

**Eric Whytsell**

Member

**Denver Office**

1099 18th Street  
Suite 2150  
Denver, CO 80202  
(O): 303.390.0354  
(F): 303.390.0177  
(C): 202.262.5283

**Washington Office**

5335 Wisconsin Ave. N.W.  
Suite 440  
Washington, DC 20015  
(O): 202.973.0227

[ewhytsell@jacksonkelly.com](mailto:ewhytsell@jacksonkelly.com)

**Eric Whytsell is a Member in the Manufacturing, Construction, and Education industry groups, focusing primarily on government contracts and intellectual property. He practices out of the Firm's offices in Denver, Colorado, and Washington, D.C., and is the Managing Member of the Denver office.**

Eric is the head of the Firm's Government Contracts practice group. As such, he's the perfect person to help his clients identify opportunities and resolve problems that arise when doing business with the government. He represents a wide variety of clients, including major multinational corporations, mid-size and small businesses, and other entities, across a variety of industry sectors, including defense, software and technology, research and development, IT services, construction, transportation, aerospace, financial, health care, biotech, manufacturing, and higher education.

Eric advises clients on a full range of federal, state and local procurement matters. In addition to helping clients understand and assess the potential benefits and risks presented by government contracts, Eric represents clients in connection with contract capture, negotiation, and performance issues, bid and size protests, contractor and government claims involving changes, adjustments and terminations, internal investigations, suspension and debarment, and responses to audits. He regularly works with government contractors and subcontractors to ensure compliance with requirements concerning business ethics and conduct, procurement, labor standards, data security, security clearances, export controls, and sourcing restrictions. Eric also advises on teaming, joint ventures and subcontracting arrangements and compliance with small business and socio-economic programs.

Eric also advises government contractors and commercial companies on an array of contracting and subcontracting matters, especially those relating to the development, protection, licensing, and other exploitation of intellectual property assets. He has extensive experience negotiating contracts with government agencies, prime contractors and subcontractors, and commercial firms for commercial products and services, and counseling software, technology, and IT services firms about the commercialization of intellectual property and the unique risks and obligations involved in government contracting.

Eric enjoys taking a complicated problem and breaking it down to its simplest form, making it clear for all involved to see and understand the issues. This involves figuring out the best way to communicate his client's needs to other parties and decision-makers, sifting through the relevant legal considerations, and translating them into useful information that allow his clients to make smart decisions. Eric's experience allows him to craft persuasive narratives and advocate for his client's best interest. Basically, Eric's plan of action is to focus on his client's bottom line and help his client get what it needs to conduct its business successfully.

Along with representing and counseling clients, Eric serves on the governing Council of the American Bar Association's Public Contracts Section. He has written extensively on government contract matters and frequently lectures and conducts training on federal procurement, contractor compliance, intellectual property rights in government contracts, and export controls. He also edits the Firm's **Government Contracts Monitor** blog, which publishes articles about government

contract issues weekly.

In his spare time, Eric is an amateur photographer whose work has appeared in the National Park Trust Annual Report and other publications.

## Awards

- Order of the Barristers, University of North Carolina at Chapel Hill College of Law

## Work History

- Jackson Kelly PLLC (1993-Present)
- Jackson Kelly PLLC, Summer Associate (1992 and 1991)

## Practices

- Government Contracts
- Business Law
- Data Privacy and Security
- Economic Development
- Intellectual Property & Licensing

## Industries

- Construction
- Education
- Manufacturing

## Education

- University of North Carolina School of Law (J.D., 1993)
- Davidson College (B.A., *cum laude*, 1988)

## Admissions

- Colorado (2014)
- District of Columbia (1996)
- West Virginia (1993)
- U.S. Court of Federal Claims (2011)
- U.S. Court of Appeals, Tenth Circuit (2008)
- U.S. District Court, Northern District of West Virginia (1996)
- U.S. District Court, Southern District of West Virginia (1993)
- West Virginia Supreme Court of Appeals (1993)

## Professional Organizations

- American Bar Association, Public Contract Law Section
- Council Member, ABA Section of Public Contract Law
  - Co-Chair, ABA Section of Public Contract Law, State and Local Committee
  - Vice-Chair, ABA Section of Public Contract Law, Intellectual Property Committee
  - Vice-Chair, ABA Section of Public Contract Law, Strategic Alliances, Teaming and Subcontracting Committee
- Colorado Bar Association
- Denver Bar Association
- District of Columbia Bar Association

- West Virginia State Bar
- National Contract Management Association, Denver Chapter
- National Defense Industry Association, Rocky Mountain Division

## Speaking Engagements & Publications

### Speaking Engagements

- "Exceptions: Striking the Right Balance in a Jumbled Landscape," ABA Section of Public Contracts Law Fall Meeting, Louisville KY, November 2, 2017
- Co-Presenter with **John Hays** and **Roddy Stieger**, "Everything You Always Wanted to Know about Contract Claims but Were Afraid to Ask," International Paint Committee, Colorado Springs, CO, September 29, 2017
- "The Mechanics of Flow Downs – What Are the Best Practices?," ABA Section of Public Contract Law, Subcontracting, Teaming Agreements, and Strategic Alliances Committee, January 18, 2017
- Co-Presenter with Carl Livitt of Bishop Fox, LLC, "Understanding and Responding to Cybersecurity Risks," Association of Corporate Counsel (ACC) Colorado Chapter, Spring In-House Forum, Denver, Colorado, April 20, 2016
- "Practical Answers to Key Protest Questions," National Contract Management Association (NCMA), Northern West Virginia Chapter Meeting, Morgantown, West Virginia, March 14, 2016
- Moderator, "Gaining Advantage on the High Seas: The Thoughtful Pirate's Approach to Subcontract Terms and Clauses," ABA Section of Public Contract Law, 22nd Annual Federal Procurement Institute, Annapolis, Maryland, March 9-12, 2016
- Co-presenter with **Hopewell H. Darneille, III**, "Regulations and Impact on Your Business," Annual Teaming to Win Conference, Canaan Valley, West Virginia, May 28, 2015
- Moderator, "Everything You Always Wanted to Know about the Model Procurement Code but Were Afraid to Ask," American Bar Association, Section of Public Contract Law, 10th Annual State and Local Procurement Symposium, Philadelphia, Pennsylvania, April 24, 2015
- "Helping Contractors Pick a Winning Team," Association of Procurement Technical Assistance Centers (APTAC) Fall Training Conference, Washington, D.C., November 11, 2014
- Co-Presenter with Craig Blackburn of Woodward, Inc., "Positioning Yourself for Success when Doing Business with the Government," Association of Corporate Counsel (ACC) Colorado Chapter, Fall Frenzy, Denver, Colorado, September 18, 2014
- Moderator, "Data Security Risks: A View from the Trenches," National Association of College and University Attorneys (NACUA), Annual Conference, Denver, Colorado, June 25, 2014
- "'Don't Do That!' Legal Issues for Small Business," Annual Teaming to Win Conference, Morgantown, West Virginia, May 29, 2013
- "Financial Management of Federal Contracts," FAR Training, Regional Learning Alliance, Cranberry Township, Pennsylvania, May 9, 2013
- "Sequestration: What It Is and What It May Mean For Federal Government Contractors," Montgomery County Chamber GovConNet Meeting, Rockville, Maryland, Feb. 26, 2013
- "Top 10 Issues to Consider When Picking Teaming Partners and Subcontractors," I-79 Development Council DYNET Conference, Fairmont, West Virginia, Feb. 7, 2013
- The Strategic Toolbox: Joint Ventures, Subcontract & Teaming Agreements," Annual Teaming to Win Conference, Morgantown, West Virginia, May 29, 2012

### Writings and Publications

- "Overcome by Events: Facts not Directly Related to Protest Grounds Can Prevent an Ultimate Protest Victory," Pratt's Government Contracting Law Report, Vol. 3 No. 11, Nov. 2017
- "Mindful Negotiation and Consistency in Quoting Can Help Fend Off Misguided Evaluators on FSS Procurements," Pratt's Government Contracting Law Report, Vol. 3 No. 8, Aug. 2017
- "'Not for the Faint of Heart' - Startups planning to pursue small business set-aside contracts face unique compliance issues," Law Week Colorado, June 19, 2017

- Contributor, ABA "Guide to State Procurement: A 50-State Primer on Purchasing Laws, Processes and Procedures," 2d Ed. 2017
- "Department of Veterans Affairs' Rule of Two Applies to IDIQ Contracts," Pratt's Government Contracting Law Report, Vol. 2 No. 5, May 2016
- "Knowing and Meeting Solicitation Requirements," Pratt's Government Contracting Law Report, Vol. 2 No. 3, March 2016
- Co-Editor, ABA Guide to Fixed-Price Subcontract Terms and Conditions, 5th ed., August 2016
- Co-author with **Jill McIntyre** and Emily Renzelli, "Responding to Data Risks in the Workplace: Take Proper Care," *The State Journal*, April 2013
- Contributor, ABA "Guide to State Procurement: A 50-State Primer on Purchasing Laws, Processes and Procedures," Aug. 2011
- "Federal R&D Funding: It's Out There - Go Get It!," *Capacity Magazine*, Spring 2010
- "The 'New' Rules of Government Contracting: Comply, Comply, Comply," *The State Journal*, Sept. 2009

## Community

- CoBiz Bank, Denver Advisory Board
- Colorado Lawyers Committee Hate Crimes Education Program
- Colorado Lawyers Committee Nonprofit Working Group
- Metro Caring, Denver, CO