

Susman Godfrey Secures Affirmance of \$17 Million Summary Judgement Win from the Fort Worth Court of Appeals for Client Macquarie US Trading LLC

The Second Circuit Court of Appeals in Fort Worth, Texas has affirmed a summary judgment ruling in favor of Susman Godfrey Client, Macquarie US Trading LLC, that dismissed 1701 Commerce Acquisition LLC's \$17 million breach of contract claim.

In 2016, Macquarie loaned \$35 million to 1701 Commerce, which owned the Sheraton Fort Worth Downtown Hotel. Macquarie alleges that, between 2016 and 2018, 1701 Commerce committed two events of default under the parties' Loan Agreement: (1) prepaying a \$21 million junior loan, and (2) exercising a parking lot option, both without Macquarie's prior written consent. Given these defaults, Macquarie began charging 5% default interest.

1701 Commerce later filed suit against Macquarie, claiming that it did not default under the Loan Agreement, that Macquarie was in breach of contract by charging default interest, and that Macquarie's disclosing of these defaults while attempting to sell the loan caused the hotel to lose approximately \$15 million in value. 1701 Commerce also sought to recover the default interest it paid and attorneys' fees. Overall, 1701 Commerce claimed approximately \$17 million in damages from Macquarie.

In 2020, Susman Godfrey moved for summary judgment on behalf of Macquarie, arguing that 1701 Commerce committed the events of default at issue and the default interest Macquarie charged was warranted. Susman Godfrey further argued that even if 1701 Commerce did not default, there was zero evidence supporting its \$15 million devaluation claim.

The trial court granted the motion for summary judgment in its entirety, and in August 2022 the Second Court of Appeals affirmed the trial court's ruling that Macquarie was entitled to summary judgement against 1701 Commerce on all of its claims and further held that 1701 Commerce was not entitled to any recovery "We are thrilled that the Court of Appeals has supported the District Court's ruling," said lead counsel, [Bill Merrill](#).

Merrill was joined on the matter by Associate [Ryan Weiss](#), who was instrumental in the win. Specifically, Weiss drafted, and joined Merrill in arguing, the motion for summary judgment. Weiss also drafted a critical motion for reconsideration earlier in the case, which the Court granted. That resulted in 1701 Commerce being ordered to produce documents it had previously withheld, which were central to the team's summary judgment win.

The case is *1701 Commerce Acquisition, LLC v. Macquarie US Trading, LLC*, number 02-21-00333-CV in the Second Court of Appeals, Fort Worth.