



David C. Mancini

Partner

David Mancini's practice focuses on contract claims and litigation, with a primary emphasis in the areas of construction, government contracts and commercial law. As the need for his services often arises during troubled projects, Mr. Mancini frequently works closely with client project teams to understand, assess and respond to problems during performance. These efforts frequently resolve the issues without the need for litigation. When litigation is not avoidable, Mr. Mancini serves as lead counsel in federal and state court and arbitrations in numerous jurisdictions across the United States and internationally. He has prepared or presented over 100 such matters. His extensive experience in resolving disputes large and small also includes mediation, mini-trials and other alternative dispute resolution techniques. Mr. Mancini also assists clients in contract drafting and negotiations, project risk assessments and allocations, business strategy and training.

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ADMISSIONS

District of Columbia
Maryland
Texas
Virginia

EDUCATION

Georgetown University Law
Center (JD, 1984)

University of Maryland (BS, 1981),
cum laude

Mr. Mancini's project experience encompasses a broad range of energy, industrial and process facilities, and a wide variety of large commercial developments. He provides services, for example, on complex government infrastructure projects, institutional facilities, power generation plants and high-rise residential buildings. Geographically, this experience covers the United States from coast-to-coast, and internationally for clients and projects in Australia, Malaysia, China, Japan, several South and Central American countries, Turkey, Afghanistan, India, Pakistan, U.A.E., Saudi Arabia, Russia, Kazakhstan and others.

Mr. Mancini also assists clients with various internal investigations, other coordinating efforts with other partners within his firm and outside experts that have specific project or subject matter expertise.

Client services offered outside the typical legal case representations include in-house educational and training programs designed to meet their specific business needs and experience. Recent such topics have included change management, government contracts, false claims act and certification issues, insurance recovery, claims pricing, scheduling tricks and traps, arbitration and mediation, and electronic discovery.

REPRESENTATIVE MATTERS

- *MBC v. DynCorp International*. Defended general contractor in Federal court litigation brought by subcontractor seeking \$26m in total

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damages. Plaintiff sought compensatory damages of \$16m for wrongful termination, fraud, assault, violations of the Alien Torts Claim Act, tortious interference with contractual relations and false imprisonment. Plaintiffs' sought another \$10m in punitive damages. Successfully dismissed counts associated with Alien Tort Claims Act, and obtained denial of partial summary judgment motion on several other counts. After discovery was completed and just prior to trial, the parties successfully mediated all issues. Terms were highly favorable to client, paying less than the outstanding invoice balance.

- *Calaveras Power Partners L.P. v. CPS Energy*. Represented EPC contractor comprised of Black & Veatch, TIC and Zachry Holdings, constructing 750 megawatt coal fired power generation facility in San Antonio, Texas. Represented client in preparation, presentation and negotiation of \$100m in affirmative claims for time extensions and delays. Claim issues included lost labor productivity and labor shortages associated with changed labor market conditions and the unexpected impact of Hurricanes Katrina and Rita. Issues also include the defense of possible ongoing liquidated damage claims by the Owner of \$9m/month. Compensable changes and *Force Majeure* claims of this nature and magnitude are rare and largely unprecedented in case law. Successfully negotiated a settlement valued at \$50m.
- *Alstom Power Inc. v. Calaveras Power Partners, L.P.* Presently defending Calaveras Power Partners, a tri-venture of Zachry, Black & Veatch and TIC, in a lawsuit brought by the boiler supplier in Texas State Court. Dispute centers around supplier's late deliveries and equipment problems, for which Calaveras is assessing liquidated damages in excess of \$21m.
- *MACTEC, Inc. v. Bechtel Jacobs Company, LLC*. Significant arbitration victory in construction dispute defending EPC contractor (J.V.) in claims brought by remediation subcontractor. Bechtel Jacobs has a \$1.5b contract with the Department of Energy to clean up radioactive waste sites at DOE's Oak Ridge, Tennessee reservation. Subcontractor encountered much greater difficulties than expected in safely demolishing several structures, and brought suit in US District Court in Knoxville, asserting breach of contract, fraud and six other counts. After discovery, arbitration was agreed in lieu of District Court trial. Following a two-week arbitration, subcontractor was awarded only \$420,000 on a claim of \$6.7 million. Much of the amount awarded had already been conceded, and the award amounted to less than 7% of the claim.
- *False Claims Act Investigation*. Teaming together with Howrey white collar defense attorneys, investigating potential issues arising under

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the False Claims Act and Fraud Enforcement and Recovery Act of 2009 on several ongoing Federal government construction contracts. Working closely with in-house counsel and personnel, as well as outside cost accountants who specialize in such matters. The matter is highly confidential and vital to the client's ongoing business interests.

- *Nebraska City Power Partners v. Omaha Public Power District.* Represented EPC contractor comprised of Kiewit, Black & Veatch and Zachry building a 750 megawatt power generation plant just outside Omaha, Nebraska. Prepared and presented affirmative claims exceeding \$25m for change in law, *Force Majeure* events affecting labor productivity and labor cost, and changes and delays during turnover and commissioning. Successfully negotiated recovery of monetary claims and time extensions prior to litigation.
- *Zachry Construction v. ABB Lummus Global.* On behalf of construction contractor, defended against claims brought by the EPC contractor exceeding \$50m, and sought affirmative recovery of claims for \$75m. After substantial litigation in Texas state court and at the close of discovery, case was mediated to a highly favorable settlement that recovered most of Contractor's project cost overruns. Litigation also included successful defense of attempts to violate client's letter of credit.
- *Pizzagalli Construction v. Washington Suburban Sanitary Commission.* Defended project owner against monetary and time extension claim brought by general contractor. Successfully mediated all affirmative claims for a fraction of the alleged value. Claims due to alleged design defects were then litigated against design engineers, where ultimate monetary recovery offset most of the prior settlement payouts to construction contractor.
- *Washington Suburban Sanitary Commission v. Alpha Corporation and Post Buckley Shuh & Jernigan.* Represented Project Owner in bringing claims for indemnification against project design team for errors and omissions that caused construction contractor to assert claims against Owner. After settling with construction contractor for only design-related claims, we were able to recover majority of those settlement costs from design team on behalf of Owner.
- *Fox Seko Construction Co. v. Alexandria City Public Schools.* Defended owner in \$7m in claims brought by general contractor for changes, delays, disruption, fraud and wrongful termination for default. Successfully defended against all affirmative claims, with no liability to owner, and recovered on behalf of Owner liquidated damages and back charges of more than \$1m.

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COURTS & ADJUDICATIVE BODIES

- United States Court of Appeals for the Fourth Circuit
- United States Court of Appeals for the Fifth Circuit
- United States Court of Appeals for the District of Columbia Circuit
- United States Court of Appeals for the Federal Circuit
- United States District Court for the District of Columbia
- United States District Court for the District of Maryland
- United States District Court for the Eastern District of Virginia
- United States District Court for the Western District of Virginia
- United States Court of Federal Claims