

SUPREME COURT OF THE STATE OF NEW YORK
APPELLATE DIVISION FOURTH DEPARTMENT

SENECA NATION OF INDIANS,

PLAINTIFF,

v.

THE STATE OF NEW YORK,
THE NEW YORK STATE DEPARTMENT OF
TAXATION AND FINANCE,
THOMAS H. MATTOX,
ACTING COMMISSIONER OF THE
DEPARTMENT OF TAXATION
AND FINANCE, ERIC T. SCHNEIDERMAN,
NEW YORK STATE ATTORNEY GENERAL,

DEFENDANTS.

Amended
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ORDER TO SHOW CAUSE

ERIE COUNTY INDEX NO.
2011-000714

PRESENT: Hon. JEROME GORSKI Justice of the Supreme Court, Appellate Division for the
Fourth Judicial Department.

UPON the annexed Affirmation of Carol E. Heckman, Esq., with exhibits, dated June 8,
2011 and submitted by Plaintiff-Appellant the Seneca Nation of Indians ("the Nation" or
"Plaintiff"), it is hereby

ORDERED that Defendants-Respondents THE STATE OF NEW YORK, THE NEW YORK
STATE DEPARTMENT OF TAXATION AND FINANCE, THOMAS H. MATTOX, Acting Commissioner of
the Department of Taxation and Finance, and ERIC T. SCHNEIDERMAN, New York State Attorney
General, ("Defendants") shall SHOW CAUSE before a Special Term of the Supreme Court of
the State of New York, Appellate Division, Fourth Department, to be held at the M. Dolores
Denman Courthouse, 50 East Avenue, Rochester, New York on the 20 day of June, 2011 at
10:00 o'clock in the fore noon of that day, ~~or as seen thereafter as counsel may be heard~~, why an
Order should not be made and entered pursuant to CPLR § 5518, granting Plaintiff's motion for
a preliminary injunction pending the appeal of the order of Hon. Donna M. Siwek, J.S.C., dated

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10:00

June 8, 2011, denying the Nation's Motion for Summary Judgment; finding that the Nation's Motion for Preliminary Injunction enjoining Defendants from implementing, administering, or enforcing N.Y. Tax Law §§471(1), (2), (5) related to the taxation of cigarettes on Indian territory, N.Y. Tax Law §47 1-e, and 20 N.Y.C.R.R. §74.6 was moot; and granting Defendants' Cross-Motion for Summary Judgment; and it is hereby

ORDERED, that pending a hearing on this order to show cause, and until further order of this Court, Defendants are temporarily restrained and enjoined from implementing, administering, and enforcing N.Y. Tax Law §§471(1), (2), (5) related to the taxation of cigarettes on Indian territory, N.Y. Tax Law §47 1-e, and 20 N.Y.C.R.R. §74.6, pending further order of this Court,

SUFFICIENT REASON APPEARING THEREFOR, let service of a copy of this Order and of the above-listed papers upon which the same is granted, made upon counsel for the Defendants, Darren Longo, Esq., by hand-delivery, fax, or e-mail, on or before the X 10 day of June, 2011 at 5:00 o'clock in the afternoon, be deemed good and sufficient service; and it is further

ORDERED, that any responsive papers shall be filed with the Court and delivered to counsel for the Plaintiff no later than the 14 day of June, 2011 at 5:00 o'clock in the afternoon, and Plaintiff's reply papers, if any, shall be filed with the Court and delivered to counsel for Defendants no later than the 16 day of June, 2011 at 5:00 o'clock in the afternoon.


 Hon. _____, J.S.C.

 6/10/11

ENTER: 6/9/11