

## NOT A CONTRACTOR

**By Richard D. Lieberman, Consultant & Retired Attorney**

Appellant Chizoma Onyems is the sole owner of a limited liability company, CB Portable Toilet Rental and Service. He is not a licensed attorney. His company contracted with the government to provide services at Camp Lejeune. After the contract was terminated for convenience, CB Portable (the company) submitted a certified claim, and then appealed it to the Board, where Mr. Onyems represented the company. The Board granted \$16,000 in damages (plus interest) to CB Portable. Unsatisfied with this damage award, Mr. Onyems appealed the Board's determination *on behalf of himself personally, not on behalf of CB Portable*. See *Chizoma Onyems v. Dept of the Navy*, No 2024-2289 (Fed Cir. June 6, 2025).

Under the Contract Disputes Act, only a contractor may appeal a Board of Contract Appeals decision. 41 USC § 7107(a)(1)(a). Rule 15 of the Armed Services Board, however, states that a contractor may be represented before the Board by one of its officers or a licensed attorney. And that is how Mr. Onyems was able to handle the case at the Armed Services Board.

However, that is not the rule at a court of the United States. A corporation, partnership, organization or other legal entity must be represented by counsel per Fed. Circuit Rule 47.3. Therefore, Mr. Onyems could not represent CB Portable before the court, and furthermore, in his appeal, he stated that he was representing *himself* before the Court.

The Board held that it lacked jurisdiction because Mr. Onyems was not a contractor within the meaning of 41 USC § 7107(a)(1)(a) and only a contractor may appeal a final decision of a Board of Contract Appeals to the Federal Circuit Court. Finally, Mr. Onyems did not retain counsel, as required by the Court's rules.

Takeaway. Although an officer of the company may represent the company before a Board of Contract Appeals, that is not the situation before a court. The company must be represented by counsel at the Court of Appeals for the Federal Circuit. Note that the rule at the Government Accountability Office ("GAO") differs from the other two forums. At the GAO, an attorney is not required for purposes of filing and pursuing a protest, and protests may be signed by the protester or its representative 4 CFR § 21.1(b)(2). However, only attorneys may be admitted if GAO issues a protective order when the record includes another company's proprietary information or the agency's source selection sensitive information. Therefore, if the company has no counsel it will not be allowed to read or obtain such information.

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