

STATE OF NEW HAMPSHIRE

HILLSBOROUGH, SS  
SOUTHERN DISTRICT

SUPERIOR COURT

JANE DOE

v.

NEW HAMPSHIRE LOTTERY COMMISSION

Docket No.: \_\_\_\_\_

**COMPLAINT FOR DECLARATORY JUDGMENT AND INJUNCTIVE RELIEF AND  
REQUEST FOR IMMEDIATE AND EXPEDITED HEARING AS TIME IS OF THE  
ESSENCE**

Petitioner Jane Doe, by and through undersigned counsel, files this Complaint for Declaratory Judgment, stating as follows:

INTRODUCTION

Petitioner Jane Doe seeks a declaration pursuant to RSA 491:22 that records identifying her as the owner of a winning Powerball ticket and claimant of the jackpot are exempt from disclosure under RSA 91-A:5, IV because such disclosure would constitute a significant invasion of her privacy, and for injunctive relief attendant thereto.

Petitioner purchased a \$560 million winning lottery ticket and is ready to collect her winnings. Consistent with the New Hampshire Lottery Commission ("Commission") rules and regulations, as well as recognized prior practices, this Petition seeks a court order that authorizes Petitioner to maintain her privacy and to have the trustee of a designated trust be the public face of the winning ticket. There is precedence for this as it was done on September 12, 2016 when the Commission at a gala event presented the Robin Egg 2016 Nominee Trust with an outsized cardboard check in the amount of Four Hundred and Eighty-Seven Million.

<https://patch.com/new-hampshire/concord-nh/487-million-nh-powerball-winners-stay-anonymous>. The relief we seek is to continue this lawfully authorized approach, thus to any Right to Know request the trust will be identified as the winner of the lottery prize.

Petitioner purchased the winning ticket at Reed's Ferry Market. When the winning numbers were announced, like millions of others, she expectantly read the numbers on her ticket, with much hope and little expectation. She read and reread and reread them again; there was a match. The immediate emotions were raw and conflicting --- awe, disbelief, and an unexpected one: panic about how to protect a piece of paper that is most often casually thrown away along with the whimsical hope of being a winner.

Without the aid of counsel, Petitioner went to the Commission website and read the instructions on the back of her winning ticket. She learned that the ticket was "a bearer instrument until such time as a signature is placed in the designated area . . . ." Following the Commission's instructions, she printed her name, address, city, and phone number, and signed the back of the ticket. She secured the ticket in a safe place and contacted counsel. Only then did she learn that under current practice, had the ticket been signed by the trustee of a designated trust, she could have maintained her privacy, but that by signing the ticket her privacy was forever lost. She has described this signing as "a huge mistake." The ticket has not yet been submitted to the Commission.

Petitioner deeply values her privacy. She is a long-time resident of New Hampshire and is an engaged community member. She wishes to continue this work and the freedom to walk into a grocery store or attend public events without being known or targeted as the winner of a half-billion dollars. She wishes to remain in New Hampshire and give back to the State and community that has given so much to her. With that in mind, she has created a trust, through

which she intends to distribute her winnings, in a careful and deliberate manner. She intends to contribute a portion of her winnings to a charitable foundation, so that they may do good in the world. She wishes to be a silent witness to these good works, far from the glare and misfortune that has often fallen upon other lottery "winners".

The relief sought is consistent with New Hampshire law. Due to the size of the award --- over half billion dollars --- Petitioner seeks to have her name, town of residence, and other identifying information remain exempt from disclosure pursuant to the privacy exemption of RSA 91-A. Once the exemption has been judicially determined, Petitioner further requests that the Court authorize the assignment of the winning ticket to a trust pursuant to the requirements of N.H. Admin. Rule Sw 503.01, in order that funds may be collected in a timely manner. Petitioner requests that any identifying information related to the assignor (that is, Petitioner) in the assignment document be similarly exempt from disclosure.

In the alternative, Petitioner requests that she will be allowed - in the presence of the Commission - to white out her name, address, phone and signature and replace the information with that of the trust with the original ticket be preserved and sealed, and exempt from disclosure.

The funds were available for distribution on January 22, 2018. Without the ticket being redeemed interest is being lost to the Petitioner on a daily basis. The ticket needs to be redeemed within one year. Time is of the essence.

## PARTIES

1. Petitioner Jane Doe (“Petitioner” or “Ms. Doe”) is a resident of New Hampshire living within the jurisdiction of this Court. She is the owner of the winning ticket for the January 6, 2018 Powerball drawing.

2. Respondent New Hampshire Lottery Commission (the “Commission”) is an administrative body of the State of New Hampshire, established by statute pursuant to RSA 284:21-a, and having a principal place of business at 14 Integra Drive, Concord, New Hampshire.

## JURISDICTION AND VENUE

3. The Court has jurisdiction over this matter pursuant to RSA 491:7, RSA 491:22 and RSA 498:1.

4. Venue is proper in Hillsborough County South pursuant to RSA 507:9 because the Petitioner resides in a locality within its jurisdiction.

## FACTUAL BACKGROUND

5. Petitioner Jane Doe purchased the winning ticket for the Powerball drawing held on January 6, 2018.

6. The jackpot for the January 6, 2018 drawing was approximately \$560 Million.

7. Upon learning that she was in possession of the winning ticket, Ms. Doe completed and signed the back of the ticket, which she understood she was required to do as directed by information contained on the Commission’s website. *See* “How to Claim Your Prize,” NH Lottery Commission (accessed January 20, 2018),

<https://www.nhlottery.com/Winners/Prize-Claiming.aspx> (“Complete the back of the ticket with your name, address and telephone number and sign the ticket.”).<sup>1</sup>

8. After completing and signing the ticket, Ms. Doe met with counsel and learned for the first time that a trust could sign for and collect the winnings, thus preserving her privacy.

9. Following engagement by Ms. Doe, counsel contacted the Commission to discuss her options in claiming the prize.

10. A photocopy of the front of Ms. Doe’s ticket was presented to the Commission, which confirmed that Ms. Doe’s ticket was the winning ticket for the January 6 drawing.

11. In response to an inquiry from counsel as to whether Ms. Doe could remain anonymous as the winner despite already having completed and signed the back of her ticket, the Commission stated that it would be compelled to disclose records identifying Ms. Doe as the winner in response to a request submitted pursuant to New Hampshire’s “Right to Know Law,” as codified at RSA Chapter 91-A.

12. Counsel then inquired whether Ms. Doe in the presence of the Commission could white out her personal identity on the ticket and replace it with the name of the trust and still be able to collect the prize in the name of the trust. This would provide her with the same protections afforded to other lottery winners that accepted the prize in the name of the trust. The request was denied on the ground that any alteration of the ticket would make it invalid.

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<sup>1</sup> This advice is legal in nature and highly questionable. If advice is to be given it should be, “Before Signing a Winning Ticket It May Be Appropriate to Seek Legal Advice.” If Ms. Doe had contacted experienced counsel prior to signing the ticket the advice would have been direct: “don’t sign it; put the ticket in a safety deposit box and then let’s talk.” <https://www.shaheengordon.com/New-Hampshire-Legal-Blog/2018/January/Attorney-William-Shaheen-Has-Advice-for-New-Powe.aspx>. Attorney William Zorn who has represented a number of lottery winners would say the same. <http://www.seacoastonline.com/article/20040225/news/302259987>. The Commission may promulgate this inaccurate advice for the sole purpose of increasing the ticket sales. A photograph of the winner with an oversized check enhances the Cinderella story that everyone is a possible winner despite the overwhelming odds.

13. The Commission represented that in its experience, and/or the experience of the lottery commissions of other states, there is always at least one request that seeks disclosure of the winner's identity.

14. Because of the size of the award, it is expected that the Commission will request to have Ms. Doe participate in a publicized event when she claims the Powerball prize, complete with oversized check. If a trust is the recipient, then the trustee of the trust could and would attend the public event.

15. Ms. Doe desires to remain anonymous as the winner of the January 6, 2018 Powerball drawing, and therefore seeks a declaration from this Court pursuant to RSA 491:22 that any records identifying her as the winner of the Powerball --- including but not limited to the information on the back of the ticket -- are exempt from disclosure under the Right to Know Law, and that the disclosure of any records relating to any assignment of the jackpot by her to a trust that would identify her as the winner are similarly exempt from disclosure by either the Commission or the Court, and for related injunctive relief.

**I. The history of lottery winners in the United States and elsewhere provide countless examples of lottery winners facing violence, threats, scams, harassment, and endless solicitations as a consequence of the disclosure of their identities as winners.**

16. As a lottery jackpot winner, Ms. Doe is now part of a small demographic which has historically been victimized by the unscrupulous with life threatening consequences. Previous winners have been the victims of violence, threats, harassment, scams, and constant unwanted solicitation:

- a. In 2017, a Powerball jackpot winner in Massachusetts required police surveillance at her home after media and other individuals arrived in her neighborhood, knocking on doors and harassing neighbors in an attempt to

locate her. *Police Boost Patrols Around Home of \$758.7 million Powerball Winner*, CNBC (August 26, 2017, 3:32 AM), available at <https://www.cnbc.com/2017/08/26/police-boost-patrols-around-home-of-758-point-7-million-powerball-winner.html>.

- b. In 2016, the winner of \$434,272 in the Georgia lottery was murdered when armed gunmen shot through his door and demanded money. Lindsey Bever, *Seven Charged in Killing of Georgia Lottery Winner During Home Invasion*, The Washington Post (March 29, 2016), available at [https://www.washingtonpost.com/news/morning-mix/wp/2016/03/29/seven-charged-in-killing-of-georgia-lottery-winner-during-home-invasion/?tid=a\\_mcntx&utm\\_term=.cdfc14f7645a](https://www.washingtonpost.com/news/morning-mix/wp/2016/03/29/seven-charged-in-killing-of-georgia-lottery-winner-during-home-invasion/?tid=a_mcntx&utm_term=.cdfc14f7645a).
- c. In 2009, a Florida lottery winner was murdered by a woman who had first approached him under the guise of being a financial advisor, but who ultimately swindled him out of all his winnings before killing him and burying him in her backyard. Kevin Dolak and Adam Sechrist, *Lottery Murder: DeeDee Moore Found Guilty*, ABC News (Dec. 10, 2012), <http://abcnews.go.com/US/lottery-murder-deedee-moore-found-guilty/story?id=17926009>.
- d. A 2005 lottery winner from the United Kingdom became the victim of a con-man who scammed him out of \$1.1 million. Nick Carbone, *The Tragic Stories of the Lottery's Unluckiest Winners: Keith Gough*, Time.com (Nov, 27, 2012), <http://newsfeed.time.com/2012/11/28/500-million-powerball->

jackpot-the-tragic-stories-of-the-lotterys-unluckiest-winners/slide/keith-gough/.

- e. A 2002 Powerball winner was the victim of numerous thefts from 2003 through 2007, totaling over \$700,000 lost. Terri Pous, *The Tragic Stories of the Lottery's Unluckiest Winners: Andrew "Jack" Whittaker*, Time.com (Nov. 27, 2012), <http://newsfeed.time.com/2012/11/28/500-million-powerball-jackpot-the-tragic-stories-of-the-lotterys-unluckiest-winners/slide/andrew-jack-whittaker/>.
- f. A 1984 Illinois lottery winner has faced bomb threats, unreasonable expectations of generosity, and “[m]ore than 1,000 letters from strangers trying to tug at his heartstrings.” *Can You Spare a Million?: Why It Pays to Stay Anonymous After Lottery Win*, NBC News (Apr. 2, 2014), <https://www.nbcnews.com/news/us-news/can-you-spare-million-why-it-pays-stay-anonymous-after-n70071>.

17. There are countless stories of other lottery winners who have suffered significantly after receiving their money, many of which could have been avoided if the winners' identities had not been published.

18. The Commission recognized the serious impact that winning the Powerball can have on a winner's life when its executive director stated, following the decision of the New Hampshire winner of the July 30, 2017 Powerball drawing to claim his/her winnings through a trust, that the jackpot in that drawing (\$487 Million) was “[l]ife altering money” and the winner's decision to claim the prize through a trust was done in an effort “to try to live as normal a life as possible.” Certainly, the jackpot of almost \$560 Million is as “life altering” for Ms.



Doe, and the disclosure of her identity as the winner of such a sum will destroy any chance she may have of living “as normal a life as possible.”

**II. Due to the size of the prize Ms. Doe and her family can expect to face the same risks of financial and physical harm as previous lottery winners and others who quickly come into large sums of money.**

19. Despite its bucolic beauty, New Hampshire is not immune from crime, as is apparent from this court’s docket and recent national stories of this State’s opioid crisis. Attorney William Zorn has represented seventeen (17) lottery winners and assists them in maintaining their privacy and keeping their identities confidential. Confidentiality and privacy are the primary concerns of his clients and his advice for any lottery winner is to claim the prize through a trust and to immediately change their telephone number in case their identity is disclosed. Real events for his clients give force to his advice. One of his clients, fearful of a home invasion, slept with a gun by his bedside; another had strangers knocking on his door asking for money. *See Zorn Affidavit*, attached as Ex. A. The size of the prize in this case only enhances these risks for Ms. Doe.

20. David Desmaris is a certified public accountant that has over twenty years of experience working with private clients who have had sudden multi-million-dollar wealth creation events, including large inheritances, lottery winnings, IPOs, and similar events. Some of his experiences are detailed in his Declaration. His advice is reasonable and you do not need to be an expert to provide it. If you are a winner of over half- billion dollars and your privacy is breached, get private security to protect you and your family and go to a place where you are not known, at least for the immediate future. *See Desmaris Affidavit*, attached as Ex. B.

**III. The Commission's rules allow for anonymity by permitting a winner to claim and receive a prize through a trust.**

21. The Commission administers lottery games in New Hampshire in accordance with its implementing statute at RSA 284:21-A-V and its rules at N.H. Admin R. Chapter Sw 100 *et seq.*

22. The Commission is a member of the Multi-State Lottery Association ("MUSL"), which operates the interstate facets of various lottery games, including Powerball, and drafts rules for each game that are adopted by each member state lottery commission. "Multi-State Lottery Association" (accessed Jan. 20, 2018), <https://www.musl.com/>.

23. The Commission's rules for the Powerball game at N.H. Admin. R. Chapter Sw 3000 are adapted from the Powerball rules established by the MUSL at "PB Rules" 26-34 and A-H. *See* "Powerball Game Rules," NH Lottery Commission (accessed Jan. 20, 2018), <https://www.nhlottery.com/About-Us/Games-Rules/Powerball.aspx>.

24. The Commission discloses the identity of New Hampshire Powerball winners to the MUSL for publication on the Powerball website. *See* "Powerball Winners," Powerball.com (accessed Jan. 20, 2018), [http://www.powerball.com/powerball/pb\\_stories.asp](http://www.powerball.com/powerball/pb_stories.asp) ("2016 Winners . . . Robin Egg 2016 Nominee Trust . . . New Hampshire . . .").

25. The Commission's rules require that a winner complete and sign the back of a winning Powerball ticket before being able to claim the prize, *see* N.H. Admin. R. Sw 602.01(c), 3001.02(g) and 3001.07(a).

26. The Commission's rules do not require that the person claiming the Powerball prize be the same person that purchased the winning ticket. *See, generally,* N.H. Admin. R. Chapter Sw 500.

27. In fact, the Commission's rules confirm that "[a] powerball ticket [is] a bearer instrument until such time as a signature is placed in the designated area on the back of the ticket." NH. Admin. R. 3001.02(g). Accordingly, anyone may claim a Powerball jackpot by signing the back of the winning ticket.

28. The last winning Powerball ticket sold in New Hampshire on July 30, 2016 was claimed by a trust: the Robin Egg 2016 Nominee Trust. "Robin Egg 2016 Nominee Trust," Powerball.com (accessed Jan. 20, 2018), [http://www.powerball.com/powerball/winners/2016/NH\\_RobinEggTrust073016.shtml](http://www.powerball.com/powerball/winners/2016/NH_RobinEggTrust073016.shtml). In that instance, a trustee of the trust signed the ticket and appeared at the Commission's headquarters to claim the prize.

29. Because she has already signed the back of the winning ticket, as instructed by the Commission, Ms. Doe is unable to now claim the Powerball jackpot anonymously in the same manner as did the Robin Egg 2016 Nominee Trust. To avoid the many disastrous outcomes described above, she nonetheless desires to remain anonymous and seeks judicial intervention to preserve her heightened right to privacy.

**IV. The Commission's rules also allow winners to assign their prizes to a trust, and provide that information relative to such assignment may be kept confidential.**

30. The Commission's rules also provide that payment of the prize may be made to a person or entity other than the winner – such as a trust – in accordance with a valid assignment meeting certain requirements. N.H. Admin. R. Sw 503.01(c).

31. The Commission's rules specifically provide: "Any records resulting from an assignment under this section **shall be exempt from disclosure providing such records are of the types specified in RSA 91-A:5.**" N.H. Admin. R. Sw 503.05 (emphasis added).

32. Additionally, the New Hampshire Lottery Intercept, which requires a search of the records of the New Hampshire Department of Health and Human Services, Division of Child Support Services (“DCSS”) to determine whether a lottery winner owes any unpaid child support payments, requires that “No person or organization, other than DCSS, shall be granted access to any **personally identifiable information regarding any claimant** obtained by the lottery intercept program, except as permitted by law or rule.” N.H. Admin. R. Sw 902.04(a) (emphasis added). *See also* RSA 284:21-v (“The lottery commission shall also provide, by rule, **safeguards against the disclosure** or inappropriate use of any personally identifiable information regarding any person obtained pursuant to this section.” (emphasis added)).

33. Thus, the Commission’s own rules and authorizing statute contemplate the exemption of identifying records from the disclosure requirements under the Right to Know Law, and even provide additional protection for “personally identifiable information” of winners who are behind on child support payments.

**V. Information relative to Ms. Doe’s identity as a lottery winner is exempt from disclosure in response to a request made pursuant to the Right to Know Law because such disclosure would constitute an invasion of privacy.**

34. New Hampshire’s Right to Know Law serves the important purpose of furthering the “state constitutional requirement that the public’s right of access to governmental proceedings and records shall not be unreasonably restricted.” *Murray v. N.H. Div. of State Police*, 154 N.H. 579, 581 (2006). Accordingly, the Right to Know Law provides citizens with the ability to request and receive documents associated with the mechanics of government and various public agencies. *See, generally*, RSA Chapter 91-A.

35. In recognition that the public’s interest in government activity must be balanced against the privacy interests of individuals, the Right to Know Law specifies that certain

categories of information are expressly exempt from disclosure in response to a request for public records made pursuant to the Right to Know Law. RSA 91-A:5. Among these exempt categories are “files whose disclosure would constitute invasion of privacy.” RSA 91-A:5, IV.

36. New Hampshire law implements a three-step analysis to determine whether disclosure of public records would constitute an invasion of privacy such as would exempt the records from disclosure under the Right to Know Law. *Lambert v. Belknap County Convention*, 157 N.H. 375, 382 (2008). First, the Court evaluates “whether there is a privacy interest at stake that would be invaded by the disclosure.” *Id.* Second, the Court considers “the public’s interest in disclosure.” *Id.* at 383. Third, the Court balances “the public interest in disclosure against . . . the individual’s privacy interest in nondisclosure.” *Id.*

37. “[T]he central purpose of the Right-to-Know Law is to ensure that the Government’s activities be opened to the sharp eye of public scrutiny, not that information about private citizens that happens to be in the warehouse of the Government be so disclosed.” *Lamy v. New Hampshire Pub. Utilities Comm’n*, 152 N.H. 106 (2005) (citation and quotation marks omitted) (holding that privacy interest of utility customers not to have their names and addresses disclosed outweighed public interest in the disclosure).

38. The disclosure of Ms. Doe’s identifying information would constitute an invasion of privacy because the limited public interest in disclosure is far outweighed by Ms. Doe’s interest in remaining anonymous.

- A. The disclosure of Ms. Doe as the Powerball winner would invade her substantial privacy interest in protecting her identity and would subject her to a heightened risk of physical and financial harm.**

39. Whether Ms. Doe's identity is exempt from disclosure "is judged by an objective standard and not a party's subjective expectations." *Lambert*, 157 N.H. at 382-83. Where there is no privacy interest at stake, the Right to Know Law requires disclosure. *Id.* at 383.

40. Although the New Hampshire Supreme Court has held that there is a limited privacy interest where a person has willingly placed their identity at issue, *see id.* at 384 (holding that a candidate for public office has a diminished privacy expectation in their identity as a candidate), Ms. Doe has not willingly placed her identity at issue. By entering into a store and purchasing a Powerball ticket, Ms. Doe did not suddenly lose all expectation of privacy.

41. The New Hampshire Supreme Court has recognized that an individual has a substantial privacy interest in the nondisclosure of their identity where such disclosure would subject them to violence, threats of violence, harassment, and annoyance. *See New Hampshire Right to Life v. Dir., New Hampshire Charitable Trusts Unit*, 169 N.H. 95, 117-120 (2016). In *New Hampshire Right to Life*, the Supreme Court held that disclosure of the identities of employees of reproductive clinics was exempt under RSA 91-A:5, IV as "files whose disclosure would constitute invasion of privacy," because of the "the history nationally of harassment and violence associated with the provision of abortion services" and the attendant risk of violence to the clinic employees. *Id.* A similar history of "harassment and violence" is associated with winners of large lottery prizes, and a winner's interest in nondisclosure of their identity is directly correlated with the size of the jackpot.

42. The sheer size of Ms. Doe's winnings (approximately \$560 Million) is certain to attract unwanted and malicious attention. Accordingly, Ms. Doe's interest in not having her identity disclosed weighs heavily in the Right to Know analysis.

**B. There is no significant public interest in the disclosure of Ms. Doe's identity as the Powerball winner.**

43. The express purpose of disclosing information in response to a request made under the Right to Know Law is to "inform the public about the conduct and activities of their government." *Lambert*, 157 N.H. at 383. When a disclosure would not serve this function, "disclosure would not be warranted even though the public may nonetheless prefer, albeit for other reasons, that the information be released." *Id.*

44. While the public certainly has an interest in the transparent administration and operation of its lottery games, such an interest does not extend to the *identity* of jackpot winners.

45. Beyond ensuring that lottery funds are properly disbursed, which is accomplished through the rules promulgated by the Commission at NH Admin. R. Sw 600 & 3000 providing for a thorough ticket verification process, there is little public interest in making the winner's identity publicly available.<sup>2</sup>

**C. Ms. Doe's privacy interest heavily outweighs the interest of the public in knowing her identity, and therefore records identifying her as the Powerball winner should be exempt from disclosure under the Right to Know Law.**

46. As described above, Ms. Doe has a substantial interest in the nondisclosure of her identity as the winner of the January 6, 2018 Powerball drawing. Given the tragedies that so frequently befall lottery winners because of the publication of their identities, Ms. Doe, who has

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<sup>2</sup> On information and belief there was only one right to know request following the announcement that Robin Egg 2016 Nominee Trust was the purchaser of the July 2016 winning ticket.

won the 7th largest lottery jackpot in US history, has a significant interest in avoiding public disclosure of her identity so as to avoid any such tragedy.

47. Ms. Doe's privacy interest substantially outweighs the insignificant public interest in the disclosure of her identity as the winner of the Powerball drawing. Accordingly, all records identifying her as the Powerball winner should be exempt from disclosure under the Right to Know Law.

COUNT I  
Declaratory Judgment  
Against the Commission

48. Ms. Doe incorporates all of the preceding paragraphs as if fully restated herein.

49. In light of the facts alleged herein, Ms. Doe seeks a declaration that records which would divulge her identity as the winner of the January 6 Powerball drawing, including, but not limited to, records resulting from an assignment of the Powerball prize to a trust in accordance with N.H. Admin R. Sw 503.01(c), are exempt from disclosure pursuant to RSA 91-A:5, IV on the basis that such information would constitute an invasion of privacy.

COUNT II

50. Ms. Doe incorporates all of the preceding paragraphs as if fully restated herein.

51. Judicially authorize Ms. Doe to alter the personal identifiers on the back of the ticket and replace them with identifiers of her trust without invalidating the ticket and allowing payment to be made to her trust.

COUNT III  
Permanent Injunction  
Against the Commission

52. Ms. Doe incorporates all of the preceding paragraphs as if fully restated herein.



53. Ms. Doe seeks an order permanently enjoining the Commission from disclosing Ms. Doe's identity as the winner of the January 6 Powerball drawing to any private individual or entity, including but not limited to the MUSL.

54. "It is within the trial court's sound discretion to grant an injunction after consideration of the facts and established principles of equity." *Town of Atkinson v. Malborn Realty Trust*, 164 N.H. 62, 66 (2012). The decision to grant equitable relief "necessarily depends upon the factual circumstances in each case." *Exeter Realty Co. v. Buck*, 104 N.H. 199, 200 (1962). "[B]ecause the division line between equity and law is not precise . . . courts have considerable discretion in determining whether equity should intervene to aid litigants in the protection of their legal rights." *Sands v. Stevens*, 121 N.H. 1008, 1011 (1981) (quotation omitted).

55. To the extent that the Commission has a practice of disclosing the identity of Powerball winners to the MUSL for publication on the Powerball website, or to some other individuals or entities, such disclosure would circumvent the protection of Ms. Doe's identity afforded by the exemption to the Right to Know Law. Accordingly, if the Court holds that records identifying Ms. Doe as the winner of the January 6 Powerball drawing, whether in conjunction with a valid assignment to a trust or not, are exempt from disclosure under the Right to Know Law as an invasion of her privacy, it should also issue an order enjoining the disclosure of such records to any individual or entity, including but not limited to the MUSL.

WHEREFORE, Petitioner requests the Court to enter the following relief:

- A. Set this matter for an expedited hearing;
- B. Declare that records which would divulge Petitioner's identity, including but not limited to records resulting from an assignment of the Powerball prize to a trust, are exempt from disclosure under the Right to Know Law;
- C. Issue an order enjoining the Commission from disclosing records identifying Ms. Doe as the Powerball winner to any individual or entity, including but not limited to the MUSL;
- D. Judicially authorize Ms. Doe to alter the personal identifiers on the back of the ticket and replace them with identifiers of her trust without invalidating the ticket and allowing payment to be made to her trust; and
- E. Grant such further relief as may be just and equitable.

Respectfully submitted,

JANE DOE,

By Her Attorneys,

SHAHEEN & GORDON, P.A.

Date: January 29, 2018



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# **EXHIBIT A**

## AFFIDAVIT OF WILLIAM V.A. ZORN

Now comes, William V.A. Zorn, upon his oath, deposes and states:

1. I am a practicing attorney and Director of McLane Middleton Professional Association with offices in New Hampshire, and Massachusetts. My resume is attached as Attachment A. I am a member in good standing with the New Hampshire bar. I reside in Londonderry, New Hampshire.
2. During my years of practice I have represented 17 lottery winners in New Hampshire, Vermont, Maine and Massachusetts. When representing lottery winners, I have assisted them in estate planning advice, income tax planning, asset protection, and general legal advice.
3. When representing lottery winners, one of the immediate concerns is to preserve the winner's anonymity. Lottery winners whose names become public are subject to immediate unwanted solicitations. Those solicitations come from a variety of sources – investment advisors (both legitimate and less honorable solicitors), charities, individuals who are down on their luck, and others looking to exploit the winners. Those approaches are made not only to the lottery winner, but also to family members including minor children. Those types of contacts are attested to in Attachment B, an article written concerning my clients Dale and Lorraine Greenwood (see page 2).
4. Several lottery winners whom I have represented have been concerned for their physical safety. One lottery winner who lived in an area with a high incidence of crime slept with a gun by his bedside until he was able to move.
5. Based on these experiences and those which are published in the popular press, the recommendation of having a Trust which does not identify the lottery winner is the absolute preferred method to claim a lottery winning ticket. Clients who have used this strategy have been able to keep their identity concealed and avoid malicious, unwanted and potentially threatening individuals from contacting them and avoid having major disruptions to their lives and their family's lives.
6. One of the additional action items which I recommend is to change the lottery winner's telephone number. In that way, if the identity of the lottery winner is found out, telephone contact is thwarted. That action was only partly successful for a client. Solicitors and individuals who were down on their luck continually came to his house and rang his doorbell. Ultimately the winner became so frustrated with people refusing to leave without a handout that he kept a wicker basket filled with \$1.00 bills which he would hand out to individuals and encourage them to take the same chance which he did.

I affirm under penalties of perjury that the foregoing statements are true and correct to the best of my knowledge and belief.

Witness my hand this 23rd day of January, 2018.

William V.A. Zorn  
William V.A. Zorn

STATE OF NEW HAMPSHIRE  
COUNTY OF HILLSBOROUGH

On this 23rd day of January, 2018, personally appeared before me the above-named William V.A. Zorn, and swore that the foregoing statements are true to the best of his knowledge and belief.

Caitlin G. McCurdy  
Notary Public/Justice of the Peace

My Commission Expires:

(Seal)



**WILLIAM V. A. ZORN**  
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***EDUCATION***

**DARTMOUTH COLLEGE**, Artium Baccalaureus, 1975

**BOSTON UNIVERSITY**, Juris Doctor, 1978

**BOSTON UNIVERSITY**, LL.M., Taxation, 1983

***EXPERIENCE***

**McLane Middleton, Professional Association** March 03, 1980 – Present  
Shareholder – 1986  
Chair, Trusts & Estates Department, 2000-2018

***LEGAL HONORS***

- Top 100 Lawyers in New England Super Lawyers (2014, 2015, 2017)
- Recognized in Woodward/White's Best Lawyers in America for Tax Law and Trusts & Estates Law (1991 to present)
- Recognized in Chambers USA: A Guide to America's Leading Lawyers in the Corporate/Commercial: Tax Category
- AV Preeminent Peer Review rating from Martindale-Hubbell
- Rated by New England Super Lawyers

***BAR ADMISSIONS***

- New Hampshire, 1978
- Massachusetts, 2003
- U.S. Tax Court, 1981

***LEGAL RELATED ACTIVITIES***

- New Hampshire Estate Planning Council, 1980 to present (member and former chair)
- New Hampshire Bar Association, 1980 to present (member and former chair of the Tax section, and member of the Real Property and Probate section and the Corporate section)
- American College of Trust and Estate Counsel (ACTEC), 2002 to present (member, Asset Protection Committee), State Chair Elect
- American Bar Association (member, Tax section)
- Massachusetts Bar Association, 2003 to present



## ***PUBLICATIONS***

- Co-authored the book, "New Hampshire Practice Series: Probate and Administration of Estates, Trusts & Guardianships, Fourth Edition (Vols. 10, 11 and 12)."
- Decanting Irrevocable Trusts in NH: Tips and Recent Developments
- Elder, Estate Planning & Probate Law: Making Trusts Beneficiaries of Qualified Retirement Accounts
- Legacy Giving: Tax Considerations for Sustained Philanthropy
- Recent Changes to New Hampshire's Trust Laws Are Good for Trustees and Our State Economy
- New Law Bodes Well for N.H. Trust Services
- Trust Code Revisions Enhance New Hampshire's Position
- What the Heck is Generation Skipping Transfer Tax Anyway?
- Estate and Gift Issues, Opportunities and Pitfalls in 2010
- NH Adopts Domestic Asset Protection
- Massachusetts Business Owners Will Soon Be Able to Better Protect Assets by Moving Trusts to New Hampshire (Published in Boston Business Journal, October 17, 2008)

## ***INVOLVEMENT***

- Member, Board of Trustees, Derryfield School, Chair of the 50th Year Capital Campaign
- Former Member, Board of Directors, Greater Manchester Family YMCA
- Former member, Board of Directors, Greater Manchester Chapter of the American Red Cross
- Former President and member of the Board of Directors of Stage One Productions

ATTACHMENT B



# NEW HAMPSHIRE SUNDAY NEWS

"LIVE FREE OR DIE" GEN. JOHN STARK



47th YEAR (NO. 48)

100 PAGES

3 SECTIONS

MANCHESTER, N.H.

NOVEMBER 18, 1990

(56)

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\$1.50 - NEWSSTAND

## Winner, Beware



**LAWYER FOR LUCKY** — Attorney William V.A. Zorn helps lottery winners Dale and Lorraine Greenwood, formerly of Manchester.

### Hitting the Lottery Is Just the Beginning

By JEANNE MORRIS  
Sunday News Staff

Just imagine winning this week's record \$2.4 million New Hampshire Cash Lotto game and then regretting you ever signed the winning ticket. It could happen to you.

"There are a lot of things you don't realize," lottery winner Dale Greenwood, formerly of Manchester, said last week.

The only thought Greenwood had upon learning he won the \$7.5 million jackpot last year was "let's get up there and get that loot and worry about what to do with it later."

Nobody won Friday night's lotto game, sending its record jackpot to an estimated \$2.4 million. But whoever does

eventually win the pot may want to heed Greenwood's warning: "Find a lawyer before you cash the ticket."

Had Greenwood first found a lawyer, he would have never signed the ticket in his name. Instead, the ticket would be signed in the name of a trust fund designed to ensure payments continued uninterrupted to his family after his death and to reduce taxes.

Greenwood has tried, so far unsuccessfully, to change the ownership of the ticket so he can set up the trust.

"You just don't think about these things," he said.

Manchester attorney William V.A. Zorn, who has worked  
LOTTERY, Page 6A

# Don't Sign That Big Ticket Yet, Advises Lawyer

## There's Lots To Know and Do First

### LOTTERY

(Continued From Page 1A)

with seven lottery winners, including the Greenwoods, said signing the ticket is a common error.

"I have a list of dos and don'ts, and some issues for people to think about," he said.

Number one on the list: Don't sign the back of the ticket.

Tri-State lottery rules do not allow transferring ownership of the ticket, and that has caused problems for people like the Greenwoods and others.

"Put your ticket in a safe place, preferably in a safe deposit box, because once you sign the ticket, there's no turning back the hands of time," Zorn said.

"I would say the first thing people are always tempted to do sometimes before the winning ticket is determined is to sign the back of the ticket. That determines who won and who the winner of the ticket is," Zorn said.

"We're involved in a situation where there was an unmarried couple. One signed the back and the other one didn't. That presents a whole host of problems," he said.

"We frequently have people sign the back of the ticket as we set up a trust. Then the trust comes forward and claims the ticket," he said. "Sometimes you'll see in the paper that someone won the winning ticket and hasn't stepped forward, chances are they may be doing what we talked about."

Had the Greenwoods set up a trust in both the couple's names they would have been able to reduce the amount of inheritance tax in the event of Dale Greenwood's death.

In the case of lottery winners who receive payments over a period of years, a trust can help families avoid having their money tied up in probate court and allows payments to continue uninterrupted after the winner dies. Cash lotto winners, on the other hand, do not have to worry about

payments because the winnings are given in one payment.

Trusts can also help protect young children. For example, one of Zorn's clients is a single mother of three young sons. She wants her sons to be provided for if she dies before they are adults. A trust can be set up to do this.

"I think the money would probably go for fast cars rather than a college education, just guessing at what teenage boys prefer," Zorn said.

High up on the list of dos and don'ts is: Do change your telephone number.

"We recommend you get an unlisted telephone number," he said.

"The calls that come in are overwhelming. Anything from people offering so-called wonderful new investment opportunities to don't you want to buy some real estate to what you need is some insurance. There are a number of charities and needy individuals that certainly are worthy but you're besieged by these types of calls."

Zorn's "do list" is aimed at protecting the new found wealth and lifestyle.

Beyond picking the winning numbers, winners need to pick a lawyer, insurance program, accountant, financial planner and investment advisor.

There is suddenly a need to protect yourself from lawsuits because rich people (deep pockets) can be targets of lawsuits.

"Someone might say they slipped and fell on your step," Zorn said.

Zorn said it's important winners have all their insurance coverages up to the right level.

For those receiving payments over a period of years, Zorn recommends getting insurance that will pay off inheritance taxes in the event of an untimely death.

"If you pass away, there are federal and state taxes due on any amount more than \$600,000, and while it sounds unbelievable, what can happen is families may not have the money to pay the taxes," Zorn said.

A few months ago, members of one family of a deceased New York lottery winner were forced to sell the ticket because they could not afford the taxes. Because the winnings are paid over a period of 20 years, the possibility remains that there will not be enough cash to pay the inheritance tax within the nine-month time limit.

"It's ironic because you think you've got wealth beyond your wildest dreams," Zorn said.

The next step is to sit down with a financial planner to ensure there is money after the lottery payments end.

"I think a lot of them expect these winnings will carry them through the rest of their lives, but the winnings are only going to go on for 20 years so you need to set up a financial plan so that in 21 years after you've won there's still money coming in," Zorn said.

"You need to set aside an investment portion," he said.

Once the investment portion is determined, an investment advisor is needed to invest the money. And then there's always the need for an accountant to help with taxes.

The importance of getting a financial planner was underscored when one of Zorn's clients spent the money so fast that he ran out of cash after eight months. That person had to return to his former lifestyle until the next year's check arrived.

"Some people are lavish and some people are frugal. I don't think there's any rhyme or reason to that," Zorn said.

Frugal or not, most undergo a dramatic lifestyle change.

Lorraine Greenwood never returned to her job as a flier stuffer after learning they had won the jackpot, and Dale Greenwood, a self-employed contract trucker, sold his tractor-trailer. They were able to pay medical bills, move to a country home north of Manchester, and live comfortably with the winnings.



# **EXHIBIT B**

STATE OF NEW HAMPSHIRE

HILLSBOROUGH, SS  
SOUTHERN DISTRICT

SUPERIOR COURT

JANE DOE

v.

NEW HAMPSHIRE LOTTERY COMMISSION

Docket No.: \_\_\_\_\_

**AFFIDAVIT OF DAVID M. DESMARAIS**

I, David M. Desmarais, do hereby attest to the following facts:

1. I am a certified public accountant and Shareholder in the Private Client Services Group of the accounting and business consulting firm Kahn, Litwin, Renza & Co., Ltd, based out of KLR's Boston office. Prior to joining KLR, I worked at Grant Thornton, LLP and CCR LLP.
2. I hold a Bachelor's degree in accounting from the University of Massachusetts, a Master of Taxation from Northeastern University, and a Master of Business Administration from Nichols College.
3. I have over twenty years of experience working with private clients who have had sudden multi-million-dollar wealth creation events, including large inheritances, lottery winnings, IPOs, and similar events. In my career assisting these individuals manage their new-found wealth, I have seen the significant impact that such sudden wealth can have on individuals and their families, including the negative consequences that occur when they are unable to remain anonymous.
4. In my experience, the publication of these individuals' identities often leads to disastrous outcomes, including theft, ransom and harassment.

5. I have had clients who find it necessary to keep safes full of cash in their homes for use in the event a family member is kidnapped for ransom.

6. Many clients are forced to hire professional security teams to accompany their children on trips out of the country.

7. Numerous clients have become victims of Ponzi schemes and other scams, including Bernie Madoff's Ponzi scheme; these individuals were approached to participate in these scams as a direct result of their identities becoming public.


8. The dangers of having their identities publicized can force these high-wealth individuals to leave their communities permanently, change their identities, go into hiding, and maintain around the clock security.

9. The preservation of these individuals' anonymity allows them to remain in their communities and use their new wealth to give back to these same communities.

10. My advice to any lottery winner who is unable to claim their prize anonymously would be to immediately retain a personal security team to protect their safety and the safety of their family, and to immediately leave their current residence and permanently relocate to another location where no one knows them. In my professional opinion, a publicly-identified lottery winner could reasonably expect to face the same disastrous outcomes described above.

I certify under penalty of perjury that the foregoing is true and correct.

Date: January 23, 2018

  
\_\_\_\_\_  
David M. Desmarais, CPA/PFS, MST, AEP