

CLIENT ALERT

Applicability of Privilege to Internal Investigations Upheld, Again

August 12, 2015

In a decision preserving the strength of the attorney-client privilege, the D.C. Circuit in *U.S. ex rel. Barko v. Halliburton* once again vacated an order from the district court requiring KBR to produce attorney-client privileged documents created during an internal investigation. Specifically, the D.C. Circuit granted mandamus based on the "clear and indisputable error" in the findings that (1) KBR had waived the privilege under Rule 612 by allowing a non-lawyer, Rule 30(b)(6) witness to review the investigation report during deposition preparation; and (2) KBR had put the investigation report into issue by mentioning the company's "investigative mechanism" in a motion for summary judgment.

For more information, please contact the professional(s) listed below, or your regular Crowell & Moring contact.

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