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Pennsylvania Supreme Court Rules Sureties Are Not Liable for Bad Faith

Stradley Ronon partner Patrick Kingsley and counsel Adriel Garcia secured a significant victory for surety companies in Pennsylvania. In *Eastern Steel Constructors v. International Fidelity Insurance*, 2026 WL 457805 (Pa. 2026), the Pennsylvania Supreme Court ruled that Pennsylvania's insurance bad-faith statute does not apply to sureties or surety bonds. The subcontractor, Eastern Steel Constructors, had asserted a payment bond claim, which was denied in part. It argued a surety should be liable for bad faith under the statute because suretyship and insurance are essentially the same thing. Mr. Kingsley presented oral argument before the Supreme Court and convinced them otherwise.

The Supreme Court found the plain language of the statute only applies to "insurance policies" written by "insurers." The court found that language "clearly and unambiguously does not encompass a surety bond." The court was persuaded that insurance and suretyship were fundamentally different and had been recognized as different for quite some time, citing the 1996 Pennsylvania Supreme Court case *Foster v. Mutual Fire, Marine and Inland Insurance*, which itself quotes the 1962 U.S. Supreme Court case *Pearlman v. Reliance Insurance*. As a result, the court concluded that "the General Assembly did not intend to subject surety bonds to the bad faith statute."

Until *Eastern Steel Constructors,* there had not been a published Pennsylvania appellate court decision on the applicability of the bad-faith statute to sureties. This historic ruling from Pennsylvania's highest court resolves the issue in Pennsylvania once and for all.

Mr. Kingsley previously succeeded in reversing the law in New Jersey regarding the applicability of bad-faith claims to sureties. In the 2010 case of *SBW v. Ernest Bock & Sons*, the U.S. District Court for the District of New Jersey rejected the holding in the 2000 case of *U.S. ex rel. Don Siegel Construction v. Atul Construction*, which recognized such a bad-faith cause of action against sureties. The *SBW* case has since been cited several times with approval, marking a reversal in New Jersey law.

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