

D.C. Remediation Contract Can Trigger Duties to Third Party at Construction Site

Article By:

Eric L. Klein

In a case highlighting common-law tort duties that can arise from contractual relationships, an environmental contractor at a construction site may be liable to a subcontractor's employee who claims he was injured when exposed to petroleum contamination, according to a federal court in Washington, D.C. See *Parker v. John Moriarity & Assoc.*, No. 15-cv-01506 (D.D.C. Dec. 14, 2016).

Environmental Consultants and Contractors, Inc. ("ECC"), an environmental services contractor at a theater renovation project in Washington, moved to dismiss third-party claims brought by the employee of a subcontractor on the project who alleged he was injured when exposed to chemicals from a leaking underground storage tank. ECC argued the subcontractor was not party to the contract between ECC and the owner, and therefore ECC could not be held liable to the subcontractor for any failure to perform under the contract. The subcontractor, facing its own potential liability in the suit, claimed that ECC owed a common-law duty of care to the injured employee based on its contract to remediate the site with the site owner.

The U.S. District Court for the District of Columbia declined to dismiss claims against ECC. The court noted ECC's contract and related documents "reflect that ECC's undertaking as the environmental consultant on the project included making recommendations for appropriate procedures including use of protective equipment, providing ongoing daily monitoring of the volatile organic compound levels at the job site, and taking appropriate steps if hazardous conditions were detected." These contractual duties ECC owed to the owner of the site, the court reasoned, could also create a common-law duty to workers at the site as third-party intended beneficiaries of the contract. The court therefore denied ECC's motion to dismiss because it could not find, as a matter of law, that ECC owed the subcontractor no common-law duty of care.

© 2025 Beveridge & Diamond PC

National Law Review, Volume VII, Number 58

Source URL: <https://natlawreview.com/article/dc-remediation-contract-can-trigger-duties-to-third-party-construction-site>