

The Boards of Contract Appeals Bar Association (BCABA)

and

**The George Washington University Law School,
Government Procurement Law Program**

are pleased to present a colloquium on:

Commemorating the Fortieth Anniversary of the Contract Disputes Act of 1978: What are We Doing Right, and What Can We Do Better?

This year's Board of Contract Appeals Bar Association and George Washington Law School Government Procurement Law Policy Colloquium will celebrate the 40th anniversary of the Contract Disputes Act of 1978 (CDA). Our thought-provoking panels will consider both the day-to-day aspects of BCA practice, as well as some of the challenges and issues presented by BCA and appellate precedents as the CDA's provisions and requirements have been interpreted over the last forty years. Following opening remarks by Judge Jeri Somers, Chair, Civilian Board of Contract Appeals, our first panel will discuss the "mechanics" of practice before the different Boards and cover issues such as the appropriate scope and timing of discovery, whether the Government should be required to file the Complaint in appeals involving affirmative government claims, and the flexibility of the various Boards' practices with respect to binding and nonbinding Alternative Dispute Resolution (ADR). Our second panel will then tackle some of the potentially problematic jurisdictional and related issues that may arise in the course of a CDA claim and appeal, such as the limitations on the Boards' ability to adjudicate appeals that may involve allegations of fraud, the impact of the Federal Circuit's decision in *M. Maropak's Carpentry, Inc. v. United States* on the parties' ability to assert as defenses matters that also serve as the basis for affirmative claims, and the practical effects of the Federal Circuit's decision in *Sikorsky Aircraft Corp. v. United States* holding that the CDA's six-year limitations period is not a jurisdictional bar.

In addition to discussing these issues, our panels will also offer thoughts on how these matters might best be addressed by the Boards. We welcome your attendance and participation in this free event, and ask that you come prepared to share your questions and experiences.

June 7, 2018

8:15 a.m. – 12:00 p.m.

8:30 – 9:00 a.m. Registration & Coffee

**The George Washington University Law School
Faculty Conference Center
2000 H Street, NW, Washington, DC**

RSVP to Cassandra Crawford, ccrawford@law.gwu.edu, tel. 202 994 8689



PROGRAM SCHEDULE

Host:

Christopher R. Yukins, *Lynn David Research Professor in Government Procurement Law and
Co-Director, Government Procurement Law Program, The George Washington University Law School*

Moderators:

Neil O'Donnell, *Shareholder, Rogers Joseph O'Donnell*

Terry Elling, *Partner, Holland & Knight LLP*

9:00-9:20 **Welcome and Opening Remarks**
Judge Jeri Somers, *Chair, Civilian Board of Contract Appeals*

9:20-10:30 **Panel 1.**
*Moderator: **Terry L. Elling** (Partner, Holland & Knight LLP)*
*Panelists: **Judge Kathleen O'Rourke** (Civilian Board of Contract Appeals); **E. Michael Chiaparas** (Chief Trial Attorney, Defense Contract Management Agency); **Richard O'Keefe** (Attorney, Wiley Rein LLP)*

10:30-10:45 **Break**

10:45-12:00 **Panel 2.**
*Moderator: **Neil O'Donnell**, Shareholder, Rogers Joseph O'Donnell*
*Panelists: **Judge Mark Melnick** (Armed Services Board of Contract Appeals); **Marcia Madsen** (Partner, Mayer Brown); **Bryant Snee** (Deputy General Counsel, PAE)*