

Experience

Travelers Casualty & Surety Victorious in the Third Circuit

Stradley secured an important Third Circuit victory for Travelers Casualty and Surety when the court affirmed the Middle District's dismissal of a performance bond claim against Travelers arising from a substantial public works project. Travelers was the surety on a contract to refurbish a sewer in Milton, Pennsylvania. Soon after the project commenced, the Milton Regional Sewer Authority fired the contractor for a litany of alleged serious performance deficiencies. The authority did so, however, without first giving the contractor the opportunity to cure the deficiencies, as required by the underlying construction contract and the bond. Milton replaced the contractor and then sued Travelers, seeking payment under the bond for the extra costs. Stradley persuaded the trial court to grant its motion to dismiss, extinguishing this potential million-dollar Travelers liability. Milton appealed to the Third Circuit, arguing that its violation of the cure period was excused because of the seriousness of the contractor's poor performance. Again, Stradley was able to persuade the Third Circuit to reject Milton's argument while adopting in its opinion virtually all the arguments advanced by Stradley. The decision is a significant victory for the surety industry and this appears to be the first case in the country dismissing a surety on these grounds at the pleadings stage.

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