negotiated procurements, bidding and claims analysis, and claims prosecution on several IDIQ contracts, including base operations and management contracts for the US Naval Submarine Base at Kings Bay, GA; DOD facilities at Diego Garcia in the Indian Ocean; Naval Station in Rota, Spain, and the US Air Force Base at Aviano, Italy.
- Represented general contractors and subcontractors on claims and litigation involving federal and state prison projects in CA, MN, MA, NC, SC, CA, NY, KS, FL, and NJ.

Transportation Infrastructure

- Represented various general contractors and bridge steel fabricators in payment disputes, defective specifications claims, impact and delay claims, variations in quantities claims, administrative disputes, and litigation on large complex steel bridge DOT projects in FL, LA, KS, IA, OH, IL, MN, WS, and WV.

- Represented large bridge steel fabricator in a payment and variations in quantities dispute with an interstate railways company involving construction of a large, complex railroad bridge over the Mississippi River at Burlington, IA. Won a landmark USDC summary judgment ruling on the appropriate means for determining bridge steel weight for project changes and on mechanic's lien rights on a steel bridge project spanning a navigable waterway and physically located in two states, Illinois and Iowa.
- Represented a steel fabricator against Wisconsin Department of Transportation (WisDOT) for wrongfully suspended and debaring our client from performing and competing on WisDOT work for alleged misconduct in the fabrication of tub girders and use of improper shipping methods on a large WisDOT steel bridge project. A TRO and temporary injunction action was filed against WisDOT in Wisconsin Circuit Court for Milwaukee County. During a stipulated stay of opinion, the court granted the client petitioner leave to conduct discovery and take testimony of WisDot personnel "due to alleged irregularities in the Department's debarment procedure." Immediately following the grant of that discovery order, the case settled with WisDot vacating the debarment decision.
- Represented a general contractor on a design defects claim, impact and delay claims, and litigation on large state DOT owned cable-stay bridge project. After protracted litigation, ultimately resulted in a favorable recovery of construction cost overrun claims through party negotiated settlement.
- Represented a general contractor and steel fabricator on defective design/impact, delay claims preparation, and government claims defense on BCA litigation involving a large COE lock and dam project. The disputes and the ASBCA appeal were successfully resolved through mediation conducted by an ASBCA judge.
- Represented a general contractor on claims analysis and dispute resolution involving defective concrete design for runways on a large national airport. The dispute was successfully resolved through a negotiated settlement after claim submission.
- Represented a general contractor on differing site conditions and delay claims on a large FHWA/DOT interstate highway interchange project. Claim disputes against the LADOT were successfully settled after claim submission through party negotiations.

Corporate Compliance

- Drafted and implemented an "Ethical Conduct Manual for Non-US Citizens Employed Outside the US and its Territories" for a large general contractor for the specific purpose of combating global FCPA liability and for safe harbor protection under Federal Sentencing Guidelines.
- Advised a large US general contractor in developing and implementing a corporate compliance plan, including FCPA compliance, for the procurement of foreign systems and components for private industrial petro-chemical and power projects.

Commercial Construction, Mixed-Use and Multi-Family

- Provided legal oversight for a general contractor, acting as a subcontractor to another large general contractor, in a dispute involving construction of a large hotel and casino in Las Vegas, NV. The foundation work, which our client was responsible for, was delayed for almost a year due to contractor and owner delays and changes. The matter was ultimately resolved through litigation in Nevada state court.
- Represented various owners/developers on contract development, contract administration, contractor default termination issues, warranty claims, delay claims, and lien disputes on multi-family housing and mixed-use projects in NC, DC, TN, GA, FL, TX, and AZ.
- Represented a general contractor involving an owner warranty claim on a stadium renovation contract for a large stadium in Charlotte, NC. The warranty dispute involved exterior steel components that began failing due to wind loads. The dispute was successfully resolved through party negotiations with the stadium owner, the project architect/engineer and the structural steel fabrication and erection subcontractor.
- Represented a specialty contractor in claims preparation and litigation involving locking controls systems for a prison barge. The claims arose from the fact that the barge was designed to keep inmates inside the barge without providing emergency evacuation means in the event the barge began to sink. The design was defective in that regard, causing major project delays and non-payment disputes. A lawsuit was filed against NYC in NY state court in Manhattan with all claims successfully resolved through party negotiations.
- Represented a large national US general contractor on disputes arising on multiple large, mission critical data center projects located in NC. The disputes involved general contractor payment claims, changes administration claims and subcontractor disputes resolution.