



John Parnass

PARTNER

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PRACTICE AREAS

Construction & Procurement
Litigation

John Parnass advises construction industry clients on a wide range of public and private projects, including transit, water/wastewater systems, roads, bridges, and tunneling projects, as well as medical, sports and educational facilities.

John's practice is divided between transactional work (contracts, bid documents and specifications review) and courtroom and mediation work to resolve disputes.

John's primary areas of focus are: (1) public works procurement issues, including bid protests, and bidder responsibility issues, (2) public works contracting, including alternative delivery methods such as Design-Build and GC/CM, (3) trenchless tunneling disputes involving differing site conditions, (4) complex schedule and impact claims, and (5) general advisory work, including contract negotiation/preparation, counseling and claim mitigation/avoidance.

Bar Admissions:

- Washington
- U.S. District Court for the Western District of Washington
- U.S. District Court for the Eastern District of Washington
- U.S. Court of Appeals for the Ninth Circuit
- U.S. Supreme Court

Education:

- Hampshire College, B.A., Journalism and History
- University of Connecticut, J.D. with High Honors (University of Connecticut Law Review, Notes and Comments Editor)
- Judicial Clerkship, Hon. Ellen Ash Peters, Chief Justice, Connecticut Supreme Court

Honors:

- Chambers USA – Construction Law, Band 1 (one of eight Washington construction lawyers recognized for

Band 1)

- Washington Super Lawyers, 2001-Present
- The Best Lawyers in America (Construction Law and Litigation – Construction) (Woodward/White, Inc.), 2008-Present

Speaking Engagements & Presentations:

- Trenchless Tunnel Projects: Owner's Guide to Risk Management, WASWD Conference, Yakima, WA
- Trenchless Tunnel Projects: Risk Management, WPUA Conference, Spokane, WA
- Bid Protests and Bidder Responsibility Criteria, MRSC/APWA Bidder Responsibility Workshop, Tacoma, WA
- Emerging Legal Issues on Design/Build, Northwest Construction Consumer Council, Seattle, WA
- Geotechnical Baseline Reports: Legal Issues, NASTT No-Dig, Washington, DC
- Recent Developments and Lessons Learned: Practical Tips for Minimizing Construction Risk Under Washington Law, PUD/Municipal Attorneys CLE, Seattle, WA
- Use of Dispute Review Boards by Public Owner, American Public Works Association, Spring Conference
- Legal Impact of Geotechnical Reports, American Waterworks Association – PNWS, Tacoma, WA
- Selected Construction Law Issues for Commercial Lease Practitioners, BOMA, Seattle, WA
- Worksite Safety: A Guide for Owners and Their Inspectors

Publications:

- "Managing Microtunnel Risks: Revising Contracting Strategies to Help Minimize Successful Outcomes," Trenchless Technology, 2012 Industry Review (2013)
- "Alternative Procurement Options for Small-Diameter Trenchless Projects," Pacific Northwest Trenchless Review at 24 (2012)
- "The Legal Impact of Geotechnical Baseline Reports," NASTT Paper No. D-5-03 (Chicago 2010)

Community Involvement:

- College Success Foundation, Mentor

Professional Organizations:

- Associated General Contractors of Washington, Board of Trustees, 2008-2011

Representative Matters:

Trenchless and tunneling

- Representation of Joint Venture on SR-99 Viaduct Replacement Project in claims involving Differing Site Conditions
- Obtained summary judgment dismissal of Differing Site Conditions (DSC) claims against Washington water and wastewater utility district in project involving installation of gravity sewer line with auger bore method
- Obtained jury verdict in favor of Washington city in default termination case arising from micro-tunneling beneath state highway
- Defended public utility district in convenience termination litigation arising from contractor's failed MTBM project
- Defended Washington water utility district in litigation involving alleged Differing Site Condition claims

arising from microtunnel boring machine (MTBM) project

- Defended Washington port district from contractor DSC claims arising from horizontal directional drilling (HDD) project under Snake River
- Defended Washington tribe from contractor DSC and schedule impact claims arising from HDD project in Snohomish County
- Represented regional water district association in planning and installing open cut 96" water transmission line
- Geotechnical/Contract Document modification for lift station abandonment project with new gravity line installed by MTBM
- Geotechnical and Contract Document review/modification for 7,000 lineal foot waterline project installed by horizontal directional drilling and open cut
- Geotechnical/Contract Document review and modification for 3,500 lineal foot HDD project in historic landslide zone

Bid protest/procurement litigation

- Represented Washington municipality in bid protest litigation arising from RFP procurement of solid waste collection vendor. Protest abandoned after filing of pleadings in opposition to TRO motion.
- Represented port district in bid protest litigation arising from ITB procurement of elevator/escalator maintenance and service contract provider (purchased service procurement). Protest abandoned after preparation of pleadings and declarations in opposition to anticipated motion for TRO.
- Represented Seattle law firm in public works bid protest stemming from State of Alaska's RFP solicitation to obtain legal services for development of large hydroelectric power facility (*Davis Wright Tremaine LLP v. State, Dep't of Administration*, 324 P.3d 293 (2014)).
- Represented Washington municipality in numerous public work ITB procurements involving disputes over subcontractor listing forms, bid form interlineations, bid bond sufficiency.
- Represented large Washington general contractor in injunction proceeding in Yakima County Superior Court over dispute concerning owner's rejection of competitor's bid proposal. Contract awarded to client following TRO and preliminary injunction hearings.
- Represented numerous waste and wastewater utility districts in various procurement disputes, including disputes over sufficiency of bidder qualification under supplemental responsibility statute.
- Frequent pre-litigation advice to public clients, including public development authorities, concerning permissible scope of pre-award communication/negotiation, bid form compliance, waiver of immaterial variances.
- Frequent pre-litigation advice to private and public clients concerning negotiated, design-build and GC/CM procurements, including MC/CM and EC/CM bid award.

Complex construction disputes

- Represented Washington contractor in litigation arising from natural gas explosion at project site. Obtained summary judgment for client based on waiver of subrogation.
- Represented Washington tribe in prosecution of defect claim against contractor arising from water pipeline rupture. Obtained compensation in mediation.
- Represented major league baseball team in Washington Supreme Court cases establishing that Seattle stadium is exempt from statute of limitations. *Wash. State Major League Baseball Stadium PFD v. Huber, Hunt & Nichols-Kiewit Const. Co.*, 165 Wn. 2d 679, 202 P.3d 924 (2013); *State Major League Baseball Stadium PFD v. Huber, Hunt & Nichols-Kiewit Const. Co.*, 165 Wn.2d 679, 202 P.3d 924 (2009).

- Represented Washington general contractor in complex schedule delay claim against public utility. Obtained compensation in mediation.
- Represented general contractor in critical path schedule delay claim against university decided by Dispute Review Board. Client awarded substantial compensation after favorable recommendation by DRB.
- Representation of regional hospital in building envelope defects claims against GC/CM contractor. Negotiated and drafted settlement agreement.
- Represented regional transit agency in defense of contractor claims for delay, acceleration, and lost productivity arising from light rail construction.
- Represented Northwest general contractor in lawsuit arising from construction of railroad refueling facility in Idaho.
- Represented national engineering firm against claims made by surety in dispute over responsibility for failure of coal gasification plant in Wyoming.

Construction transactions

- Redrafted entire front end General Conditions for large port district for use on airport terminals and related infrastructure
- Drafted GC/CM contracts for terminal expansion at Seattle-Tacoma International Airport
- Prepared Job Order Contract documents for large public owner
- Prepared GC/CM contracts for development of county courthouse in Washington State
- Prepared Design-Build documents for Washington municipality's pipeline expansion project
- Negotiated and drafted Design-Build contract for \$30 million expansion of detention facility
- Negotiated numerous design professional services agreements representing public and private owners involving issues of limitations of liability, standards of care, indemnification, insurance coverage
- Outside general construction counsel to large regional association of water districts, including preparation of bid documents and contracts for major rebuild of water transmission infrastructure
- Negotiated and drafted construction contracts for the tenant improvement work in the shell and core facilities, including South Lake Union
- Preparation of preconstruction agreements, including preconstruction agreements for general contractor for use in connection with Design-Build projects
- Insurance: numerous transactions involving OCIP, CCIP, project-specific coverage
- Indemnity contracts: negotiation of wide range of indemnity and contribution contracts allocating risk on public and private projects, including representation of owners, general contractors, subcontractors, and suppliers