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.

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