

Greenbaum Attorneys Prevail in Representation of Lottery Winners Against NJ Division of Taxation

October 5, 2016

On September 26, 2016, Hon. Patrick DeAlmeida, the presiding judge of the Tax Court, issued an opinion in favor of the firm's clients in the matter *Harrington, et al. v. Director, Division of Taxation, et al*, in which we represented a group of former co-workers who won a \$216 million jackpot in New Jersey's Mega Millions lottery contest. At the time, this windfall represented one of the largest wins in the history of the New Jersey Lottery.

When our clients purchased their ticket, won the jackpot, and received their winnings, New Jersey law clearly stated that lottery winnings were exempt from state income tax. The tax exemption was designed to encourage players to play in New Jersey, rather than one of the surrounding states, and the New Jersey Lottery prominently advertised the exemption on its website and in other promotional materials.

Only months after our clients won and collected their winnings, the State changed the rules and attempted to retroactively tax lottery winnings. As a result of this change in the law, each of our clients was subjected to a very substantial state tax liability. We represented the clients in challenging the imposition of the tax.

Judge DeAlmeida granted partial summary judgment in favor of our clients, holding that the State had failed to turn "square corners" in dealing with our clients. Judge DeAlmeida explained that when the State entered the marketplace and made representations about the taxability of winnings to encourage the sale of tickets, it was bound by those representations, which became part of the contract formed when lottery players purchase tickets. As Judge DeAlmeida explained: "The State must abide by its obligation to act fairly and with compunction with dealing with the public. That obligation includes abiding by the representations it made to the public to encourage the sale of lottery tickets prior to the June 29, 2009 extension of the gross income tax to certain New Jersey lottery winnings."

William D. Grand, a partner in the firm's Litigation Department, led the firm's representation of the plaintiffs in this matter, with support from associate **Steven B. Gladis**.