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Palafox Street Associates, L.P. is the successor in interest to Keating Development Company on a lease with the General Services Administration for the construction and lease of a federal courthouse. Under a tax adjustment clause in the contract, the Government was to make an annual lump sum adjustment as an additional payment to or deduction from its share of any increase or decrease in real estate taxes assessed over the agreed upon base year dollar amount. After fifteen years, in 2011 the GSA audited the lease and discovered that Palafox's real estate taxes were consistently less than the base amount required under the contract, meaning that Palafox now owed the GSA money. To make up the \$824,416.01 Palafox allegedly owed, GSA paid Palafox half of its monthly payments for the real estate taxes to compensate for its past overpayments.

But Palafox disagreed that it owed GSA any money, and sought relief from the contracting officer, who agreed with the GSA. Palafox then appealed to the Civilian Board of Contract Appeals, which also agreed with the GSA. Having lost before the Board, Palafox sued in the U.S. Court of Federal Claims. The Government argued that Palafox's claim should be dismissed because it was barred by the election doctrine, which requires parties to elect whether to pursue a contract claim in the CFC or appeal to the Board.

In the CFC, Palafox argued that its claims should not be dismissed because its claims in the CFC were separate and distinct from its former appeals and included new legal issues and facts. Palafox pointed out, for instance, that it is challenging in the CFC for the first time amounts wrongfully setoff. In sharp contrast, the Government argued that "the use of new legal theories to connect the same facts to the same relief does not create new, distinct claims."

The Court largely agreed with the Government, holding that Palafox's claims were all barred by the election doctrine save for the one claim dealing with setoffs, explaining that this is a separate and distinct claim.

Read full decision [here](#).