

NOTABLE SURETY CASES FROM LAST TWELVE MONTHS

ATLANTA SURETY CLAIMS ASSOCIATION

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DISCLAIMERS AND GROUND RULES

- Subjective choice of cases
- Opinions often don't always accurately reflect the true facts
- Please speak up if you were involved and can clarify
- Accept my puns in the spirit they are offered



State Nat'l. Ins. Co., Inc. v. Washington
Int'l Ins. Co, Case No. 8:17-cv-224, 2018
WL 1512288 (D. Neb. Jan 19, 2018)

- Irrevocable Directive of Draw Proceeds (Funds Control) Subcontract
- GC pays subcontractor despite IDDP
- Sub fails to pay vendor for modular building
- Subcontractor's surety pays vendor and takes assignment
- Subcontract surety asserts claim against GC's surety
- NO GOAL!



Fid. & Dep. Co. v. Ohio
Dept. of Transp., Case
No. 1:16-cv- 284, 2017
WL 5622832 (S.D. Ohio
Nov. 22, 2017)

WESTERN SURETY CO.V. ROCK BRANCH MECH., INC.,
CASE NO. 5:16-CV-09550, 2017 WL 6945333 (OCT. 25, 2017)



UNITED STATES SURETY COMPANY V. BEST CONSTRUCTION DRYWALL SERVICES, INC., CASE NO. 8:16-CV-3102-T-23TGW (M.D. FL., MAY 17, 2018)

Seth Mills



COLLATERAL DEPOSIT



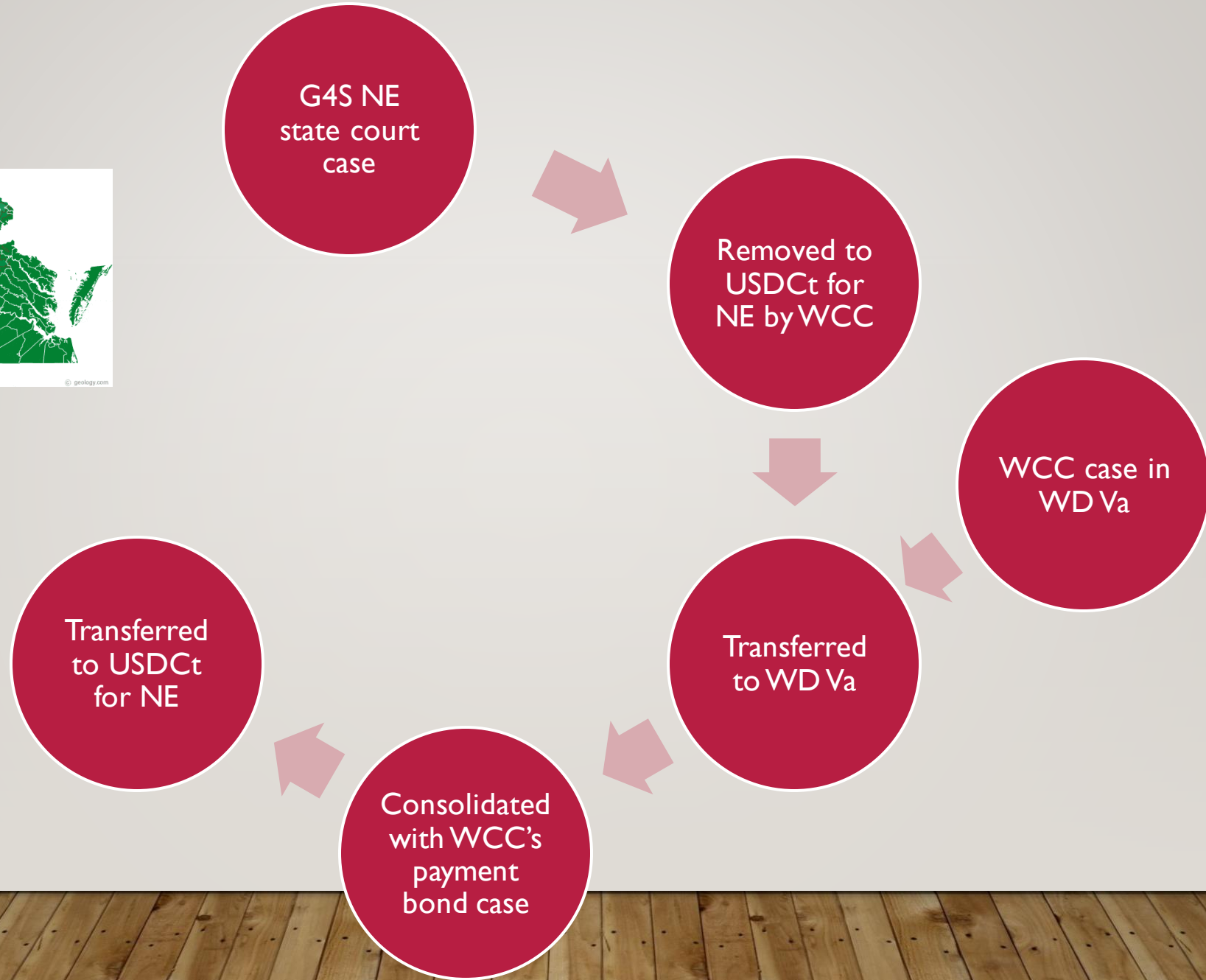
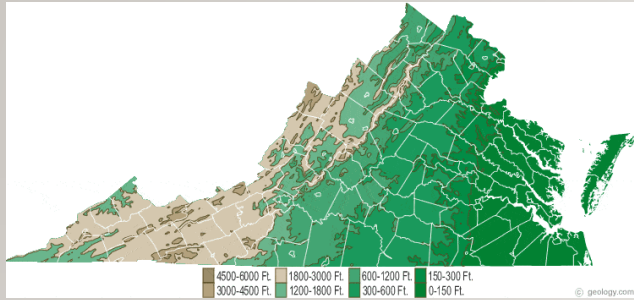
RECENT COLLATERAL DEPOSIT CASES

- Developers Surety and Indemnity Company v. DKSL, LLC dba Paramount Builders, et al., Case No. 17-00221, 2018 WL 1177918 (D.Haw. Mar. 6, 2018)
- Allegheny Casualty Company v. River City Roofing, LLC, Case No. 1:17-cv- 01108, 2018 WL 1785478 (E.D.Va. Apr. 13, 2018)



and Surety?

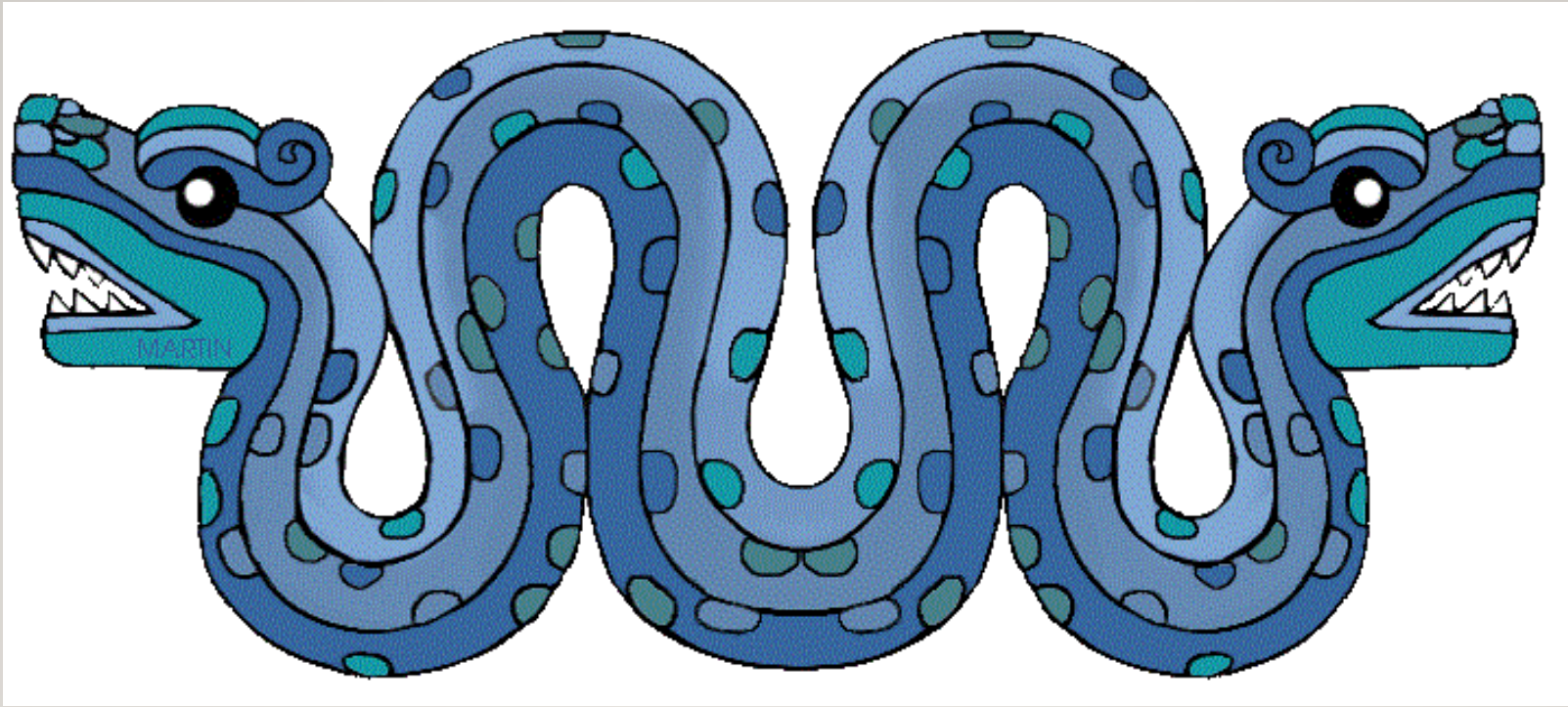
WCC Cable, Inc. v. G4S Technology,
LLC, Case No. 5:17-cv-00052, 2017
WL 6503142 (W.D.Va. Dec. 15,
2017)





CITY OF WOLFE CITY V. AMERICAN SAFETY CASUALTY
INSURANCE COMPANY, CASE NO. 06-17-00075, 2018 WL
792108 (TEX.APP. FEB. 9, 2018), PETITION FOR REVIEW
(TEX.APP. APR. 25, 2018)





Aztec Engineering Group, Inc. v. Liberty Mutual Insurance Company, Case No. 1:16-cv-01657, 2017 WL 1382649 (S.D. Ind. Apr. 18, 2017), appeal docketed, No. 17-2129 (7th Cir. May 30, 2017)







US ON BEHALF OF KITCHENSTO GO V. JOHN C. GRIMBERG CO., INC., 283 F.SUPP.3D 476 (E.D.VA.2017)

- Improvements at FBI Academy at Quantico
- Temporary kitchen for 13 months
- Delays extended need for temporary kitchen to 27.5 months
- No Damages-for-Delay clause in subcontract
- Incorporation of Owner dispute resolution provision for Owner related claims
- No goal!

THE HANOVER INSURANCE COMPANY V. UNITED STATES, 133 FED.CL. 633 (2017)

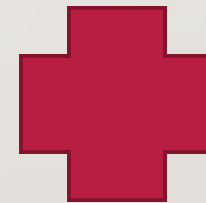
Notice by surety of "default" by
principal and interest in contract funds

Obligee as stakeholder

Government issues funds to defaulting
contractor



PAIGE INTERNATIONAL, INC. V. XL SPECIALTY INSURANCE COMPANY, 267 F.SUPP.3D 205 (D.D.C. 2017)



LESSONS LEARNED FROM PAIGE INTERNATIONAL

- \$1.3M claim
- Insufficient documentation/shoddy records
- Court arbitrarily adjusted many claims by 50%
- Judgment of \$463K
- Post-trial motions for pre-judgment interest and fees
- \$84K in pre-judgment interest awarded

Lexon Insurance Company v. City
of Cape Coral, 238 So.3d 356 (Fla.
Dist. Ct.App. 2017)



QUESTIONS/COMMENTS

