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## Indemnity Agreements and Bonds

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Beware that some courts may compel arbitration of a surety's salvage claims against its principal and indemnitors even if the general agreement of indemnity (the "GAI") does not include an arbitration provision.

That was the case recently in *Hanover Ins. Co. v. Atlantis Drywall & Framing, LLC*, 2014 WL 4251586 (11th Cir. August 29, 2014), where the Eleventh Circuit Court of Appeals held that the principal and indemnitors could use a subcontract's arbitration provision to compel the surety's claims against them. The Court reasoned that because the execution of the GAI and the subcontract were part of the "same transaction," the surety should be required to arbitrate its claims against the principal and indemnitors. Surprisingly, it did not matter to the Court that the GAI covered other bonded subcontracts that did not contain arbitration provisions because "the parties entered into the [GAI] with the [instant] subcontract and specific payment and performance bonds in mind." Cases like these illustrate the need to have experienced attorneys that are aware of these dynamic and sometimes unpredictable currents in surety and construction law.