

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

DOCKET NO. CA 11-01193

PRESENT: SCUDDER, P.J., CENTRA, FAHEY, PERADOTTO, AND GORSKI, JJ.

SENECA NATION OF INDIANS, PLAINTIFF-APPELLANT,

V

STATE OF NEW YORK, 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-RESPONDENTS.

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Appellant having moved, upon the return of an order to show cause dated June 9, 2011, and an amended order to show cause dated June 10, 2011, granted by the Honorable Jerome C. Gorski, for a preliminary injunction pending this Court's determination of the appeal taken herein from an order of the Supreme Court entered in the Office of the Clerk of the County of Erie on June 9, 2011,

Now, upon reading and filing the affirmation of Carol E. Heckman, Esq. dated June 8, 2011, said show cause orders with proof of service thereof, the affirmation of Andrew D. Bing, Esq. dated June 13, 2011, the affirmation of Robert D. Plattner, Esq. dated June 13, 2011, the memoranda of appellant and respondents, and the briefs amicus curiae of New York Association of Convenience Stores, New York State Association of Tobacco and Candy Distributors, Inc., and St. Regis Mohawk Tribe, and due deliberation having been had thereon,

It is hereby **ORDERED** that the motion is denied, and

It is further **ORDERED** that the temporary restraining orders contained in the show cause orders granted by the Honorable Jerome C. Gorski are hereby vacated.

Entered: June 21, 2011

PATRICIA L. MORGAN, Clerk

Supreme Court  
APPELLATE DIVISION  
Fourth Judicial Department  
Clerk's Office, Rochester, N.Y.

I, PATRICIA L. MORGAN, Clerk of the Appellate Division of the Supreme Court in the Fourth Judicial Department, do hereby certify that this is a true copy of the original order, now on file in this office.



IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said Court at the City of Rochester, New York, this

JUN 21 2011

Patricia L. Morgan  
Clerk