

# Susan A. Mitchell

## Partner and Deputy General Counsel



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## Overview

Ms. Mitchell is a Los Angeles-based litigator whose primary practices are commercial litigation and representation of federal contractors in government investigations and enforcement proceedings. She has extensive experience in federal and California state court litigation involving allegations of breach of contract, fraud, unfair competition, wrongful termination and other business disputes.

Ms. Mitchell has managed litigation in several False Claims Act (FCA) cases, including representation of one of the defendants in the landmark Supreme Court case of *Allison Engine Co. v. United States ex rel. Sanders*. She has conducted more than 50 internal investigations, and successfully represented contractors in more than 20 investigations by the Department of Defense (DOD) Office of Inspector General, the National Aeronautics and Space Administration (NASA) Office of Inspector General, the Defense Criminal Investigative Service (DCIS), the Naval Criminal Investigative Service (NCIS) and the National Reconnaissance Office (NRO). She advises clients on reporting under the Federal Acquisition Regulation (FAR) Mandatory Disclosure Rule, and compliance issues under the FCA, the Anti-Kickback Act, the Foreign Corrupt Practices Act and other federal statutes and regulations.

## Experience

- DOD civil subpoena, internal investigation and FCA litigation for an aerospace defense contractor involving an allegedly defective inertial navigational device used in a variety of aircraft platforms.
- DOD OIG subpoena and negotiations with multiple agencies' Offices of Inspector General, involving noncompliant electronic assembly used in multiple space-based platforms.
- Internal investigation for an aerospace defense contractor involving alleged latent defect used in several deployed military satellites.
- Internal investigation for an aerospace defense contractor involving alleged structural integrity and Federal Aviation Administration (FAA) airworthiness noncompliance issues in developmental unmanned aircraft.
- DOD OIG subpoena, internal investigation, FCA litigation and negotiations with the Department of Justice (DOJ) regarding alleged false testing of component used in dozens of military platforms for multiple government customers over a 15-year period.

- Internal investigation of alleged noncompliance with software development specifications and associated Earned Value Management System reporting to a government customer.
- Internal investigation of allegedly defective specification compliances involving unmanned aircraft mission computer software.
- Non-DOD agency OIG subpoena and related internal investigation of allegedly noncompliant construction of a multibillion-US-dollar federal facility.
- Non-DOD agency investigation and internal investigation of alleged testing noncompliance and potentially counterfeit components in deployed spacecraft.
- Internal investigation of alleged age and racial discrimination.
- FCA litigation for major retailer alleging noncompliance with General Services Administration (GSA) Schedule requirements.
- Representation of an Indonesian energy agency against multiple energy companies in connection with contracts for energy services.
- Representation of a potentially responsible party in contribution action under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA).
- Prosecution of a breach of contract action by a race car designer in connection with the Dakar Rally.

## Insights

- "DOJ issues interim rule nearly doubling penalties under the False Claims Act," Dentons Client Alert, July 1, 2016
- "The Civil False Claims Act and Statutes Providing Criminal Liability," West, Government Contract Disputes, Ch. 23, 2014
- "Doing Business with the Federal Government: Five Common Areas of Litigation Risks," Dentons client alert, January 2013 (co-authored with Gail D. Zirkelbach)
- "FERA Retroactivity Still Controversial Under FCA" *Law 360*, November 2012 (co-authored with Matt Carter)
- "Implied Certification Liability Under the False Claims Act," *West Briefing Papers*, March 2011 (co-authored with Tom Abbott and Agustin Orozco)
- "D.C. Circuit Addresses FCA 'Implied Certification' Theory in United States v. Science Applications Int'l Corp." *BNA Federal Contracts Report*, December 16, 2010 (co-authored with Jason Workmaster and Phillip Carter)
- "Investigations Checklist: Best Practices for Organizing and Conducting Attorney-Client Privileged Internal Investigations," August 2010, American Bar Association, Section of Public Contract Law (co-authored with David Ginsberg)
- "The FAR Mandatory Disclosures Rule: Emerging Practices and Recurring Issues," BNA's *Federal Contracts Report*, July 13, 2010
- "Changes to FCA Public Disclosure Bar Open Door to More Qui Tam Filings," BNA's *Federal Contracts Report*, April 20, 2010 (co-authored with Brian Cruz and Mary Buxton)
- "Proposed Change To Federal Acquisition Regulation Would Extend Some Personal Conflicts Of Interest Restrictions To Government Contractor Employees," *Bloomberg Law Reports*, December 3, 2009 (co-authored with Alison Doyle)

# Activities and Affiliations

## Presentations

- "Contracting With the Government: Compliance Keeps You 'Off the Radar'"
- "Mitigating Risks in an Era of Increased Enforcement: Ethics, Compliance and Investigations"
- "Recent Developments in Government Investigations and Prosecutions"
- "What Are We Fighting For? Identifying and Resolving Common Subcontracting Issues"
- "Performance Issues and Contract Disputes in Government Contracts"

## Memberships

- State Bar of California

# Areas of focus

## Practices

- Litigation and Dispute Resolution
- White Collar and Government Investigations
- Corporate Fraud
- Government Contracts - US
- Compliance
- Claims and Terminations

## Industry sectors

- Defense and Space
- Construction

## Region

- Washington DC

# Education

- University of Minnesota Law School, 1980, JD, *Minnesota Law Review*, Managing Editor, 1980
- University of Minnesota, 1976, BA

# Admissions and qualifications

- California

- Supreme Court of California
- Supreme Court of the United States
- US Court of Appeals for the Ninth Circuit
- US Court of Appeals for the Sixth Circuit
- US Court of Federal Claims
- US District Court for the Central District of California
- US District Court for the Eastern District of California
- US District Court for the Northern District of California