

Seneca Nation v. New York: Issues and Ramifications

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The Seneca Nation and State of **New York** are currently embroiled in arbitration to resolve the Nation's claim that the State violated the negotiated Tribal-State Class III Gaming Compact by allowing non-Indian land-based gaming within its Class III gaming exclusivity zone. The Nation is withholding payments to the State and local governments pending a full resolution of the dispute, and the battle is escalating as local communities feel the effects of the withholdings.

Most recently, Mayor Paul Dyster of Niagara Falls threatened to withdraw fire protection services for the Nation's casino unless the payments resume. In fact, *The Buffalo News* recently reported that the State is negotiating a short-term bridge loan with the City to make up for the shortfall, according to a State Assemblyman. Mayor Dyster has refused to confirm the negotiations.

The 10,500-square-mile Seneca exclusivity zone encompasses most of Western New York, and the tribal Compact provides that, within the zone, "no person or entity other than the Nation shall be permitted to install or operate Gaming Devices." The Compact defines Gaming Devices as slot machines and video lottery games. In exchange for geographical exclusivity, the Nation agreed to make payments to the State amounting to 25% of the net drop from those devices. From 2002 to 2009, the Nation's payments to the State totaled \$476 million.

The Nation began withholding those payments in 2009, and the withheld payments now total over \$350 million. The standoff has cost the City of Niagara Falls alone some \$60 million. The Nation objects to gaming machines and video lottery terminals installed in taverns and restaurants, as well as machines installed at three Western New York racetracks. Governor Andrew Cuomo is pushing for a referendum to amend the state constitution to allow statewide casino gambling that may further erode the Nation's exclusivity.

Of probable impact on the Seneca/New York dispute is last December's **Department of Justice ("DOJ")** opinion that the **Wire Act** does not apply to non-sports betting. That opinion has set the wheels in motion for New York to regulate, license and sponsor internet gaming ("i-gaming") to rescue plunging state revenues.

The DOJ opinion adds another dimension to the Compact exclusivity dispute, and raises questions about how legalized i-gaming will fit into the Indian Gaming Regulatory Act ("IGRA") and into the already tense relationship between the Seneca Nation and New York. Unless federal legislation is enacted, the answers to these questions will determine the role of Indian tribes in i-gaming.

To learn more about the issues and ramifications surrounding ***Seneca Nation v. New York***, check out the full article in the latest edition of [Gaming Legal News](#).

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