

January 14, 2018



## **Supreme Court Grants Motion for Leave to Appeal by Maccabi Healthcare Services, an *ERCG* Client**

**On October 23, 2017, the Supreme Court granted the Motion for Leave to Appeal by the HMO, Maccabi Healthcare Services, an *ERCG* Client, and held that there were no grounds to allow a derivative action by a member of an HMO to be filed on behalf of the HMO.**

Members of the Maccabi HMO claimed that HMOs operating in Israel (including Maccabi) were required to invoke the right of contribution versus insurance companies providing additional health insurance to HMO members. The expert opinion of Prof. Asher Blass, CEO of *ERCG*, that was filed by Maccabi Healthcare Services in the proceedings and submitted to the Attorney General, specified 44 economic, professional and technical flaws in the expert opinion that had been filed on behalf of the HMO members.

Supreme Court Justice, the Honorable Justice Yitzhak Amit, held that HMOs have unique characteristics, are subject to different regulation, have a different relationship with their members and that these should all be addressed in the framework of the proceeding. The conclusion was that a member of an HMO does not have the ordinary status of a “member” of a corporation and that “the chapter of the Companies Law that deals with derivative actions should not be ‘imported’ into the National Health Insurance Law through the case law.”

Maccabi Healthcare Services was represented by Adv. Dr. Asaf Rentsler and Adv. Guy Wertheim of S. Horowitz & Co.

Prof. Blass was supported by an *ERCG* team of economists including Dr. Roe Bas, Gilad Cohen and Shamam Waldman.

*ERCG* is a leading economic consulting firm in Israel founded in 2001 by Prof. Asher Blass. The firm operates in a range of economic and financial fields and provides incisive insights and analyses in legal proceedings and for regulatory, strategic decision-making and public policy purposes. *ERCG*'s clients include leading law offices, government authorities and corporations.