



[Dump Site Provider Has Valid Little Miller Act Claim](#)



You may have thought that a Virginia "Little Miller Act" bond claim, like a [mechanic's lien](#), could only be brought by those that provide materials and labor incorporated into the construction project. If you did, you aren't alone.

In fact, Safeco Insurance Co. of America, a surety, made exactly the above argument in [Yard Works LLC v. GroundDown Constructors LLC](#). In that case, a debris hauling company failed to pay Yard Works, the company that provided the dumping site for the debris. Yard Works sued pursuant to the [Little Miller Act](#) to get paid. In response, the surety sought to have the claim against the payment bond dismissed and argued that because Yard Works did not actually improve the property or provide improvements and that Yard Works only passively provided a dump site, Yard Works could not claim under the payment bond.

The Hanover County Circuit Court disagreed and allowed the claim to go forward, stating

Yard Works having provided a site to dispose of the land-clearing debris is as much a material provision for the Project as if it had supplied newly manufactured products for incorporation in the Project. When a subcontractor is required to haul away the debris from a road project there exists a necessary, even if implicit, obligation to the prime contractor to dispose of the unwanted material constituting the debris. The provision of such a site, even passively, is as necessary to a road project as is the acquisition of the materials making up the new pavement.

In short, the Virginia court held that Yard Works' contribution to the project was integral to the completion of the work and therefore Yard Works could claim under the payment bond.

This case highlights a distinction between payment bond claims and mechanic's lien claims. Claims for the former do not need to involve labor and materials incorporated into the structure or land like the latter. Contractors and subcontractors in Virginia should not be discouraged from filing a Little Miller Act claim just because they may not have provided "improvements" or labor that show up in the construction. Of course, each case is fact specific and needs a good analysis by an [experienced Virginia construction attorney](#) prior to filing.

As always, be sure to read the entire opinion (linked above) and perform your own analysis or [contact me with questions](#).

Image via [Wikipedia](#)

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