

In The News

Pratt's Journal of Bankruptcy Law Publishes David Otero's Analysis of Rodriguez v. Federal Deposit Insurance Corp.

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Pratt's Journal of Bankruptcy Law published David Otero's analysis of *Simon E. Rodriguez v. Federal Deposit Insurance Corp.*, which the U.S. Supreme Court heard arguments on December 3, 2019.

“The Supreme Court granted *certiorari* in *Rodriguez* to decide whether state law or federal common law decides who owns the tax refund, but at oral argument, it became apparent that the issue may not be the subject of, in the words of Justice Ginsburg, “adversarial confrontation” and thus improper to decide in the context of this case.

At oral argument, it became immediately apparent that the Court may never reach the question for which *certiorari* was granted as neither side defended federal common law known as the *Bob Richards* rule. Instead, both sides merely argued the issue of whether the U.S. Court of Appeals for the Tenth Circuit correctly applied state law.

If ultimately decided, the case could have a significant impact on whether a parent or its subsidiary receives a refund or pays a tax liability in the event of insolvency.”

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