

**09-1298 GENERAL DYNAMICS CORP. V. UNITED STATES**

DECISION BELOW: 567 F.3d 1340

LOWER COURT CASE NUMBER: 2007-5111, 2007-5131

**QUESTION PRESENTED:**

1. Whether the government can maintain its claim against a party when it invokes the state-secrets privilege to completely deny that party a defense to the claim.

2. Whether, contrary to nearly a century of government contracts law, a court can uphold a default termination on factual grounds never relied on by the contracting officer, and can dispense with the requirement that the contracting officer exercise discretion when terminating for default.

3. Whether one panel of a court of appeals can use the law-of-the-case doctrine to overrule another panel's prior decision in the same case as clearly erroneous or manifestly unjust and thereby circumvent the law-of-the-circuit doctrine, which permits only the *en banc* court to overrule a precedential panel decision.

CONSOLIDATED WITH 09-1302 FOR ONE HOUR ORAL ARGUMENT

09-1298 LIMITED TO QUESTION 1

09-1302 LIMITED TO QUESTION 2

CERT. GRANTED 9/28/2010