

Daniel Wallach Quoted in Gambling Compliance about Prospects of Supreme Court Granting Certiorari in N.J. Sports Betting Controversy

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Deadline Looms In New Jersey's Million-Dollar Betting Battle

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Opponents of New Jersey's effort to argue its case for sports betting before the U.S Supreme Court face a May 14 deadline to submit briefs to the court as the Garden State approaches almost \$3m in legal fees to pursue its longshot appeal.

Gibson, Dunn & Crutcher, a global law firm founded in 1890 in Los Angeles, billed New Jersey taxpayers \$2.8m from August 2012 to the end of last year, according to the Associated Press. The firm also represents New Jersey Governor Chris Christie as he grapples with a scandal surrounding last September's lane closure at the George Washington Bridge which leads into New York City.

Former U.S. Solicitor General Ted Olson, who works in the firm's office in Washington, D.C., is defending New Jersey in a lawsuit filed by the four major sports leagues and the National Collegiate Athletic Association [2] (NCAA) to block sports betting in the Garden State. The leagues and the NCAA claim the Professional and Amateur Sports Protection Act [2] (PASPA) outlaws sports betting in all states except Nevada, Delaware, Montana and Oregon. Those four states allowed at least some form of sports betting before PASPA was enacted in 1992. After losing to the leagues and the NCAA last year in U.S. district court in

New Jersey and in a federal appeals court in Philadelphia, New Jersey appealed to the U.S. Supreme Court [3] in February.

The leagues and the NCAA now have until May 14 to submit legal briefs in response to New Jersey's appeal, which is also known as a petition for certiorari. The U.S. Supreme Court's decision on whether to hear New Jersey's case is expected by mid-June, but could be as late as the end of September, according to Daniel L. Wallach, an attorney with the Fort Lauderdale, Florida, firm of Becker & Poliakoff. "The court's last conference before the summer recess is June 26, 2014. If no action is taken on [New Jersey's] petition by that date, then the earliest that the court could conceivably act on that petition is September 29," Wallach said.

THREE OTHER STATES — WEST VIRGINIA, WISCONSIN AND WYOMING — SUBMITTED BRIEFS IN MARCH SUPPORTING NEW JERSEY. THE PACIFIC LEGAL FOUNDATION AND THE CATO INSTITUTE, A LIBERTARIAN THINK TANK IN WASHINGTON, D.C., also are backing New Jersey's appeal.

West Virginia also supported New Jersey's unsuccessful appeal last year [4] to the 3rd U.S. Circuit Court of Appeals in Philadelphia alongside Georgia, Kansas and Virginia.

"Even if the Supreme Court decides not to hear this case, that does not mean that state-authorized sports wagering is dead and buried," Wallach said. "It just means that it is over for New Jersey." Jeremy Frey, a Philadelphia attorney with Pepper Hamilton, said he is not impressed with New Jersey's petition to the U.S. Supreme Court.

"The arguments to invalidate the law (PASPA) as an unconstitutional exercise of the commerce power are thin," Frey said.

"Almost worse still, New Jersey could have long ago joined those few states with legal sports gambling but chose not to when the opportunity was still available [5] (in 1993)," Frey said. "The Supreme Court is singularly unlikely to wade into the political question presented by that choice."

Instead of paying a heavyweight law firm millions, New Jersey would be better off lobbying Congress to amend PASPA, Frey said.

"The obvious choice would be to offer all the states a new opt-in or opt-out period for regulated sports gambling," Frey said. "Or [Congress] could simply roll back the ban and allow the states to address the matter within their own borders as their legislatures see fit."

New Jersey Congressmen Frank LoBiondo, a Republican, and Frank Pallone, a Democrat, introduced two bills [6] in February 2013 to allow sports betting in New Jersey and other states. Both bills have only two co-sponsors and LoBiondo has acknowledged [7] New Jersey's best chance to overturn PASPA lies in the courts, not Congress.

