

Axinn Secures Pro Bono Victory in the Second Circuit

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July 30, 2021

On July 30, 2021, Axinn secured a victory in the U.S. Court of Appeals for the Second Circuit on behalf of pro bono client Luis Felipe Moreno Godoy.

In 2008, following criminal convictions, Moreno Godoy hired counsel to handle post-conviction proceedings for a flat fee of \$125,000 and hired separate counsel to work on the matter for a flat fee of \$100,000. After that separate counsel was unable to perform and over Moreno Godoy's objections, he paid the \$100,000 fee to the other lawyer instead of returning it to Moreno Godoy.

Relying on these facts, Moreno Godoy filed suit in 2014, asserting claims for breach of contract and quasi-contract. Following discovery, the U.S. District Court for the Southern District of New York granted summary judgment for the defendants, holding that to sustain his claims, Moreno Godoy had to prove his ownership of the \$100,000, and that he could not do so.

Moreno Godoy appealed, and the Second Circuit appointed Axinn to serve as Moreno Godoy's pro bono appellate counsel. Following oral argument on June 2, 2021, the Second Circuit issued a unanimous precedential opinion vacating the District Court's judgment and remanding the case for further proceedings. In so doing, the Second Circuit agreed with Axinn's arguments that — among other things — Moreno Godoy does not have to prove he owned the money to sustain his breach of contract claim and that holding otherwise would have a draconian effect on incarcerated clients like Moreno Godoy.

The Axinn team consisted of partners John Tanski (who argued the appeal) and Craig Reiser, associate Luke Martin, and paralegal Katie Hibert.

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