

EXHIBIT A

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF SUFFOLK**

	X
COMMISSIONER OF THE STATE OF	:
NEW YORK DEPARTMENT OF	:
TRANSPORTATION and THE STATE	:
OF NEW YORK,	:
	:
Plaintiffs,	:
	:
-against-	:
	:
BRYAN A. POLITE, LAUNCELOT A.	:
GUMBS, SENECA BOWEN, DANIEL	:
COLLINS, SR., GERMAIN SMITH,	:
DONALD WILLIAMS, JR., LINDA	:
FRANKLIN, OUTDOOR INC./IDON	:
MEDIA, LARRY CLARK, DIGITAL	:
OUTDOOR ADVERTISING, LLC, and	:
IDON MEDIA, LLC,	:
Defendants.	:
	X

Index No. 610010/2019

**AFFIDAVIT OF LARRY CLARK IN
OPPOSITION TO ORDER TO
SHOW CAUSE**

I, LARRY CLARK, hereby deposes and states:

1. I am one of three managing members of Iconic Digital Displays, LLC (“Iconic”), and in that capacity have full knowledge of the facts set forth herein.

2. On February 5, 2019, Iconic and the Shinnecock Indian Nation (“Nation”), executed an agreement, under which the Shinnecock sought the assistance of Iconic “to construct two (2) Structures with four (4) digital advertising Displays [“Monuments”], illuminated on those Structures, located on Plots of land on each side of Sunrise Highway.

3. The construction of these two signs is the culmination of years of efforts to collaborate on a project that offered a much-needed economic infusion to an impoverished tribe.

4. Prior to making this investment, Iconic confirmed Shinnecock ownership of the land, verified its non-taxable status, and reviewed letter from the State of New York acknowledging Shinnecock jurisdiction over the land.

5. The execution of the Agreement followed months of negotiations, meetings, and analysis of the feasibility of the Monuments and the financing of the work and materials necessary to construct them.

6. None of the other companies named in the Verified Complaint have an interest contracted or dealt with the Nation. Iconic serves as the exclusive agent for the Nation on this project.

7. Therefore, Idon Media LLC has no interest in or relation to this project and/or the Monuments.

8. Digital Outdoor Advertising, LLC has no interest in or relation to this project and/or the Monuments.

9. None of the other corporate entities spuriously named by the State have any interest in or relation to this project and/or the Monuments.

10. I, Larry Clark, also did not sign any agreement with respect to this project and/or the Monuments in my individual capacity.

11. This Agreement was executed by and between the Nation and Iconic.

12. At all times relevant to the claims brought by Plaintiffs in their Complaint and Order to Show Cause, I acted solely as a representative of Iconic, which remains an agent of the Nation itself.

13. Putting this project together was not easy. Conventional financing is not

available since Indian lands are inalienable. Iconic has fronts almost all of the considerable costs for this project.

14. To get materials and the digital billboard delivered before financing, we relied upon our contacts and vendors in the industry to convince them of the viability of the project.

15. Brokers of advertising expressed excitement about the Monuments, and the feedback was very positive.

16. The Monuments represented a less intense use of the Westwoods property, requiring no new roads, no increased traffic and virtually no impact on neighboring properties.

17. After signing the Agreement, we embarked on a timetable that anticipated a completion date of Friday May 24, 2019 the beginning of Memorial Day weekend.

18. To prepare for the erection of the Monuments, we began clearing the trees on both sides of the highway during the second weekend of March.

19. Crews worked on the weekends and continued clearing away the trees for the next two weekends of March.

20. On the last weekend, on March 29th, 2019, the Town of Southampton issued a stop work order to a subcontractor employed by my company. As a result, all work came to a halt, and the first negative articles started appearing in the local media.

21. The actions of Southampton wreaked havoc on my company's activities.

22. Advertisers who had committed to placing advertisements on the Monuments expressed concern over the Town's actions.

23. The subcontractors who had been taking down the trees did not return to work, fearful of being arrested or fined.

24. We were forced to hire new workers, resulting in an unexpected additional expense of \$60,000.

25. Thereafter, on April 19, 2019, a representative of Southampton served another stop work order. However, New York state troopers came to the site and advised our workers that they could return to work, which they did.

26. As press coverage intensified, our offices were flooded with phone calls, including calls from vendors providing the steels and digital display screens, expressing concern about committing to the project.

27. We had arranged for financing with Valley National Bank. Since the filing of the State's Verified Complaint, Valley National Bank has expressed concern regarding the status of the project, and the \$3.3 million in financing is on hold.

28. As we were dealing with the negative press and concerns expressed by our manufacturers and advertisers, our company and the Nation stayed in regular contact with the Department of Transportation.

29. While the Town Administrator for Southampton and elected officials had been actively lobbying against the Monuments, the State had expressed no formal opposition to it.

30. On April 15, 2019, I, Tela Troge, Mr. Lance Gumbs (Trustee), Mr. Muthiah T. Vijayendran (NYDOT) and other NYDOT representatives met to discuss the project.

31. During the meeting, we explained our plans to construct electronic signs.

32. I provided the DOT with the engineering drawings for the project as well as a site plan.

33. NYDOT requested that the Nation wait for 3 days while they reviewed

engineering drawings and said they would issue a decision regarding the safety of the project in three to four days.

34. During that meeting, an attorney for NYDOT acknowledged that the 1959 easement was over land owned by The Shinnecock Indian Nation and that the NYDOT did not make a mistake in surveying the land as Indian Land.

35. At no time during that meeting did NYDOT give any indication they wanted to stop the project and asked only that we wait for them to review it, after which time they would issue a permit for the project.

36. On April 25, 2019, there was a meeting at which I, Ms. Tela Troge, Mr. Muthiah T. Vijayendran (NYDOT), and another NYDOT representative were in attendance. During the meeting NYDOT informed me that I was missing workers compensation information from my permit application and that an original copy of the \$70,000 surety bond was needed, as only a copy had been provided.

37. I assured the NYDOT representatives that I would make sure they received the original and arranged for it to be sent while in the office. I provided the missing worker's compensation information and requested a list of anything else that may or may be missing from the application.

38. The representatives of NYDOT said they had not received the \$400 permit fee check. I said I would get the check to NYDOT. We left the meeting with the understanding that the \$400 check would complete the permitting process.

39. On May 14, 2019, there was another meeting with NYDOT. In attendance were myself, Ms. Tela Troge, Mr. Matt Ballard, and Mr. Muthiah T. Vijayendran. The \$400

permit fee was provided.

40. The representatives of NYDOT told me to use U.S. Customary Guardrail Group 606 around the sign. I requested a list of engineers and contractors who could assist with the Guard rails. The NYDOT asked me to provide updated site plan showing guardrails. The NYDOT informed me to comply with the Federal Highway Design Manual to determine distance from Road to Guardrail. DOT safety engineers explained the deflection zone we would need to protect errant motorists.

41. On May 17, 2019, there was a meeting with myself, Ms. Tela Troge, Shinnecock Chairman Bryan Polite, Mr. Muthiah T. Vijayendran, and other officials from NYDOT. NYDOT provided a list of engineers who could provide guiderail services, while noting that they were not recommending the use of any one company.

42. This was information that had been requested at the April 15, 2019 meeting. NYDOT informed those in attendance that a permit could be issued in one or two days, a time frame which was expedited for us based on the coordination of many of the subcontractors and advertisers involved in the successful launch of the signs.

43. Although NYDOT had agreed to another meeting on May 17, 2019 and had previously led us to believe that a permit would be forthcoming, without warning the NYDOT served a Stop Work Order on one of our vendors.

44. The Stop Work Order had been issued the day before on May 16, 2019, but no one from the NYDOT mentioned this during our meeting on May 17, 2019.

45. After the Stop Work Order was issued, the vendor working on the job initially refused to continue working, expressing concern that he would be jailed. The Troopers took

my license for 45 minutes before returning it to me, even though I was legally on the Shinnecock Nation's land.

46. When State Troopers served the Order, they threatened workers with jail.

47. By this point in time, trucks from Arizona were already en route carrying steel for construction of the signs.

48. Digital screens from Canada were also scheduled to arrive between May 10th and May 22, 2019. These screens and the steel for the structures have a value of approximately \$1,500,000.

49. The State served its Stop Work Order on Friday, May 17, 2019, leaving us with virtually no time to stop the deliveries already in motion described above.

50. Our company has already committed approximately \$2.2 million to the project thus far. Stopping work will put all of this investment at risk.

51. At one point, we had 15 advertisers interested in placing ads on the Monuments. We are currently down to two. The loss of advertising revenue associated with these contracts is well over one million dollars.

52. The actions taken by the Town of Southampton and the State of New York have damaged and will continue to damage the reputation of Iconic within the advertising and outdoor display industries.

53. As a result of the actions taken by the State, Iconic will suffer the loss of future advertising contracts and/or revenue, as those who would have partnered with our company will look elsewhere to find a partner.

I certify under penalty of perjury that the foregoing is true and correct. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Date: June 6, 2019


LARRY CLARK

Sworn before me
this 6th of June, 2019
X. Kenneth B Godberson III

KENNETH B GODBERSON III
Notary Public, State of New York
No. 01GO6299865
Qualified in Suffolk County
Commission Expires March 24, 2022