

Surety Successfully Enforces Assignment Right to Settle its Principal's Affirmative Claims

By David A. Harris June 30, 2023

In *CDM Constructors Inc. v. Randall Mechanical Inc.*, No. 1:19-cv-01178-MHC (N.D. Ga. June 27, 2023), Bovis Kyle partners David Harris and Jack Burch obtained the first reported court ruling under Georgia law affirming a surety's rights to control its principal's affirmative claims. The underlying lawsuit was a performance bond claim brought by a general contractor against a subcontractor and the subcontractor's surety. The subcontractor counterclaimed against the general contractor and its sureties. The general contractor and the subcontractor's surety reached an agreement for the dismissal of all claims with no payment exchanging hands. The surety and general contractor moved to dismiss the action. The court enforced the GIA provisions giving the surety the right to settle claims against the bond and the principal's affirmative claims. The principal's assignment of its claims and the grant to the surety to settle all claims give the surety authority to settle those affirmative claims and entered a dismissal of the action.

[CDM Constructors Inc. v. Randall Mechanical Inc.,.pdf](#)