

---

### Government Contracts and Construction Lawyer

---

Accomplished government contracts and commercial construction attorney with extensive contract claims and dispute resolution experience. Proficient in Spanish.

#### *Areas of Impact*

- **Executive Advising:** Counsel contractors' executive leadership, directors, and project managers on contracts with the U.S. Army Corps of Engineers (USACE), Naval Facilities Engineering Command (NAVFAC), U.S. Department of Labor (DOL), and other federal and state agencies. Partner with in-house and outside counsel.
- **Federal Litigation and Appeals:** First-chair on complex CDA claims before the U.S. Court of Federal Claims and Boards of Contract Appeals. Litigate construction defect claims before state courts.
- **Compliance:** Advise on compliance with federal laws, regulations, and rules—including Federal Acquisition Regulations (FAR), Contract Disputes Act (CDA), False Claims Act (FCA), Buy American Act (BAA), Cost Accounting Standards (CAS), Small Business designation 8(a), HUBZone, and other set aside designations.
- **Transparency, Audits, and Investigations:** Oversee client-side of investigations and audits by Defense Contract Audit Agency (DCAA) and other agency offices of Inspector General. Identify data custodians and key personnel. Coordinate document collection and responses, and prepare employees for interviews. Counsel on procurement integrity, ethics, and organizational conflicts of interest.
- **Administrative Proceedings:** Prepare and negotiate requests for equitable adjustment (REA), termination for convenience settlement proposals, Value Engineering Cost Proposals (VECP), liquidating agreements, and General Services Administration (GSA) lease agreements.
- **ADR and Dispute Resolution:** Negotiate and draft settlement agreements via mediation and arbitration.
- **Typical Claims and REA Issues:** Resolve defective plans and specifications, changes, differing site conditions, critical path delay, concurrent delay, disruption, ripple effect, acceleration, loss of productivity, maladministration, defense of improper performance evaluations (CPARS), suspensions of work, duty of good faith and fair dealing, Miller Act bond claims, and prime-subcontractor disputes.

---

### Employment Summary

---

#### **Benson Law Office, PLLC**, Colorado Springs, CO | 2015 to Present

---

**Founder and owner** in companion law firm handling federal litigation and ADR for Excell Consulting clients after exhaustion of administrative remedies (see below). Also represent private clients in construction defect, mechanic's lien, and general contractual matters.

#### **Excell Consulting International, Inc.**, Colorado Springs, CO | 2014 to Present

---

**Government contracts attorney** for government contracts claims and disputes consulting boutique serving construction, infrastructure, engineering, software/hardware, and other contractors working on federal government contracts ranging from \$100,000 to \$50 million. Shepherd clients through dispute resolution with federal government entities, including administrative hearings and appeals. Set up law firm (see above) to take over federal litigation. Supervise contract administrators. Advise CEO on general operational matters, including employment law, contract law, and business law.

#### **White, Bear & Ankele, PC**, Denver, CO | 2012 to 2013

---

**Municipal law attorney** in 12-lawyer municipal finance boutique, creating and representing special taxing districts and other local governmental entities statewide. Worked semi-autonomously in "sink or swim" environment.

*Law Clerk to the Hon. Richard A. Wagner.* Sole clerk for trial-level judge presiding over both criminal and civil matters, as well as statewide judicial ethics committee.

---

**Pre-Law School Business Experience | 2004 to 2008**

---

Served in multiple cross-functional business roles while in college and before law school. Completed two-year management training program with Cintas (NASDAQ: CTAS), involving rotation through groups. Also served as a contingency recruiter placing professionals to work in top-rated firms, hospitals, and companies.

---

---

Education

---

Creighton University, Omaha, NE | MBA, expected 2019

Creighton University, Omaha, NE | JD, 2011

- Honors included Creighton Law Review, staff writer with published student note; ABA Negotiations Competition, semi-finalist; and National Trial Team Competition, semi-finalist.

Utah State University, Logan, UT | BA, 2007

- B.A. Interdisciplinary Studies (Business Administration and Psychology), with minor in Spanish.
- 

---

Professional Leadership

---

**PUBLICATIONS & PRESENTATIONS**

- When False Claims Cause Contractual Damages: Pursuing Parallel Qui Tam and Breach Claims, (A.B.A./Gov't Constr. Pub. by Div. 13 of the A.B.A. Forum on Construction Law), Jun. 2018.
- FCA Scrutiny and Penalties on the Rise—Federal Contractors Beware, Law Week Colorado, Oct. 2016.
- Unilateral Modifications and Contractors' Rights, Law Week Colorado, Aug. 2016.
- Co-presenter, Executive Level Claims Avoidance, ASRC-Federal Annual Conference (Aug. 15, 2015).
- The Excell Report, <http://www.excellconsulting.net/category/excell-report> (2014-Present); authored 40+ blog posts for informational government contracts blog, including:
  - *T4D: Is it Justified, and What are My Options?*
  - *Good Faith and Fair Dealing Under Metcalf*
  - *Paid Sick Leave Rule Leaves Room for Abuse*
  - *Unilateral Modifications and Contractors' Rights*
  - *Consulting and Legal Fees are Recoverable*
  - *Constructive Changes and the Notice Requirement*
  - *Subcontractor Remedies Under the Miller Act*
  - *VECP: Capture a Share of Cost Savings*
- Note, International Laws-of-War, What Are They Good For?, 44 Creighton L. Rev. 1277 (2011).

**AFFILIATIONS**

Professional Memberships:

- American Bar Association: Forum on Construction Industry, Public Contract Law Section
- Colorado Bar Association
- National Contract Management Association
- Professional Services Council

Admissions: U.S. Court of Federal Claims; State Bar of Colorado

---

## Résumé Addendum

---

### Representative Matters

---

#### **Litigation**

- Successfully defended wrongful termination for default in U.S. Court of Federal Claims regarding project on international military base. Result was conversion to termination for convenience, upgraded CPARS performance rating, and recovery of costs via mediation. Claim based on government breach of contract. Successfully argued that CPARS contractor comments constituted valid request for Contracting Officer's final decision under CDA. See *FCI v. United States*, 128 Fed.Cl. 788, 797 (2016); discussed in *Vanquish Worldwide, LLC v. United States*, 134 Fed.Cl. 72, 78 (2017).
- Successful negotiation leading to \$1.3 million recovery of costs for architect client on Department of Labor contract. After REA was filed and the Contracting Officer refused to engage in negotiations, maneuvered to engage agency counsel in the dispute and negotiated a withdrawal of Contracting Officer's final decision; settlement was reached in 30 days. See *Coover-Clark & Assoc. v. Department of Labor*, CBCA 5898 (Dec. 2017).
- Negotiated favorable resolutions to commercial contractor disputes on issues including mechanic's liens, delays, and prime-subcontractor disputes. Currently represent homeowners in construction defect lawsuit.

#### **Administrative Remedies**

##### ***Terminations for Convenience***

- Assisted in preparation and negotiation of multiple termination for convenience settlement proposals on construction contracts located at overseas air bases, which included navigating a DCAA audit and successful resolution of a pending request for equitable adjustment. Negotiated favorable settlements, including costs under Modified Total Cost method, consultants' fees and interest.

##### ***Terminations for Default***

- Strategically established facts that would eventually prove USACE wrongfully terminated contract for default before construction was scheduled to begin. Exhausted the administrative process with USACE contracting officer, including timely responses to cure notice and show cause notices which successfully asserted contractual contradictions to the contracting officer's asserted basis for termination.

##### ***Value Engineering Change Proposals (VECP)***

- Assisted in strategizing and preparing a \$3 million VECP proposal on GSA federal building contract. Proposal was accepted and Government requested additional VECPs based on similar format.

##### ***Requests for Equitable Adjustment (REA)***

Advise clients through case evaluation, strategy, and preparation of comprehensive certified REA packages. Conduct negotiations with contracting officers, including converting REAs into claims under the Contract Disputes Act.

- Prepared REAs on two related construction contracts for international client on USAID contract involving defective plans and specifications, delays, differing site conditions, breach of contract, improper threat of Liquidated Damages, and fraud, waste and abuse issues. Assisted in convincing Office of Inspector General to open official investigation into fraud and conflicts of interest involving the agency and its contracted architect. Claims were certified, currently awaiting appeal of contracting officer final decision.
- Prepared \$1.5 million REA for subcontractor on USACE construction contract at a military base and negotiated with prime to allow pass-through claim. After negotiations broke down, assisted client in preparing a Miller-Act claim against the prime.

- Prepared pricing submission for client on GSA build-out and lease agreement. Successfully positioning of client's cost and pricing data led to satisfactory negotiation and agreement on tenant improvement portion of the lease.