

The Appellate Advocate: A Recap of Recent Decisions by NJ's Appellate Courts



The Stabile Law Firm v. Le Cuyer No. A-0940-23

This case caught my eye because it covers two issues that should be at the front of mind (or back of mind, wherever the important things go) for all lawyers. First, the value in having a written agreement covering the scope of the representation. Second, the importance of treating every trial like it might one day be reviewed by an appellate court—and therefore preserving all potential appellate issues.

The Stabile Law Firm, LLC (our beleaguered plaintiff) squared off against one very disgruntled defendant, Adam Le Cuyer. The drama unfolded in the Special Civil Part, where things got heated over Stabile's \$750 fee.

Let's start at the beginning. Stabile kicked off its presentation at the trial court with a bold claim: "Pay us our fee, we represented you!" This should have been a straightforward book-account claim. After all, Le Cuyer had already paid the fee—until he didn't (more on that later). But things didn't go according to plan.

Maybe we should go back farther, to the beginning of the beginning. Le Cuyer had been looking for legal help with a shoplifting charge and paid the \$750 fee to Stabile in advance of his court hearing. But Le Cuyer wasn't exactly thrilled with the services he received. When his main guy, Richard Preston, couldn't make the hearing, Preston sent a per diem attorney. What followed? A Zoom hearing that Adam claimed was like being compelled to plead guilty without fully understanding what was happening.

Le Cuyer then pulled the rug out from under the \$750 fee: he directed his credit-card company to halt payment. Ouch. No money for the firm.

Now let's go back to the Special Civil Part for the one-day bench trial. Preston testified, claiming there was a "verbal agreement" for the fee while conceding he had never reduced it to writing. No written agreement, nothing signed, just an attorney-client relationship on vibes alone. Le Cuyer testified, claiming that he could not recall even speaking to the municipal judge. Le Cuyer said that the per diem attorney simply told him via Zoom on the day of the trial that the matter was over.

This is where the opinion really caught my eye. The judges provided some guidance that is instructive for all litigators, no matter their practice area. First, the appellate panel emphasized that attorney-client agreements are held to higher standards than the typical contract. If the attorney has not “regularly represented” the client, then fee arrangements “shall” (a/k/a must, all the time, no exceptions, until oblivion) be communicated in writing. Second, the appellate panel considered arguments that Stabile raised for the first time on appeal. Or more like the panel considered them for approximately one second. Stabile argued that, even in the absence of a written agreement, it was still entitled to its fee via quantum meruit. Which means, according to Stabile, that it would be unjust for Stabile to receive no compensation when it had indisputably provided at least some services. The panel said Stabile’s failure to raise this theory at trial was Stabile’s undoing.

Until next time, let’s remember: always get it in writing. And always raise your arguments at trial if you want to have them around for a potential appeal.

About Thomas Cotton

Thomas Cotton is a litigation partner at Schenck Price, representing clients in trial and appellate courts throughout the United States. In addition to his practice, he authors *The Appellate Advocate*, a semi-weekly blog offering thoughtful yet accessible commentary on recent appellate rulings.



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