

## Court Answers Call to Hear Contract Claim

As part of the America Competes Reauthorization Act of 2010, federal agencies are authorized to award competitive prizes to stimulate innovation. Under this authority, the Federal Trade Commission created the public “Robocall Challenge,” which offered a \$50,000 reward to anyone who could develop the best overall solution to “block illegal robocalls on landlines and mobile phones.” The FTC also issued a detailed set of rules governing how the contest would be run and how entries would be judged.

David Frankel submitted a proposal, but the FTC chose two other contestants as co-winners, splitting the prize money between them. Dissatisfied with the result, Frankel investigated, and concluded the winners had not complied with the rules of the challenge. Frankel first filed a protest with the GAO, but the GAO held that it lacked jurisdiction because Frankel had no contract with the FTC.

Frankel then filed suit in the U.S. Court of Federal Claims, alleging that FTC’s failure to follow its contest rules constituted a breach of contract. The Government moved to dismiss, arguing that Frankel had not alleged a legally cognizable contract claim.

The Court, however, disagreed, holding that Frankel had alleged a black-letter breach of contract claim—offer, acceptance, performance, and breach:

The materials before the court indicate that a contract was formed between the FTC and each of the competitors when the competitors accepted the offer embodied in the competition by submitting entries. The FTC was obligated to provide the winner of the competition—who followed the rules—the \$50,000 first place cash prize. . . . While defendant asserts that there is nothing in the rules of the Contest that legally binds the FTC to pay for the solutions, the detailed rules of the Contest (which go on for 18 pages) plainly suggest otherwise and instead anticipate that the FTC’s selection of winning submissions would give rise to a binding contract. In the court’s view, plaintiff has properly alleged that that contract has been breached, potentially providing him with monetary compensation.

Explaining that the court did not intend to “gild the lily,” however, the court further observed that if successful, Frankel’s damages may be limited “perhaps solely to bid preparation costs.”

Read the full opinion [here](#).