

# CLIENT ALERT

## Government Assertion of State Secrets Privilege in Private Party Litigation

March 6, 2017

In a rare move, the Department of Justice intervened in *Wever v. AECOM National Security Programs, Inc.*, asserting the state secrets privilege and requesting the dismissal of a \$69 million dollar lawsuit between two private parties that it contends would risk the exposure of classified information if the suit were allowed to proceed. Although the Government was not an original party to the litigation, the Government argued in its Motion for Summary Judgment that the court is required to dismiss the case under the state secrets privilege because the Government, through the head of the department with control over the matter, after extensive consultation and coordination within and among relevant Executive Branch agencies, formally asserted the privilege and all three of the circumstances justifying dismissal exist: (1) the plaintiff cannot prove his or her claim without privileged evidence; (2) the defendants cannot properly defend the case without privileged evidence; and (3) further litigation would present an unjustifiable risk of disclosure.

For more information, please contact the professional(s) listed below, or your regular Crowell & Moring contact.

**Laura J. Mitchell Baker**

Counsel – Washington, D.C.

Phone: +1.202.624.2581

Email: [lbaker@crowell.com](mailto:lbaker@crowell.com)