

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA

STATE OF OKLAHOMA, ex rel. W.A "DREW")	
EDMONDSON, ATTORNEY GENERAL OF)	Case No.: _____
OKLAHOMA,)	
)	
Plaintiff,)	
)	
vs.)	
)	
NATIVE WHOLESALE SUPPLY, a Corporation)	
chartered by the Sac and Fox Tribe of Oklahoma,)	
)	
Defendant.)	

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §§ 1331, 1441 and 1446, Defendant, Native Wholesale Supply ("NWS"), files this Notice of Removal to remove the above-captioned action from the District Court of Oklahoma County, State of Oklahoma, to the United States District Court for the Western District of Oklahoma, and, for the purpose only of removing this action, states as follows:

1. NWS is the sole defendant in the above captioned civil action that was commenced on or about May 29, 2008 in the District Court of Oklahoma County, State of Oklahoma, No. CJ-2008-4942, by plaintiff State of Oklahoma, *ex rel.* W.A "Drew" Edmondson, Attorney General of Oklahoma (the "State of Oklahoma"). The action was commenced by the State of Oklahoma filing the Petition that is attached hereto as Exhibit A. The Petition and an Alias Summons issued on June 27, 2008 (also attached as Exhibit A) were served on NWS on July 7, 2008. Pursuant to 28 U.S.C. §§ 1331, 1441 and 1446, NWS hereby removes this action to the United States District Court for the Western District of Oklahoma.

Grounds for Removal

2. This action is removed pursuant to 28 U.S.C. § 1331. This Court would have had original jurisdiction of this action as the State of Oklahoma's allegations implicate federal law. Specifically, NWS is chartered by the Sac and Fox Nation of Native Americans. NWS is wholly owned by a member of the Seneca Nation and conducts business solely on Seneca land, and with Native Americans in the United States. Hence, the Petition implicates the Commerce Clause of the United States Constitution as it raises issues regarding the regulation of an out of state business (including extraterritorial application of state law) and the Indian Commerce Clause. Therefore, the claims in the Petition necessarily involve the Constitution of the United States and questions of federal law. In addition, the Petition implicates the Due Process Clause of the United States Constitution, as the State of Oklahoma has unilaterally declared cigarettes distributed by NWS to be contraband, without NWS ever being afforded a hearing to challenge that designation.

Timeliness of Removal

3. This removal is timely pursuant to 28 U.S.C. 1446(b) as this Notice of Removal is being filed within thirty days after NWS was served with the State of Oklahoma's Petition, and is being removed within one year of commencement of this action on or about May 29, 2008.

Process, Pleadings and Orders Served Upon NWS to Date

4. To date, the only process, pleadings and orders that have been served upon NWS in this action are the Petition and the Alias Summons dated June 27, 2008, copies of which are attached hereto as Exhibit A.

Conformance with Removal Requirements

5. Pursuant to 28 U.S.C. § 1446(d), NWS will give prompt written notice of the filing of this Notice of Removal to the State of Oklahoma, and will file a true and accurate copy of this Notice of Removal with the Clerk of the District Court of Oklahoma County, State of Oklahoma. Pursuant to LCvR 81.2 of the Western District of Oklahoma, a copy of the State Court Docket Sheet is attached hereto as Exhibit B.

WHEREFORE, NWS prays that this action be removed from the District Court of Oklahoma County, State of Oklahoma, to the United States District Court for the Western District of Oklahoma, and that the United States District Court for the Western District of Oklahoma issue such orders and processes as may be necessary to preserve its jurisdiction over this matter and bring before it all parties necessary for adjudication of this matter.

Respectfully submitted,

s/ Marc Edwards

Marc Edwards, OBA # 10281
Robert N. Sheets, OBA # 8152
Douglas M. Todd, OBA # 15378
Phillips McFall McCaffrey McVay & Murrah, P.C.
Thirteenth Floor, Corporate Tower
101 N. Robinson
Oklahoma City, Oklahoma 73102
Telephone: (405) 235-4100
Facsimile: (405) 235-4133

ATTORNEYS FOR DEFENDANT

OF COUNSEL:

Leonard Violi

LAW OFFICES OF LEONARD VIOLI, LLC

910 E. Boston Post Road

Mamaroneck, New York 10543

Telephone: (914) 698-6200

Facsimile: (914) 698-6207

lenvioli@violilaw.com

CERTIFICATE OF SERVICE

I hereby certify that on August 6, 2008, I electronically transmitted the attached document to the Clerk of Court using the ECF System for filing and transmittal of a Notice of Electronic Filing to the following ECF registrants:

Clyde Kirk – Clyde.Kirk@aog.ok.gov

Ryan Chaffin – Ryan Chaffin@aog.ok.gov

s/Marc Edwards

IN THE DISTRICT COURT OF OKLAHOMA COUNTY

STATE OF OKLAHOMA

FILED IN THE DISTRICT COURT
OKLAHOMA COUNTY, OKLA.

STATE OF OKLAHOMA, ex rel. W.A.)
"DREW" EDMONDSON, ATTORNEY)
GENERAL OF OKLAHOMA,)

MAY 29 2008

Plaintiff,)

PATRICIA PRESLEY, COURT CLERK
by DEPUTY

vs.)

Case No.

NATIVE WHOLESALE SUPPLY, a)
Corporation chartered by the Sac and Fox)
Tribe of Oklahoma,)

Defendant.)

CJ - 2008 - 4942
FILED

DATE 7-3-08

PETITION

SECRETARY

SAC & FOX NATION

Comes now the State of Oklahoma, ex rel. W.A. "Drew" Edmondson, Attorney General of

Drew W. Edmondson

Oklahoma and alleges and states as follows:

JURISDICTION AND VENUE

1. This is a civil action seeking disgorgement and payment to the State of the gross proceeds realized by Native Wholesale Supply from cigarette sales made in violation of the Oklahoma Tobacco Master Settlement Agreement Complementary Act ("Complementary Act"), 68 O.S. § 360.1 et seq..

2. The Defendant, Native Wholesale Supply, is a closely held corporation chartered by the Sac and Fox Tribe of Oklahoma. On information and belief, Native Wholesale Supply has its principal place of business located on the Cattaraugus Indian Reservation in the State of New York.

3. This Court has jurisdiction over the Defendant, pursuant to the Complementary Act, because it has knowingly sold, transported or caused to be transported, and imported or caused to be imported, cigarettes for sale in Oklahoma, thereby transacting business within this state and availing itself of the privilege of conducting activities within the state.

EXHIBIT

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A

4. Because the Defendant is a non-resident of the State of Oklahoma venue is proper in this Court pursuant to 12 O.S. §187.

INTRODUCTION

5. As used in this Petition, the term "Case" of cigarettes generally describes a box which contains sixty (60) cartons of cigarettes; the term "Carton" of cigarettes describes a carton that contains ten (10) packages of cigarettes; the term "Package" of cigarettes describes a package which contains 20 individual cigarettes ("sticks"). Therefore, one case of cigarettes typically contains 12,000 individual cigarettes.

6. The State of Oklahoma Complementary Act, 68 O.S. § 360.4(C)(1) -(2) requires that a tobacco product manufacturer and its brand families must be listed on the Directory of Compliant Tobacco Manufacturers maintained by the Oklahoma Attorney General before cigarettes can lawfully be sold in the state. Title 68 O.S. §360.7 (E) of the Complementary Act further provides:

It shall be unlawful for a person to:

- a. sell or distribute cigarettes, or
- b. acquire, hold, own, possess, transport, import, or cause to be imported cigarettes that the person knows or should know are intended for distribution or sale in the state in violation of the Master Settlement Agreement Complementary Act.

7. Title 68 O.S. §360.8 (G) of the Complementary Act provides that upon a finding that a person has violated the Tobacco Master Settlement Agreement Complementary Act, "the court shall order any profit, gain, gross proceeds, or other benefit from the violation to be forfeited and paid to the State Treasurer for deposit in the Tobacco Settlement Endowment Trust Fund."

8. Title 68 O.S. §360.8 (F) of the Complementary Act provides that in any action brought by the state to enforce the Master Settlement Agreement Complementary Act, the state

shall be entitled to recover its costs of investigation, expert witness fees, costs of the action, and reasonable attorneys fees.

VIOLATIONS BY DEFENDANT

9. "Seneca" cigarettes are a brand of cigarettes manufactured by Grand River Enterprises Six Nations, Ltd., a Canadian Limited Liability Corporation (hereinafter "GRE"). Since August 2006, GRE and its brand families have not been listed on the Oklahoma Attorney General's Directory and its products have not been approved for sale within the State of Oklahoma.

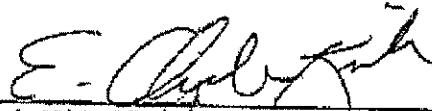
10. From or about February, 2007 through May, 2008, Native Wholesale Supply knowingly and unlawfully sold, distributed, acquired, held, owned, possessed, transported, imported, or caused to be imported for sale approximately 9,476 cases or 113,262,000 individual sticks of contraband Seneca brand cigarettes manufactured by GRE to Muscogee Creek Nation Wholesale located in the State of Oklahoma when it knew or should have known that those cigarettes were intended for distribution or sale in the state in violation of the Complementary Act. Native Wholesale Supply's gross receipts from its sales to Muscogee Creek Nation Wholesale was approximately \$5,093,331.00.

REQUEST FOR RELIEF

Wherefore, Plaintiff requests (1) that the court find that Defendant violated the Oklahoma Master Settlement Agreement Complementary Act by its above alleged actions; (2) that the court enter an injunction preliminarily and permanently enjoining the Defendant from violating the Complementary Act; (3) that the court order Defendant to account for all Seneca and other brands of cigarettes which it has sold, distributed, acquired, held, owned, possessed, transported, imported,

or caused to be imported for sale in the State of Oklahoma from August 2006, to the present; (4) that judgment be entered against Defendant in the amount of any profit, gain, gross receipts or other benefit it received from all Seneca and other brands of cigarettes it sold within the State of Oklahoma since August 2006, in violation of the Master Settlement Agreement Complementary Act, estimated to be in excess of \$5,093,331.00; and (5) that Plaintiff recover the cost of investigation, expert witness fees, costs, reasonable attorney fees, and such other and further relief to which Plaintiff may be entitled.

Respectfully submitted,



E. Clyde Kirk OBA #10579
Ryan R. Chaffin, OBA #19430
ASSISTANT ATTORNEYS GENERAL
TOBACCO ENFORCEMENT UNIT
313 Northeast 21st Street
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(405) 521-3921 Fax: (405) 522-4534
Clyde.Kirk@oag.ok.gov
Ryan.Chaffin@oag.ok.gov

IN THE DISTRICT COURT OF OKLAHOMA COUNTY
STATE OF OKLAHOMA

FILED

DATE 7-3-08

SECRETARY
SAC & FOX NATION

Gwen M. Wilburn

Case No. CS-08-4942

STATE OF OKLAHOMA, ex rel. W.A.)
"DREW" EDMONDSON, ATTORNEY)
GENERAL OF OKLAHOMA,)

Plaintiff,)

vs.)

NATIVE WHOLESALE SUPPLY, a)
Corporation chartered by the Sac and Fox)
Tribe of Oklahoma,)

- Defendant.)

ALIAS SUMMONS

To the above-named Defendant:

NATIVE WHOLESALE SUPPLY
c/o GWEN WILBURN, SECRETARY
SAC & FOX TRIBE OF OKLAHOMA
ROUTE 2, BOX 246
STROUD, OKLAHOMA 74079

You have been sued by the above-named Plaintiff, and you are directed to file a written answer to the attached Petition in the Court at the above address within twenty (20) days after service of this Summons upon you, exclusive to the day of service. Within the same time, a copy of your Answer must be delivered or mailed to the attorney for the Plaintiff.

Unless you answer the Petition within the time stated, judgment will be rendered against you with costs of this action.

Issued this 27 day of June, 2008.

PATRICIA PRESLEY, COURT CLERK

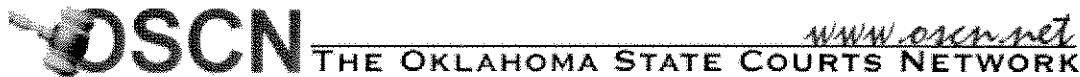
By: *[Signature]*
DEPUTY COURT CLERK

(Seal)

ATTORNEYS FOR PLAINTIFF:

E. Clyde Kirk OBA #10572
Ryan R. Chaffin, OBA #19430
ASSISTANT ATTORNEYS GENERAL
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Clyde.Kirk@oag.ok.gov
Ryan.Chaffin@oag.ok.gov

YOU MAY SEEK THE ADVICE OF AN ATTORNEY ON ANY MATTER CONNECTED WITH THIS SUIT OR
YOUR ANSWER. SUCH ATTORNEY SHOULD BE CONSULTED IMMEDIATELY SO THAT AN ANSWER
MAY BE FILED WITHIN THE TIME LIMIT STATED IN THE SUMMONS.



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IN THE DISTRICT COURT IN AND FOR OKLAHOMA COUNTY, OKLAHOMA

STATE OF OKLAHOMA, EX REL. W.A. DREW EDMONDSON, ATTORNEY GENERAL OF OKLAHOMA, PLAINTIFF, VS- NATIVE WHOLESALE SUPPLY, A CORPORATION CHARTERED BY THE SAC AND FOX TRIBE OF OKLAHOMA, DEFENDANT	No. CJ-2008-4942 (Civil relief more than \$10,000: OTHER <..DESCRIPTION OF ACTION..> Filed: 05/29/2008 Judge: Dixon, Bryan C.
---	---

Parties

Edmondson, Drew , Plaintiff
Native Wholesale Supply , Defendant

Attorneys

Attorney

Edwards, Marc(Bar # 10281)
Corporate Tower Thirteenth Floor
101 North Robinson
Oklahoma City, OK 73102

Represented Parties

Native Wholesale Supply,

KIRK, E. CLYDE(Bar # 10579)
ASSISTANT ATTORNEYS GENENERAL TOBACCO
ENFORCEMENT UNIT
313 NORTHEAST 21ST STREET
OKLAHOMA CITY, OK 73105

Edmondson, Drew

SHEETS, ROBERT NOEL(Bar # 8152)
Corporate Tower Thirteenth Floor
101 North Robinson
Oklahoma City, OK 73102

Native Wholesale Supply,

Events

Event	Party	Docket	Reporter
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Issues

For cases filed before 1/1/2000, ancillary issues may not appear except in the docket.

Issue # 1.

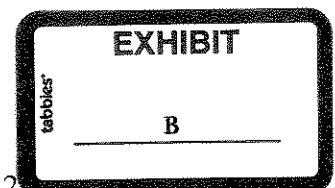
Issue: OTHER <..DESCRIPTION OF ACTION..> (OTHER)

Filed by: Edmondson, Drew

Filed Date: 05/29/2008

Party Name:




Disposition Information:



Pending.

Docket

Date	Code	Count	Party	Serial #	Entry Date		
05-29-2008	TEXT	1		54245118	May 29 2008 4:13:03:043PM	-	\$ 0.00
	CIVIL RELIEF MORE THAN \$10,000 INITIAL FILING.						
05-29-2008	OTHER	-		54245120	May 29 2008 4:13:03:083PM	Realized	\$ 0.00
	OTHER <..DESCRIPTION OF ACTION..>						
05-29-2008	DMFE	-		54245121	May 29 2008 4:13:03:093PM	Realized	\$ 2.00
	DISPUTE MEDIATION FEE(\$ 2.00)						
05-29-2008	PFE1	-		54245122	May 29 2008 4:13:03:093PM	Realized	\$ 150.00
	PETITION(\$ 150.00)						
05-29-2008	PFE7	-		54245123	May 29 2008 4:13:03:093PM	Realized	\$ 6.00
	LAW LIBRARY FEE(\$ 6.00)						
05-29-2008	OCISR	-		54245124	May 29 2008 4:13:03:093PM	Realized	\$ 25.00
	OKLAHOMA COURT INFORMATION SYSTEM REVOLVING FUND(\$ 25.00)						
05-29-2008	CCADMIN	-		54245125	May 29 2008 4:13:03:093PM	Realized	\$ 1.00
	COURT CLERK ADMINISTRATIVE FEE ON COLLECTIONS(\$ 1.00)						
05-29-2008	CHAB	-		54245126	May 29 2008 4:13:03:093PM	Realized	\$ 10.00
	C.H.A.B. STATUTORY FEE(\$ 10.00)						
05-29-2008	AGVSU	-		54245127	May 29 2008 4:13:03:093PM	Realized	\$ 3.00
	ATTORNEY GENERAL VICTIM SERVICES UNIT(\$ 3.00)						
05-29-2008	CCADMIN03	-		54245128	May 29 2008 4:13:03:093PM	Realized	\$ 0.30
	COURT CLERK ADMINISTRATIVE FEE ON COLLECTIONS(\$ 0.30)						
05-29-2008	LTF	-		54245129	May 29 2008 4:13:03:123PM	Realized	\$ 10.00
	LENGTHY TRIAL FUND(\$ 10.00)						
05-29-2008	SMF	-		54245131	May 29 2008 4:13:09:043PM	Realized	\$ 10.00
	SUMMONS FEE (CLERKS FEE)(\$ 10.00)						
05-29-2008	P	-		54338759	Jun 11 2008 8:30:14:970AM	-	\$ 0.00
	PETITION						
	 Document Available at Court Clerk's Office						

05-29-2008	TEXT	-	54245119	May 29 2008 4:13:03:063PM	-	\$ 0.00
OCIS HAS AUTOMATICALLY ASSIGNED JUDGE DIXON, BRYAN C. TO THIS CASE.						
<hr/>						
06-05-2008	RET	-	54374754	Jun 12 2008 4:48:27:563PM	-	\$ 0.00
RETURN OF SERVICE OF SUMMONS & PETITION - ON NATIVE WHOLESALE SUPPLY - C/O MERLE POYD, RSA - VIA CERT MAIL - SIG FOR BY DANIELLE SMITH - ON 6-2-2008						
 Document Available (#1007034547)						
<hr/>						
06-27-2008	SMF	-	54519425	Jun 27 2008 3:46:29:927PM	Realized	\$ 5.00
SUMMONS FEE (CLERKS FEE)ALIAS(\$ 5.00)						
<hr/>						
07-09-2008	RET	-	54626017	Jul 14 2008 8:45:39:383AM	-	\$ 0.00
RETURN OF SERVICE OF SUMMONS AND PETITION- ON NATIVE WHOLESALE SUPPLY- C/O GWAN WILBURN, SECRETARY,SAC- VIA CERT MAIL- SIG FOR BY DANIELLE SMITH- ON 7-7- 08						
 Document Available (#1007153117)						
<hr/>						
07-28-2008	EAA	-	Native Wholesale Supply 54775013	Jul 29 2008 8:00:55:790AM	-	\$ 0.00
ENTRY OF APPEARANCE BY ATTYS MARC EDWARDS AND ROBERT N. SHEETS FOR NATIVE WHOLESALE SUPPLY						
 Document Available (#1007144374)						
<hr/>						
07-28-2008	MO	-	54783244	Jul 29 2008 1:23:07:220PM	-	\$ 0.00
DEFENDANT NATIVE WHOLESALE SUPPLY'S MOTION FOR EXTENSION OF TIME TO FILE ANSWER						
<hr/>						

Report Generated by The Oklahoma Court Information System at August 6, 2008 13:35 PM

End of Transmission.

*JS 44 (Rev. 12/07)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

State of Oklahoma, ex rel. W.A. "Drew" Edmondson, Attorney General of Oklahoma,

(b) County of Residence of First Listed Plaintiff Oklahoma
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

See Attached

DEFENDANTS

Native Wholesale Supply

County of Residence of First Listed Defendant _____
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

See Attached

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | | | | | |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| | PTF | DEF | | PTF | DEF |
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input checked="" type="checkbox"/> 950 Constitutionality of State Statutes

V. ORIGIN

(Place an "X" in One Box Only)

- ☐ 1 Original Proceeding
- ☒ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from another district (specify)
- ☐ 6 Multidistrict Litigation
- ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

28 U.S.C. Sections 1441

Brief description of cause:
Collection on State Tobacco Escrow Statute

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☒ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

08/06/2008

SIGNATURE OF ATTORNEY OF RECORD

Mark Edwards

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

ATTACHMENT TO CIVIL COVER SHEET

E. Clyde Kirk, Ryan R. Chaffin
Assistant Attorney Generals
Tobacco Enforcement
313 Northeast 21st Street
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Attorneys for Plaintiff

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101 N. Robinson
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Attorneys for Defendant