

David T. Ralston

Partner/Retired

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David T. Ralston Jr. is a partner and business lawyer in the Washington, D.C., office of Foley & Lardner LLP where his practice focuses on government contracts litigation and counseling; rail and air transportation; and national and homeland security. He was the former chair of Foley's Government Solutions Practice.

David has handled virtually all aspects of government contracts, including bid and small business size protests, claims, defective pricing, intellectual property, qui tam litigation, and Cost Accounting Standards matters. He has successfully brought and defended more than a hundred bid protests, including representing Jordanian and Lebanese contractors in protests, and obtaining preliminary and permanent injunctive relief, and an award of attorneys' fees, against the FBI in *WHR Group, Inc. v. United States*, 115 Fed. Cl. 386 (2014). He has defended government contractors, both U.S. and foreign, against fraud and bribery charges, notably including coordinating corporate investigations, voluntary disclosures to the Justice and Defense departments, and represented firms in debarment/suspension proceedings at numerous federal agencies.

David and a Foley team represented International Relief and Development in a successful effort to have a suspension enjoined and declared *void ab initio* in *RD v. United States Agency for International Development*, 15-cv, 854-RCL (D.D.C. 2015). He has represented clients in 5th Amendment takings, money-mandating, and illegal exaction claims before the U.S. Court of Federal Claims, including a settlement for more than \$200 million.

In recent years, besides bid protests, David has been particularly active in matters concerning COVID-19, international and U.S. domestic content laws, such as the World Trade Organization Government Procurement Agreement, Buy America/Buy American laws, the Berry Amendment, the Trade Agreements Act, U.S.-Canadian cross-border tax and trade matters, and international trade negotiations. He has also presented at the EU Parliament on U.S. perspectives concerning how government procurement can be employed to spur innovation.

In rail transportation, David represents a leading Class I railroad on federal regulatory, legislative, and he was an active member of the trial and appellate team that prevailed for the railroad at the U.S. Supreme Court in *Wisconsin Cent. Ltd. v. United States*, 138 S. Ct. 2067 (2018). In aviation, he has advised a number of major U.S. airports on federal regulatory and grant assurance requirements, particularly in the security arena, and previously served as vice chair of the Federal Bar Association's transportation committee.

From 1980 to 1984, David served on active duty with the U.S. Army as a prosecutor in Germany and later an appellate attorney, handling over 100 courts-martial, including more than 30 contested cases. From 1984 to 1994, he served as a military judge in the U.S. Army Reserves.

He and his wife Mary have three children and five grandchildren.

Representative Experience

- Foley provided client with continuing public affairs advice at the federal and NY state local levels. Foley also advised on selected rail carrier regulatory matters.
- Foley advised client on responding to an initial adverse past performance evaluation by their lead DoD government contracts customer. Foley worked with client team and developed a plan to rebut adverse ratings, with the result that the DoD evaluators changed the adverse rating to a positive assessment.
- Foley assisted the client's preparation of a request for equitable adjustment for a significant federal construction project.

Awards and Recognition

David has been Peer Review Rated as AV® Preeminent™, the highest performance rating in Martindale-Hubbell's peer review rating system. From 2011 to 2013, he was named one of America's Leading Lawyers in the area of government contracts by *Chambers USA*, and in 2010 *The Legal 500* cited him for his knowledge of government contracts issues and client availability. From 2013 to 2019, he was selected for inclusion in the *Washington, D.C. Super Lawyers®* lists for his work in government contracts, transportation/maritime and government relations.

Affiliations

Virginia Governors George Allen and James Gilmore appointed David to the board of the Metropolitan Washington Airports Authority, the governing body for Reagan Washington and Dulles International Airports. He was elected as chairman of the board from 1997-2000, and served as vice chairman and chair of several committees. From 2010 to 2013 he served on as a trustee of of the Southern Growth Policies Board, a non-partisan public policy think tank focused on advancing effective economic development policies in 13 southern states.

Community Involvement

David has previously served on the board of the Federal Circuit Bar Association, and now serves on the board of the Federal Circuit Historical Society. He also previously chaired the Advisory Committee of the

Catholic Charities Legal Network, which provides pro bono legal services to the needy in the Archdiocese of Washington, D.C., and serves on the John Carroll Society's Red Mass Committee, which sponsors the annual Red Mass in Washington. He previously served on and chaired the board of Alpha Sigma Nu, the honor society of Jesuit institutions of higher learning.

Thought Leadership

David lectures and writes on government contracts matters, and is the co-author of an annually updated series of three Practice Notes in Thomson Reuters' Practical Law entitled, "Government Contracts: Agency, GAO, and COFC Bid Protests." He is the lead author of "The Foley & Lardner Guide to Federal Procurement Protests" available in the Intelligence section on Foley.com and published as part of "Inside The Minds: The Impact of Recent Changes in Government Contracts," *Aspatore Books*, 2011.

Education

- Georgetown University (J.D., cum laude, 1979)
- Georgetown University – School of Foreign Service (B.S.F.S., 1976)
- Army War College National Security Seminar (2007)

Admissions

- District of Columbia
 - Member, Litigation Section Committee (2008-2011)
- Virginia
- New York
- U.S. Courts of Appeal
 - Armed Forces Circuit
 - Federal Circuit
 - 4th Circuit
 - 6th Circuit
 - District of Columbia Circuit
- U.S. District Courts
 - District of Columbia
 - District of Maryland
 - Eastern District of Virginia
- U.S. Court of Federal Claims
 - Board Member, Advisory Council