

WELCOME

Message to our Readers

Thank you for reading the Summer 2016 issue of the Welby, Brady & Greenblatt, LLP Construction Report. We are pleased to bring you a summary of new legal happenings related to the construction industry as well as highlight the impact Firm Partners and Associates are making on the Legal Industry and the markets we serve.

In this issue, we are pleased to present Legal Alerts written by our team. John J.P. Krol, Esq, P.E., discusses Federal Contracts, the Boards of Contract Appeals, and Federal Liability under Integrated Design and Construction Contracts; Richard T. Ward III, Associate, presents on The Critical Need for Record Keeping on Oral Arguments; and Gregory J. Spaun, Partner, discusses New York's Prompt Payment Act.

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Federal Contracts, the Boards of Contract Appeals, and Federal Liability under Integrated Design and Construction Contracts

By: John J.P. Krol, Of Counsel



John J.P. Krol

Those of you who work regularly at West Point, at Picatinny Arsenal, or for the General Services Administration know that most federal agencies employ informal in-house procedures to resolve contract disputes. But what if those in-house procedures fail, and that the contractor must proceed against a federal agency? What is the route for dispute resolution?

In order to litigate a federal government contract claim, the contractor must proceed either in the United States Court for Federal Claims in Washington, D.C. or in one of the many Boards of Contract Appeals, such as, the Armed Services Board of Contract Appeals, the General Services Board of Contract Appeals, or the Civilian Board of Contract Appeals. The advantage of appearing before Boards of Contract Appeals is that the trials are held in the general locale of the project. The judges come to you.

These Boards of Contract Appeals, although administrative in nature, are not as favorable to the government agency as their status as a fellow government agency may suggest. One such case where the contractor prevailed in front of a Board of Contract Appeals was *Kiewit-Turner, a Joint Venture v. Department of Veterans Affairs*, which involved the construction of a Veteran Affairs (VA) medical center campus in Colorado. The VA had awarded a contract for preconstruction services to Kiewit-Turner, a Joint Venture (KT) with an option for performance of construc-

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