

At a Special Term, Part ___ of
the Supreme Court of the State of
New York held in and for the
County of Erie at the Buffalo
City Courthouse in Buffalo, New
York, on the ___ day of
December, 2004

PRESENT: Hon. John P. Lane
Justice of the Supreme Court, Presiding

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

DANIEL T. WARREN,
Plaintiff,

vs.

**ORDER TO SHOW CAUSE
WITH TEMPORARY RESTRAINING ORDER**

JOEL GIAMBRA, as County Executive of the
County of Erie, New York; and

Index No.: I 2004-12768

JOSEPH PASSAFIUME as Director of the Erie
County Division of Budget, Management &
Finance, and

NANCY NAPLES, as Comptroller of the County
of Erie, New York; and

DAVID J. SWARTS, as Clerk of the County of
Erie, New York; and

**COUNTY LEGISLATURE, COUNTY OF
ERIE, NEW YORK;** and

KEVIN M. KELLEY, as Clerk of the Legislature
of the County of Erie, New York; and

COUNTY OF ERIE, NEW YORK
Defendants

UPON the Affidavit of Daniel T. Warren sworn to on the 22nd day of December, 2004, the
Summons with Verified Complaint sworn to on the 15th day of December, 2004, and the exhibits
attached thereto, and the Memorandum of Law dated December 22, 2004, it is hereby

ORDERED that the Defendants, show cause before this court in Part ____, at the
Courthouse, _____, Buffalo, New York 14202, on the ___ day of

1 December, 2004, at 9:30 a.m. why this court should not issue a preliminary injunction: Enjoining
2 the defendants from presenting the home rule message of necessity passed on December 8, 2004
3 requesting any sales tax increase from being presented to the State Legislature and from expending any
4 funds in excess of those appropriated in the tentative budget as submitted to the legislature by the county
5 executive on November 5, 2004, together with such other, further or different relief as the court
6 deems just and proper; it is hereby further

7 **ORDERED** that pending the hearing and determination of this motion Defendants and all
8 purporting to act on their behalf and those in privity with them are enjoined from presenting,
9 transmitting or filing the home rule message of necessity passed on December 8, 2004 requesting any
10 sales tax increase to the State Legislature and from expending any funds in excess of those appropriated
11 in the tentative budget as submitted to the legislature by the county executive on November 5, 2004, it is
12 hereby further

13 **ORDERED** that service of a copy of this order and of the papers on which it is based, on
14 the defendants personally pursuant to CPLR Article 3 on or before the ____ day of December,
15 2004, be deemed sufficient service thereof; it is hereby further

16 **ORDERED** that answering papers, if any, shall be served and filed by the ____ day of
17 _____, _____; and it is hereby further

18 **ORDERED** that reply papers, if any, shall be served and filed by the ____ day of
19 _____, 2004.

20
21
22 ENTERED:

23
24 _____
John P. Lane, J.S.C.