



FRANKEL PLLC

Jonathan J. Frankel
Managing Member

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Education

JD, Yale Law School, 1994,
Articles Editor, *Yale Law Journal*

BA, *summa cum laude*, Harvard
University, 1991, Phi Beta Kappa

Bar Admissions

District of Columbia
United States Supreme Court

Clerkship

The Hon. Stephen F. Williams, US
Court of Appeals for the District of
Columbia Circuit, 1994 - 1995

Awards

BTI Client Service All-Star (2015)
Super Lawyers (2014, 2015)
Martindale Rating: AV

Jonathan Frankel opened the Washington, D.C. office of Frankel PLLC's predecessor firm in 2009. Prior to that, he was a partner with Wilmer Cutler Pickering Hale and Dorr LLP.

Mr. Frankel is a skilled litigator who works with government contractors and other companies to develop creative solutions to regulatory problems. Mr. Frankel has won numerous bid protests and high-profile appeals in federal and state court and before the Government Accountability Office. He has a particular talent for translating complicated engineering and economic concepts into arguments that lay audiences can understand.

Practice

Mr. Frankel has extensive experience helping clients advocate in front of—and litigate against—the federal government. He has represented contractors in disputes with the Department of Defense (including each of the military services); the General Services Administration; the Departments of Homeland Security, Labor, and Health and Human Services; USAID; the Office of Personnel Management; the U.S. Postal Service; and NASA. He has conducted internal investigations for defense and civilian contractors, utilities, and international development NGOs, and has represented these clients in government audits and investigations. He has overturned (or successfully defended) a large number of FCC and FERC decisions in court on behalf of carriers and utilities, and he has blocked municipal price regulation of pharmaceutical companies. He has also litigated many commercial and constitutional appeals, including the Supreme Court challenge to the Line Item Veto Act and the successful defense of the Family and Medical Leave Act in the same court.

Recent Highlights

Government Contract Litigation

Mr. Frankel successfully protested the Department of Homeland Security's award of a \$450 million financial systems modernization contract. (*Global Computer Enterprises, Inc.*, GAO B-404597)

Mr. Frankel defended Northrop Grumman's award of a \$220 million Defense Information Systems Agency contract for satellite communications services against a bid protest in the U.S. Court of Federal Claims. (*MVS USA, Inc. v. United States*)

Mr. Frankel worked with Air Force litigation counsel to defeat a pre-award protest of the Air Force's \$600 million Electronic Attack Pod Upgrade Program on behalf of intervenor Northrop Grumman. (*ITT Corp. Electronic Systems*, GAO B-405564)

Mr. Frankel successfully defended the Department of Labor's award of a \$50 million financial management services contract against parallel fast-track bid protest proceedings in the U.S. Court of Federal Claims and the Government Accountability Office. (*Deloitte Consulting LLP*, GAO B-400319; *Deloitte Consulting LLP v. United States*)

Mr. Frankel successfully protested the Centers for Disease Control and Prevention's award of a large informatics and systems integration contract. (*Northrop Grumman Corp.*, GAO B-405647)

Mr. Frankel persuaded the U.S. Court of Federal Claims to enjoin the Coast Guard from transferring the work of an incumbent IT contractor to a competitor via an illegal, sole-sourced contract. (*Global Computer Enterprises, Inc. v. United States*)

Mr. Frankel persuaded a federal agency to reverse its termination for default of a software company's multi-hundred-million dollar contract.

Mr. Frankel has represented multiple defense and civilian prime contractors in disputes with their subcontractors and vice versa.

Internal Investigations

Mr. Frankel completed an investigation of the procurement practices of the Kabul, Afghanistan office of an international development organization and advised the client on disclosures to USAID and the United States Treasury.

Mr. Frankel has conducted multiple investigations for defense and information technology contractors regarding allegations of mischarging, Procurement Integrity Act violations, misuse of confidential information, conflicts of interest, labor category violations, immigration fraud, and other misconduct. He has advised the companies on disclosing the matters to the relevant government agencies and with respect to subsequent audits, civil proceedings, and criminal investigations.

Mr. Frankel conducted an investigation into the fraudulent billing practices of a subcontractor to a Department of Health and Human Services contractor, and advised the client on disclosures to the HHS Office of Inspector General.

Mr. Frankel completed an investigation into an electrical grid operator's responses to attempted market manipulation by power traders.

Regulatory and Appellate Litigation

Mr. Frankel brought a successful challenge in the DC Circuit to the FCC's rules changing the protections inherent in broadcast licenses and authorizing unlicensed deployment of broadband-over-power-line equipment. (*ARRL v. FCC*)

Mr. Frankel brought a successful challenge in the Tenth Circuit to the FCC's rules for subsidizing telephone service to rural and high-cost customers on behalf of two of the Bell Companies. Winning the case turned on the effective presentation of complex statistical evidence and argument. The decision overturned the basis of a \$300 million federal program and was written up in the *American Lawyer* as one of the most significant litigation victories of the year. (*Qwest Communications International v. FCC*)

Mr. Frankel persuaded the DC Circuit to overturn an order of the Federal Energy Regulatory Commission purporting to replace the board of directors of an electric utility. The DC Circuit agreed that the FERC's jurisdiction under the Federal Power Act did not extend to the governing board of a public utility. (*California Independent System Operator v. FERC*)

Mr. Frankel successfully briefed and argued a suit by *The Washington Post* against former Maryland Governor Parris Glendening seeking access to the Governor's official appointment calendars and telephone records. The case was the first decision by a state supreme court in the country recognizing a public right of access to these types of documents. (*Office of the Governor v. The Washington Post Company*)

Mr. Frankel defended the Montgomery County (Maryland) Public Schools' sexual-education and sexual-orientation tolerance curriculum against constitutional and statutory challenges brought by several national organizations. He and his team were awarded Metro DC PFLAG's 2008 Corporate *Pro Bono* Award for this work.

Mr. Frankel co-authored the Supreme Court brief successfully defending the federal Family and Medical Leave Act as a valid abrogation of the states' Eleventh Amendment sovereign immunities. The decision in *Hibbs v. Nevada Department of Human Resources* permits state government employees to sue their employers for damages for violations of the FMLA and expands the authority of Congress to adopt legislation addressing past gender and racial discrimination by state governments.

Mr. Frankel co-authored the winning Supreme Court briefs in *Rubin v. Snake River Potato Growers, Inc.* and *Clinton v. City of New York*, which struck down the federal Line Item Veto Act as an unconstitutional abdication of Congress' lawmaking authority to the President.

Professional Activities

Mr. Frankel is a former Chair of the Computer and Telecommunications Section of the District of Columbia Bar.