



Barbara G. Werther, Esq.

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Experience

Member of VA and DC Bar

Overview

Although I litigate claims on behalf of owners, general contractors and subcontractors in federal and state courts and before arbitral tribunals, and draft and negotiate architect and construction contracts for developers and contractors, I bring a unique skill set both to business negotiations and litigation, finding a path to resolve issues and eliminate disputes. As a trained mediator and arbitrator, I pursue sensible solutions to complicated legal issues. Most recently, I specialize in drafting P3 contracts.

In the public sector, I routinely represent government contractors in claims against the federal government. In the private sector, I litigate claims for extras, delays, and disruption on behalf of both developers and contractors. Recent representations included defense of subcontractors in default termination cases involving 1) taxiway construction at an AFB and 2) slurry walls at a bridge tunnel.

Representative Matters

Barbara's trial accomplishments are substantial. Her successes include:

- Obtaining a favorable arbitration award in a case involving deep excavations and slurry walls.
- Obtaining a favorable federal district court award in a case involving construction of an Air Force taxiway.
- Winning the largest jury verdict ever in a commercial case in Jackson County, Mississippi, for a subcontractor on a project that involved the dismantling of a fertilizer-manufacturing facility.
- Settling a nine-figure claim for alleged defective windows where the plaintiff had already prevailed in one trial and sought to enforce that judgment in 38 other lawsuits.
- Obtaining a rare summary judgment on behalf of a plaintiff contractor in a default termination case against a subcontractor.
- Securing the first and only case in which the court overturned the Navy contracting officer's non-responsibility determination and directed an award to a contractor before the Todd decisions expanded the Court of Federal Claims' and Boards of Contract Appeals' jurisdiction.
- Settling a bet-the-company case for a subcontractor on a theory of the government's breach of its duty of good faith and fair dealing, where the government revoked acceptance of a hospital communications system.
- Receiving a favorable award in a dispute between railroads pertaining to the proper counting of articulated railroad cars.

Related Practices and Industries

- Construction
- Contract Drafting and Negotiation
- Government Contracts
- Arbitrator
- Mediator

Speaking Engagements

- Moderator of “Taking the Next Steps: Overcoming Implicit Bias to Improve Diversity + Inclusion in Law Firms (and Law Departments), June 17, 2021 with Panelists Lori Baggett, Allen Estes, and Michelle Lipkowitz
- Moderator of “Take Another Look: Bias, Diversity and Inclusion,” ACCL 32nd Annual Meeting (Virtual Conference), March 16-21, 2021 with Panelists Lori Baggett, Robert L. Johnson and Rashida MacMurray-Abdullah
- Presenter, “Cutting Edge Techniques in Mediation and Arbitration,” Construction Lawyers Society of America, December 2019
- Presenter, “Public Construction Projects Not Always a Hollywood Ending” ABA Midwinter Meeting, Forum on Construction Law, 2019.
- Presenter, “Breach of the Government’s Duty of Good Faith and Fair Dealing”, Hot Tips at American College of Construction Lawyers Annual Meeting, February, 2019.
- Presenter, “Case Study: VW international, Inc. ASBCA No. 60596,” Construction Lawyers Society of America North American Construction Law Symposium II, 2018.
- Presenter, “The World’s Worst Contract Clauses,” North American Construction Lawyers Symposium, 2017.
- Presenter at 38th Annual Construction and Public Contracts Law Seminar Virginia State Bar’s Annual Seminar, 2017.
- Presenter, “Tips for Playing ‘The Price Is Right’ on Your Government Contract Claim,” World Congress, National Contract Management Association, 2014.
- Presenter, “Is That Really Proof of Delay? Critical Path Method Analyses Versus the Insurgents,” Construction Super Conference, 2014.

Publications

- Editor, “Federal Government Construction Contracts,” Third Edition, 2017
- Co-author, “Todd Construction v. United States: Navigating Performance Evaluation Claims in the Court of Federal Claims,” The Construction Lawyer, Winter 2015.
- Co-author, “Navigating the Buy America Act in Federal Transit Authority Funded Contracts,” Under Construction, American Bar Association, March 2014.
- “How Non-U.S.-Owned Companies Can Compete for Federal Government Contracts,” ConstructionWebLinks.com, March 24, 2010.

- “\$130 Billion for Construction in the Economic Stimulus Bill: Where It Will Be Spent,” ConstructionWebLinks.com, Feb. 23, 2009.

Professional and Community Involvement

- President, Women in Construction Conference (2006 – Present)
- Fellow, American College of Construction Lawyers (2016-present)
- 2018 President, Construction Lawyers Society of America; Fellow
- American Bar Association, Construction, Public Contracts and Litigation Sections
- Past chair, Forum on the Construction Industry, Division 13 – Government Construction Contracting, American Bar Association
- Co-chair, ABA Construction Forum meeting (October 2016)
- Arbitrator and Mediator, Construction Law Panel of the American Arbitration Association
- Trainer, National Institute of Trial Advocacy
- Trainer, Trial Advocacy Program, ABA Construction Forum
- Trustees’ Council of Penn Women (1984-present)
- University of Pennsylvania Lacrosse Board (2004-present)
- Executive Board of the Leukemia and Lymphoma Society, National Capital Region (2005-present)
- Steering Committee, Greater Washington Region Golf Tournament, American Heart Association (2016-present)
- Coach, Boys’ Lacrosse Team, U13 Level (2012, 2013) Winner (with her horse), Stafford Place (aka Stanley), Training Level, American Eventing Championships (2012)
- Triathlete and Finisher, Seagull Century 100-Mile Bike Ride, Leukemia Society (2010, 2011, 2012, 2015)

Rankings and Recognition

- Host Committee Member, Momentum 2020; The Power of Penn Women
- President, Construction Lawyers Society of America (2018)
- 2008 and 2010 Chambers USA Award for Excellence in Construction
- Ranked in Chambers (2008-present)

- International Who's Who of Construction Lawyers — (2011-2013, 2015-present)
- Best Lawyers, Construction Law, (2012-present)
- Washington, D.C. Super Lawyers, (2012-present)

Education

- George Washington University Law School, J.D., 1978
- University of Pennsylvania, B.A., magna cum laude, 1975

Bar and Court Admissions

- District of Columbia
- Virginia
- U.S. Court of Appeals for the District of Columbia Circuit
- U.S. District Court for the District of New Jersey
- U.S. District Court for the Eastern District of Pennsylvania
- U.S. District Court for the District of Columbia
- U.S. Court of Federal Claims
- Armed Services Board of Contract Appeals
- Civilian Board of Contract Appeals