

CONSTRUCTION LAW NEWSLETTER

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TRENDS IN CONSTRUCTION LAW

On December 18, 2017, Governor Cuomo signed legislation that would prohibit any contractor or subcontractor from bidding on or being awarded a state or municipal public works contract if they have been debarred from bidding on or being awarded federal contracts for violating prevailing wage obligations under the federal Davis-Bacon Act.

Prevailing wage obligations on federal projects are similar to those on state and municipal projects in

NYS under the Labor Law. Failure to abide with these laws can result in an investigation and debarment from future public work.

The recent legislation would also apply to substantially owned-affiliated entities. In other words, the law seeks to apply not only to the debarred companies, but any companies that have similar ownership structure.

The debarment reciprocity with Davis-Bacon will take effect on March 18, 2018.

Contractors and subcontractors will remain inel-



igible to bid on NYS public projects as long as they remain on the federal list of debarred contractors.

CASE LAW UPDATE

On December 20 2017, the Second Department Appellate Division decided the case of *Park Side Construction Contractors, Inc. v. Bryan's Quality Plus, LLC*. The case involved a piling contractor who provided drilling services for two construction projects. In the middle of drilling one of the sites, the contractor encountered difficulties with the soil which required changing its

means and methods of drilling. When it completed the work, it sought additional compensation arising from the changed means and methods, which the owner rejected.

The drilling contractor filed two liens on the projects, in the sums of \$711,637.63 and \$410,337.00, respectively.

In the litigation that fol-

lowed, the owner argued that the liens should be dismissed because they improperly listed a PO Box instead of an address on the lien.

The Court found that listing the PO Box instead of the address was a defect in the liens, but granted the contractor's motion to amend the liens to list the physical address.

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