

SUPREME COURT OF THE STATE OF NEW YORK
Appellate Division, Fourth Judicial Department

1112

CA 04-02580

PRESENT: PIGOTT, JR., P.J., GREEN, GORSKI, SMITH, AND LAWTON, JJ.

SCOTT PETERMAN, UPSTATE CITIZENS FOR
EQUALITY, INC., AND PERSONS AND
ENTITIES SIMILARLY SITUATED,
PLAINTIFFS-RESPONDENTS,

V

ORDER

GEORGE PATAKI, GOVERNOR OF STATE OF
NEW YORK, NEW YORK RACING AND WAGERING
BOARD AND DIVISION OF STATE POLICE,
DEFENDANTS-RESPONDENTS.

ONEIDA INDIAN NATION OF NEW YORK AND
RAY HALBRITTER, APPELLANTS.
(APPEAL NO. 1.)

ZUCKERMAN SPAEDER, LLP, WASHINGTON, D.C. (ELIZABETH TAYLOR, OF THE
WASHINGTON, D.C. BAR, ADMITTED PRO HAC VICE, OF COUNSEL), AND
MACKENZIE HUGHES LLP, SYRACUSE, FOR APPELLANTS.

O'CONNELL AND ARONOWITZ, ALBANY (CORNELIUS D. MURRAY OF COUNSEL), FOR
PLAINTIFFS-RESPONDENTS.

Appeal from a judgment (denominated order) of the Supreme Court,
Oneida County (James W. McCarthy, A.J.), entered August 25, 2004. The
judgment, insofar as appealed from, denied the motion of Oneida Indian
Nation of New York and Ray Halbritter to dismiss the third amended
complaint upon the grounds of failure to join an indispensable party
and lack of a justiciable controversy.

It is hereby ORDERED that the judgment so appealed from be and
the same hereby is unanimously affirmed without costs for reasons
stated in decision at Supreme Court.

Entered: September 30, 2005

JoANN M. WAHL
Clerk of the Court