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Pa. Supreme Court to Review Whether Contractors & Subcontractors Can Continue to Recover Unpaid Payments

by Patrick R. Kingsley and Isaac A. Hof

The Pennsylvania Supreme Court granted special review from the U.S. Court of Appeals for the Third Circuit to address the issue of whether the Contractor and Subcontractor Payment Act (CASPA), 73 P.S. §§ 501-506, applies to federal government projects located in Pennsylvania. The decision is important because CASPA enables contractors and subcontractors to recover unpaid payments under construction contracts, as well as interest, penalties and attorneys’ fees. The key legal issue is whether the term “other association” referenced in the definition section of the statute refers to the federal government.

There is currently conflicting precedent on the issue. Two Pennsylvania Courts of Common Pleas have held that CASPA does not apply to projects where the owner is a governmental entity. See *Hoffmeister v. Skepton Constr., Inc.*, 55 Northampton 48 (Northampton Cnty. C.C.P. Mar. 21, 2006); *Mastercraft Woodworking Co. v. Jim Lagana Plumbing & Heating Inc.*, 9 Pa. D. & C. 5th 251 (Berks Cnty. C.C.P. July 27, 2009). However, two district courts in the Third Circuit came to the opposite conclusion on this issue, holding that CASPA does apply to such projects. See *Scandale Associated Builders & Eng’rs, Ltd. v. Bell Justice Facilities Corp.*, 455 F. Supp. 2d 271 (M.D. Pa. 2006); *United States ex rel. ESCO Elec. Supply Co. v. Aeroplate Corp.*, No. 12-4647, 2013 WL 4763843 (E.D. Pa. Sept. 5, 2013).

On April 7, the Pennsylvania Supreme Court heard oral argument on the issue. Stay tuned for the Court’s decision.

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