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Novack and Macey LLP's Recent Supreme Court Victory Is the Latest in a String of Victories on Behalf of Its Clients in Illinois Reviewing Courts

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On March 28, 2011, the Illinois Supreme Court denied a petition for rehearing, making final its December 23, 2010 decision in favor of Novack and Macey's client. That client, Millennium Park Joint Venture, operates the food concession in Millennium Park, including its flagship restaurant, The Park Grill.

The case began when the Cook County Assessor assessed a real estate tax against the Joint Venture. Novack and Macey attorneys challenged the assessment in the Circuit Court of Cook County, asserting that the Joint Venture's concession agreement with the Chicago Park District was a nontaxable license, not a taxable lease. In response, the Assessor argued: (1) that the Circuit Court did not have jurisdiction because the Joint Venture did not exhaust administrative remedies (the "Jurisdictional Issue"); and (2) that the Concession Agreement was a taxable lease (the "Lease/License Issue"). Arguing that the Joint Venture's Concession Agreement was a nontaxable license as to which the Assessor had no legal authority to assess — and relying on the "unauthorized by law" doctrine that dates back to an 1859 Illinois Supreme Court decision — Novack and Macey argued that the Joint Venture was permitted to skip the administrative process and go straight to court. The trial court agreed and entered summary judgment in favor of the Joint Venture.

The Appellate Court affirmed in a decision that was unanimous as to the Lease/License Issue, and was 2-1 as to the Jurisdictional Issue. The Supreme Court affirmed. ([Click here for the full Opinion.](#)) Its decision was unanimous as to the Lease/License Issue, and 4-3 on the Jurisdictional Issue. Novack and Macey attorneys [Steve Novack](#), [John Shonkwiler](#) and [Chris Moore](#) handled the matter, with Steve presenting the oral argument before the three courts.

This victory comes on the heels of a string of victories in the past year by Novack and Macey in the First, Second and Third Districts of the Illinois Appellate Court. Other victories include:

First District. In December 2010, Novack and Macey attorneys [Eric Macey](#) and [Courtney Tedrowe](#) convinced the First District Appellate Court to affirm a favorable trial court decision for their client, the Gerard M. Kenny Trust. The opinion affirmed the trial court's approval of an arbitration award of \$6.9 million for the Trust and the entry of judgment on that award against the appellant, Kenny Industries. The court further concluded that the trial court did not err in denying Kenny Industries' request to stay entry or enforcement of the judgment.

Second District. One of Novack and Macey's law firm clients was sued, along with a number of other defendants represented by other counsel, in a multi-million dollar suit brought in McHenry County by trust beneficiaries. Novack and Macey attorneys (including [Steve Novack](#) and [Mitch Marinello](#)) successfully obtained dismissal of the law firm in the trial court. The beneficiaries appealed. [Steve Novack](#) orally argued the appeal and the Second District Appellate Court affirmed the dismissal. Later, the Supreme Court denied the beneficiaries' petition for leave to appeal and the dismissal became final. The case continues to pend against the other defendants.

Third District. On behalf of one of its real estate developer clients, Novack and Macey filed suit in Will

County Circuit Court seeking to prevent interference by the County and the applicable village with the client's shopping center development and to obtain money damages from the village and its trustees. As to the shopping center, the trial court ruled in favor of Novack and Macey's client and the shopping center is open and running. However, the court dismissed the money damage claims, holding that the defendants were protected by governmental immunity. On behalf of the real estate developer, Novack and Macey attorneys [Steve Novack](#), [Don Tarkington](#) and [Josh Liebman](#) filed an appeal to the Third District Illinois Appellate Court. After oral argument (made by [Steve Novack](#)), the Appellate Court reversed the dismissal. The case is still pending.