



Marc J. Fink

Of Counsel

Washington, D.C.

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Marc J. Fink has more than 30 years of experience representing companies and organizations involved in the transportation industry before the courts, arbitration panels, boards of contract appeals, federal agencies and Congress. His practice covers the gamut of legal issues which are faced by companies engaged in the transportation of cargo. He frequently provides advice on U.S. trade sanctions and compliance with statutory and regulatory obligations pertaining to transportation that are administered by various U.S. agencies. Marc also has significant experience in dealing with the Federal Maritime Commission, the Maritime Administration, the Department of Homeland Security and the Office of Foreign Asset Control in the Department of Treasury.

Marc has litigated cases in both district and appellate courts in multiple jurisdictions and regularly deals with matters before various regulatory bodies focused on maritime matters. He also counsels many companies and organizations with regard to the application of the antitrust laws to the maritime industry. In addition to many years of litigation, Marc has broad experience in handling corporate and commercial matters, including all aspects relating to the construction of vessels, maritime contracts and charters, and government contract matters.

Marc also provides regulatory, public affairs advocacy, and strategic counseling advice to clients involved in cross-border transactions. In this connection, he has successfully represented clients before the Committee on Foreign Investment in the United States (CFIUS), a multi-agency group with the statutory authority to review and block proposed US investments by non-US sources. He has also assisted clients with related security issues including mitigation of foreign ownership, control or influence (FOCI), and compliance with industrial security rules administered by the Defense Security Service.

Marc has served as president of the Maritime Administrative Bar Association. He has spoken on maritime, transportation, and antitrust compliance and government contract issues before various transportation organizations and testified on maritime related matters before Congress. Marc is listed as a Band 1 lawyer for nationwide shipping regulatory work in *Chambers USA America's Leading Lawyers for Business*.

Marc's legal career began with a clerkship at the U.S. Court of Claims; he then spent several years as a trial attorney with the U.S. Department of Justice. After entering private practice in 1977, Marc was a partner for two prominent laws firms in the District of Columbia before becoming a founding partner of Sher & Blackwell, which joined Cozen O'Connor in 2010.

Marc earned his Bachelor of Arts from SUNY-Fredonia in 1967 and his J.D. from George Washington University Law School in 1973.

Experience

Represented an international ocean carrier in connection with contract claims made by the U.S. Government pertaining to the transportation of military cargo from the United States to Afghanistan. Assisted the client in reaching a favorable settlement of claims, including claims made under the False Claims Act.

Practice Areas

- Transportation & Trade
- Maritime Antitrust & Competition
- Trade Regulations, Export Controls & Sanctions
- Maritime Regulatory
- Intermodal & Logistics

Industry Sectors

- Maritime

Education

- George Washington University Law School, J.D., 1973
- SUNY-Fredonia, B.A., 1967

Bar Admissions

- District of Columbia

Court Admissions

- District of Columbia Court of Appeals
- U.S. Court of Appeals for the District of Columbia Circuit
- U.S. Court of Appeals for the Federal Circuit
- U.S. Court of Appeals for the Fifth Circuit
- U.S. Court of Appeals for the Fourth Circuit
- U.S. Court of Appeals for the Third Circuit
- U.S. Court of Federal Claims
- U.S. District Court -- District of Columbia
- U.S. District Court -- New Jersey
- U.S. District Court -- Northern District of Georgia
- U.S. Supreme Court

Affiliations

- Association of Transportation Law Professionals
- Maritime Administrative Bar Association

Awards & Honors

- Chambers & Partners USA: Nationwide, Transportation: Shipping/Maritime: Regulatory 2010-2020
- Super Lawyers Top Rated Transportation & Maritime 2012 - 2020
- Best Lawyers in America 2006-2021
- Best Lawyers in America- Admiralty and Maritime Law "Lawyer of the Year" 2019
- Who's Who Legal Transport - Shipping
- Martindale-Hubbell AV Preeminent Peer Review Rated
- Expert Guides: Shipping

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The Government Accountability Office (“GAO”) sustained a protest brought by Cozen O’Connor challenging technical restrictions in a U.S. Forest Service solicitation for aerial firefighting services. The procurement, structured as a “call when needed” basic ordering agreement, restricted offers to aircraft with a maximum tank size of 5,000 gallons. The restriction would have disqualified Global SuperTanker’s converted 747 aircraft, which has a tank capacity of 19,200 gallons. In sustaining the protest, GAO adopted the arguments advanced by Cozen O’Connor that the tank size restriction was unduly restrictive, detrimental to competition, and was not reasonably necessary to meet the Forest Service’s needs to fight wildfires. In addition to awarding costs incurred in pursuit of the protest, GAO’s decision establishes a clear limit on agency discretion to impose technical restrictions in solicitations. *Global SuperTanker Services, LLC, B-414987 et al.*, 2017 CPD ¶ 345 (Comp. Gen. Nov. 6, 2017).

Represented a marine terminal operator in an action against the Port of Oakland in the U.S. Court of Appeals for the District of Columbia Circuit, whose decision against the immunity of the Port of Oakland permits marine terminal operators to pursue civil complaints at the Federal Maritime Commission.

Advised a U.S. ocean carrier on joint venture issues and antitrust issues presented.

Advised a U.S. flag company on issues relating to the construction of a tanker.

Negotiated an agreement with a bank regarding a mortgage default by an ocean carrier.

Handled class action litigation brought against several ocean carriers.

Successfully defended a bid protest before the D.C. Contract Appeals Board.

Advised a marine terminal operator on regulatory and antitrust issues.

Represented two large oil companies in a dispute with a port before the Federal Maritime Commission.