

PENNSYLVANIA

SUMMARY JUDGMENT CONSTRUCTION DISPUTE



Ben Novak of the Lancaster office for FHMS Law recently won summary judgment for the firm's client, a municipal water authority, in a construction dispute involving claims of unforeseen conditions and project delays.

The plaintiff, a municipal utility contractor, installed a water main in the municipality, but claimed to have encountered unforeseen conditions, which allegedly increased costs and delayed the project, leading to further increased costs. Before the project was complete, the parties signed a Memorandum of Understanding ("MOU") to resolve these issues, for the payment of a mutually agreed-upon sum. However, after the MOU was signed, the contractor claimed to have incurred additional costs, for which it was entitled to additional compensation.

In the lawsuit, the contractor sought an additional \$1.2 million. Novak argued that the MOU was a settlement of all claims, and that the contractor assumed the risk that it might incur additional costs before the project was complete. The Court agreed, and granted summary judgment, holding that the contractor was bound by the terms of the MOU. Therefore, the \$1.2 million claim against the firm's client was dismissed.



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