



STATE OF NEW YORK
COUNTY OF CAYUGA
SUPREME & COUNTY COURTS
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KELLY J. WEJKO
CHIEF CLERK

September 16, 2010

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RE: People v. John Does I-III
Sealed Indictments No. 2008-222(a),(b),(c)

Gentlemen:

In reviewing the recent Court of Appeals decision in *Cayuga Indian Nation of N.Y. v. Gould 14 NY3d 614 (2010)* I note that Justice Graffeo states in pertinent part, "For purposes of this litigation, it is ...undisputed that Nation retailers at these two locations are involved in retail sales to consumers -- not cigarette wholesaling activities." (unpublished printed Opinion, page 14). I would be particularly interested to know whether there is any specific reference made in the filed record on appeal or whether there was, either by stipulation or concession of the parties made at the time of oral argument, anything stated to the court which would provide a basis for the Court of Appeals to limit its review of the issues before it in that case to retail sales only.

I am scheduling an appearance before this court in this matter on **October 7, 2010 at 9:00 am** to provide an opportunity for each side to address this issue only. In that regard, any written submissions relating to this particular issue should be filed one week prior to the return date.

Respectfully,


Hon. Mark H. Fandrich
Acting County Court Judge

MHF/jml