

STATE OF NEW YORK
SUPREME COURT : COUNTY OF ERIE

DANIEL T. WARREN,

Plaintiff,

vs.

I-2004-5270

GEORGE E. PATAKI, as Governor of the State of New York
MICHAEL J. HOBLACK, JR., as Chairman of the New York State
Racing and Wagering Board, and
WAYNE E. BENNETT, as Superintendent of the New York State
Division of State Police,

Defendants.

**AFFIRMATION IN OPPOSITION TO PLAINTIFF'S
MOTION FOR PRELIMINARY INJUNCTION**

PETER B. SULLIVAN, an attorney licensed to practice in the State of New York, affirms
under penalty of perjury as follows:

1. I am an Assistant Attorney General, of counsel to Eliot Spitzer, Attorney General, counsel
for the defendants. I submit this affirmation in opposition to the plaintiff's motion for a preliminary
injunction.

2. The purpose of this affirmation is to put before the Court various documents relevant to this
action. These documents have been provided to me by various officials of the State of New York and
representatives of the Oneida Indian Nation of New York.

3. Annexed hereto are the following exhibits:

Exhibit A - Text of legislation by which the Legislature of the State of New York has approved an amended gaming compact with the St. Regis Mohawk Tribe. This legislation, which previously had been passed by the Senate, was passed by the Assembly on June 23, 2004, and is awaiting the signature of the Governor.

Exhibit B - Letter dated July 29, 2003, from the Clerk of the United States Supreme Court advising counsel of the denial of an application for a stay made in conjunction with the certiorari application in Pataki v. Saratoga County Chamber of Commerce, Inc..

Exhibit C - Appendix D to the gaming compact between the Oneida Indian Nation and the State of New York.

Exhibit D - Governor's proposed budget, 1994-95, for State Racing and Wagering Board.

Exhibit E - Governor's proposed budget, 1995-96, for State Racing and Wagering Board.

Exhibit F - Governor's proposed budget, 1996-97, for State Racing and Wagering Board.

Exhibit G - Governor's proposed budget, 1997-98, for State Racing and Wagering Board.

Exhibit H - Governor's proposed budget, 1998-99, for State Racing and Wagering Board.

Exhibit I - Governor's proposed budget, 1999-2000, for State Racing and Wagering Board.

Exhibit J - Governor's proposed budget, 2000-2001, for State Racing and Wagering Board.

Exhibit K - June 20, 2003, letter from plaintiff to Chairman of the National Indian Gaming Commission.

Exhibit L - Economic impact study of effect of Oneida Nation casino.

Exhibit M - November 12, 2002, letter from Secretary of the Interior Gale A. Norton, approving Seneca compact and acquisition by Seneca Nation of property in Niagara Falls

pursuant to Settlement Act.

Exhibit N - Complaint in Dalton v. Pataki, Albany County, 719-02.

Exhibit O - Complaint in Karr v. Pataki, Albany County, 718-02.

Exhibit P - Amended Complaint in Peterman v. Pataki, Oneida County, 99-09533. Summary judgment motions in this case are presently pending.

Exhibit Q - Extract from St. Regis Mohawk Gaming Compact.

Exhibit R - Appendix G to Seneca Nation Gaming Compact.

Exhibit S - Decision in Dalton and Kerr cases. The plaintiffs' appeal from this decision is pending in the Appellate Division, Third Department.

Exhibit T - State defendants' memorandum of law in support of summary judgment motion in Peterman.

Exhibit U - State defendants' memorandum of law opposing plaintiffs' summary judgment motion in Peterman.

Exhibit V - December 20, 2001, order in Peterman allowing plaintiffs to amend complaint, so long as amended complaint does not seek injunctive relief.

4. I am advised by the State Racing and Wagering Board that for a period slightly less than the first six months of 2004, the total amount due to the State of New York pursuant to the Seneca compact is approximately \$21 million.

.Executed On: June 24, 2004

PETER B. SULLIVAN