FBT Successfully Obtains Summary Judgment for Construction Surety

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Categories:

Experience

In a matter of first impression in Ohio, FBT
successfully obtained summary judgment for our client, a surety which had
issued a payment and performance bond for a contractor on a public project and
later received claims on the bond that were over twice the amount of the penal
sum of the bond. The claimants argued
that an Ohio statute governing bonds on public projects operated to
automatically increase the penal sum of a bond when a series of change orders were
executed between a principal/contractor and the public owner, even without the
knowledge or consent of the surety. FBT
argued that while the statute expands the scope of work covered by the original
bond and thus pool of potential bond claimants, it does not increase the penal
sum of the bond, which is the limit of the surety's total liability.