

# Lottery Pool Members Win Big: Jury Divides Winnings in Absence of Written Agreement

by Dan Brecher on April 4, 2012

Several members of a New Jersey “lottery pool” won big when a jury recently awarded them \$20 million. The co-workers played the lottery as a pool and filed a lawsuit after they belatedly discovered the winning member hid that fact from them and tried to avoid splitting the proceeds with them.

The jury found that the ticket buyer was liable for breach of contract and fraud. The verdict is significant given that the co-workers had never entered into a [written contract](#) to split their potential winnings. Instead, the existence of the agreement was proven through oral testimony.

As reported by the *New Jersey Law Journal*, defendant Americo Lopes and his five co-workers were seasonal employees for Berto Construction in Rahway, New Jersey. For several years, the friends bought Mega Millions lottery tickets. When the jackpot reached \$50 million, Lopes collected the money and purchased twelve tickets.

In November 2009, Lopes bought 12 tickets, one of which turned out to be a winner. He was one of two winners and ultimately collected a lump sum with a gross value of \$24 million. Lopes never told the others he had won and later refused to split his winnings. The five members of the lottery pool subsequently filed suit.

At trial, Lopes testified that he bought the tickets for the November 2009 drawing for himself, separate from the pool. He stated that he did not collect money from his co-workers to buy lottery tickets that week. However, Lopes made other statements in his testimony that the jury apparently found undermined his credibility. As evidenced by the verdict, the jury was apparently convinced that the co-workers had been cheated out of their fair share of the winnings.

*The Message for New York and New Jersey Businesses*

As this case highlights, it is possible to prove the existence of an oral agreement. However, it is certainly more difficult and often involves a costly lawsuit. In addition, the jury may not always see it your way.

Therefore, when making a deal that has even the *potential* to involve a substantial sum, it is always best to put the agreement in writing. Under today’s rules of evidence, even emails and text messages can serve to influence the jury’s determination of disputed facts at trial. Better yet, consult with one of our [experienced business attorneys](#).

