

**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
summary judgment and in support of defendants' motion seeking summary judgment
dismissing this action in its entirety.**

**2. Defendants also rely on my June 24, 2004, affirmation filed in opposition to plaintiff's
preliminary injunction motion.**

**3. I am aware, through discussions with a representative of the Governor's Office and with others
within my office, that the State's is conducting or has conducted negotiations with various Indian tribes**

regarding, among other things, land claims filed by tribes to land within New York. Plaintiff has previously pointed out public announcements that such negotiations have at times concerned possible agreements regarding the collection of taxes.

4. I am further aware that presently there is *no* agreement in place which would commit the State to forego enforcement of the tax laws of the State.

5. One of the exhibits to that affirmation, ex. A, was a copy of the legislation authorizing the Governor to enter into an amendment to the gaming compact with the St. Regis Mohawk Tribe.

6. I am also advised that this legislation was delivered to the Governor on October 7, 2004, and is due for action by him on October 19, 2004.

7. Annexed hereto as exhibit A is the full text of the gaming compact entered into between the State of New York and the Seneca Nation of Indians on **August 18, 2002, less its extensive attachments. The full document, with attachments, is available at <http://www.sni.org/gaming.pdf>.**

.Executed On: October 14, 2004

PETER B. SULLIVAN