

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

CAYUGA INDIAN NATION OF
NEW YORK, et al.,

Plaintiffs,

and

THE SENECA-CAYUGA TRIBE
OF OKLAHOMA and THE
UNITED STATES OF AMERICA, Plaintiff-Intervenors,

-v.-

5:80-CV-0930
5:80-CV-0960
(NPM)

GOVERNOR OF THE STATE OF
NEW YORK, et al.,

Defendants.

APPEARANCES:

OF COUNSEL:

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Neal P. McCurn, Senior District Judge

Order

Presently before the court is a motion by the Cayuga Indian Nation of New York (“the Nation”) for relief from “the judgment entered in this Court on September 26, 2005” pursuant to Rule 60(b) of the Federal Rules of Civil Procedure. See Dkt. No. 974. Plaintiff-intervenor, the Seneca-Cayuga Tribe of Oklahoma joins the motion and the State of New York, on behalf of all defendants to this action, opposes.

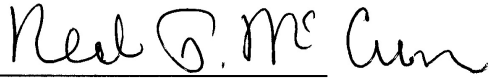
The purported basis of the pending motion is a change in the law as set forth in Oneida Indian Nation fo New York v. New York, 500 F.Supp. 2d 128

(N.D.N.Y. 2007), wherein the district court allowed non-possessionary claims to go forward. On consent of the parties, this court stayed its decision on the Rule 60(b) motion in this case pending resolution of an appeal of the Oneida decision to the Court of Appeals for the Second Circuit. The Court of Appeals affirmed the decision of the district court in Oneida insofar as it dismissed possessionary claims but reversed with respect to the non-possessionary claims. See Oneida Indian Nation of New York v. County of Oneida, 617 F.3d 114 (2d Cir. 2010). On December 16, 2010, the Court of Appeals denied petitions for rehearing and petitions for rehearing *en banc*. The mandate of the Court of Appeals was filed in the district court on January 7, 2011, and thereafter the case was dismissed by judgment of the district court on January 10, 2011.

Accordingly, the pending Rule 60(b) motion for relief from judgment, filed at Dkt. No. 974 in the lead case, 5:80-cv-0930, is hereby DENIED. The letter motion filed at Dkt. No. 306 in case number 5:80-cv-0960 is DENIED as moot.

IT IS SO ORDERED.

DATED: January 10, 2011
Syracuse, New York



Neal P. McCurn
Senior U.S. District Judge