

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

NOV 26 2007

LAWRENCE K. BAERMAN, CLERK
ALBANY

ROBERT L SCHULZ (New York); BRIAN L.
ROBERTS (Alabama); JEAN C. ALLEN (Alabama);
CHARLES D. ROBERTS (Alabama); BRENT COLE
SR. (Alaska); DUANE F. ANDRESS (Alaska); HENRY Case No. 1:07-CV-0943 LEK/DRH
AYRE (Alaska); DAVID JOHNSON (Arizona); STUART
KEVIN COLE (Arizona); MARK J. YANNONE (Arizona);
TOM MAYFIELD (Arkansas); LYNNE BAKER (Arkansas);
GLENDA MIDDLEBROOK (Arkansas); SUSAN MARIE WEBER
(California); MATTHEW PITAGORA (California); MYCHAL
R. SCHILLACI (California); LORRAINE LUNNON (Colorado);
LOTUS (Colorado); BETTY WIES (Colorado); WALTER B.
REDDY III (Connecticut); CHARLES PRINCE (Connecticut);
HEATHER WILSON (Connecticut); STEVEN BACHMAN
(Delaware); JEAN MATESON (Delaware); MARCUS RIEGO
(Delaware); ARTHUR GROVEMAN (Florida); NOVA A.
MONTGOMERY (Florida); JANINE L. DEAN WINTER
(Florida); JOHN J. FELSON (Georgia); CLAY DALTON
(Georgia); ROGER PATRICK (Georgia); KA'IMI PELEKAI
(Hawaii); CHARLES W. ABEL (Hawaii); MICHAEL MARSOUN
(Hawaii); GARY CONWAY (Idaho); SUSAN K. VENABLE
(Idaho); PAUL T. VENABLE III (Idaho); FRED SMART
(Illinois); ANTHONY LEONARDO (Illinois); CHARLES
NADOLSKI (Illinois); GERALD B. HERBERT (Indiana);
WILLIAM HATHAWAY (Indiana); CHARLIE KOCHENASH
(Indiana); TROY D. REHA (Iowa); PAMELA J.
SCHULTE-WAGNER (Iowa); DAVE WARD (Iowa); JAMES
GRAGG (Kansas); ROBIN A. BAILEY (Kansas); TODD
METALLO (Kentucky); ROBERT ADAMS (Kentucky);
PATRICK CONWAY (Kentucky); ASHLEY WADE GARY
(Louisiana); COREY MICHAEL GRAHAM (Louisiana);
CLARENCE EDWARD WARD III (Louisiana); KEITH
CATONGUAY (Maine); MARIE CASTONGUAY
(Maine); HAROLD POOLE (Maryland); WALTER
AUGUSTINE (Maryland); CYNTHIA L. JONES
(Maryland); DONALD WILLIAMSON (Massachusetts);
PAUL DIONNE (Massachusetts); DANIEL SKAPINSKY
(Massachusetts); TONY DEMOTT (Michigan);
KENNETH COOPER (Michigan); PAT FOSTER
(Michigan); JOHN MARSHALL (Minnesota);
SHAWN WAYNE JUNIOR DAVIS (Minnesota);
JOHN HANSVICK (Minnesota); MARK G.
(Mississippi); CHRISTOPHER J.M.
(Mississippi); JONATHAN D. MEADOWS

MOTION
TO DISMISS PLAINTIFFS'
AMENDED COMPLAINT
BY DEPTS. STATE OF
MICHIGAN AND TERRI
LYNN LAND

KEVIN HALPIN (Missouri); JOSEPH (Missouri); BRIAN THOMPSON II (Missouri); STANLEY JONES (Montana); ELENA (Montana); JOSEPH KASUN (Nebraska); ERIC MILLER (Nebraska); JAY PETERSON (Nebraska); CHRISTOPHER H. HANSEN (Nevada); JUANITA COX (Nevada); GUY PAGE FELTON III (Nevada); DOUGLAS A. BERSAW (New Hampshire); DIANNE GILBERT (New Hampshire); ROBERT SURPRENANT (New Hampshire); EDWARD HELMSTETTER (New Jersey); GARY BERNER (New Jersey); PANKAJ ANAND (New Jersey); CHARLES RANALLI (New Mexico); JAMES GENZLING (New Mexico); WILLIAM RITCH (New Mexico); ARTHUR BERG (New York); JOHN LIGGETT (New York); STEVE HARRIS (North Carolina); BETTE GERMAN SMITH (North Carolina); CARL JAY ZIETLOW (North Carolina); CHARLES CARTIER (North Dakota); CATHY CARTIER (North Dakota); JAMES J. CONDIT JR. (Ohio); MICHAEL DISALVO (Ohio); GREGORY TEKAUTZ (Ohio); STEVEN M. BEESON (Oklahoma); CRAIG F HOLGUIN (Oklahoma); JENNIFER L. WATERS (Oklahoma); MARY D. FARRELL (Oregon); LEE HAMEL (Oregon); RUBLE O'DELL (Oregon); EDGAR STEPHAN (Pennsylvania); SAMUEL ANTHONY ETTARO (Pennsylvania); JOSEPH THOMPSON (Pennsylvania); CHRISTOPHER J. MAYNARD (Rhode Island); SUSAN R. BERGE (Rhode Island); JOSHUA DAVID BRANNON (South Carolina); ILONA URBAN BLAKELEY (South Carolina); AMANDA MOORE (South Carolina); WILLIAM STEGMEIER (South Dakota); ELVIS HANES (South Dakota); EUGENE PAULSON (South Dakota); WILLIAM HARDIN (Tennessee); JOHN FARRAR (Tennessee); WILLIAM KELLER (Tennessee); GARY W. GIUFFRE (Texas); EDDIE CRAIG (Texas); GREGORY GOREY (Texas); RONALD J. KELLER (Texas); ROBERT K DALTON (Utah); TED ARSENAULT (Utah); SHAUN A. KNAPP (Utah); DAVID COLE (Vermont); GARY L. GALE (Vermont); OWEN MULLIGAN (Vermont); WILLIAM CLARK DELASHMUTT (Virginia); CAROLYN WILLIAMS (Virginia); JUDITH SHARPE (Virginia); RON MOSS (Washington); LARRY K. BURNS (Washington); DAVID KNIGHT (Washington);

WILLIAM SISEMORE (West Virginia); DORIS PONSTINGL (West Virginia); ZABRINA SISEMORE (West Virginia); FRANCINE ARNOLD (Wisconsin); ANITA ZIBTON (Wisconsin); LANCE CRAIN (Wyoming); MAURICE W. JONES (Wyoming); JOE R. SLACK JR. (Wyoming);

Plaintiffs

-against-

STATE OF NEW YORK, Neil Kelleher, Douglas Kellner, Evelyn Aquila and Helena Moses Donahue, State Board of Elections; STATE OF ALABAMA, Beth Chapman, Secretary of State and Chief Election Official; STATE OF ALASKA, Sean Parnell, Lt. Governor and Chief Election Official; STATE OF ARIZONA, Jan Brewer, Secretary of State and Chief Election Official; STATE OF ARKANSAS, Charlie Daniels, Secretary of State and Chief Election Official; STATE OF CALIFORNIA, Debra Bowen, Secretary of State and Chief Election Official; STATE OF COLORADO, Mike Coffman, Secretary of State and Chief Election Official; STATE OF CONNECTICUT, Susan Bysiewicz, Secretary of State and Chief Election Official; STATE OF DELAWARE, Elaine Manlove, Commissioner of Elections; STATE OF FLORIDA, Kurt Browning, Secretary of State and Chief Election Official; STATE OF GEORGIA, Karen Handel, Secretary of State and Chief Election Official; STATE OF HAWAII, Rex M. Quidilla, Chief Election Officer; STATE OF IDAHO, Ben Ysursa, Secretary of State and Chief Election Official; STATE OF ILLINOIS, Albert Porter, Bryan Schneider, Jesse Smart, Wanda Rednour, Robert Walters, Patrick Brady, William McGuffage and John Keith, State Board of Elections; STATE OF INDIANA, Todd Rokita, Secretary of State and Chief Election Official; STATE OF IOWA, Michael Mauro, Secretary of State and Chief Election Official; STATE OF KANSAS, Ron Thornburgh, Secretary of State and Chief Election Official; STATE OF KENTUCKY, Trey Grayson, Secretary of State and Chief Election Official; STATE OF LOUISIANA, Jay Dardenne, Secretary of State and Chief Election Official; STATE OF MAINE, Matthew Dunlap, Secretary of State and Chief Election Official;

STATE OF MARYLAND,. Robert Walker, Bobbie Mack, Andrew Jezic, David McManusand Charles Thomann, State Board of Elections; STATE OF MASSACHUSETTS, William Francis Galvin, Secretary of the Commonwealth and Chief Election Official; STATE OF MICHIGAN, Tern Lynn Land, Secretary of State and Chief Election Official; STATE OF MINNESOTA, Mark Ritchie, Secretary of State and Chief Election Official; STATE OF MISSISSIPPI, Eric Clark, Secretary of State and Chief Election Official; STATE OF MISSOURI, Robin Carnahan, Secretary of State and Chief Election Official; STATE OF MONTANA, Brad Johnson, Secretary of State and Chief Election Official; STATE OF NEBRASKA, John Gale, Secretary of State and Chief Election Official; STATE OF NEVADA, Ross Miller, Secretary of State and Chief Election Official; STATE OF NEW HAMPSHIRE, William Gardner, Secretary of State and Chief Election Official; STATE OF NEW JERSEY, Anne Milgram, Attorney General and Chief Election Official; STATE OF NEW MEXICO, Mary Herrera, Secretary of State and Chief Election Official; STATE OF NORTH CAROLINA, Larry Leake, Lorraine Shinn, Charles Winfree, Genevieve Simsand Robert Cordle, State Board of Elections; STATE OF NORTH DAKOTA, Alvin Jaeger, Secretary of Stateand Chief Election Official; STATE OF OHIO, Jennifer Brunner, Secretary of State and Chief Election Official; STATE OF OKLAHOMA, Thomas Prince, Susan Turpenand Ramon Watkins, State Election Board; STATE OF OREGON, Bill Bradbury, Secretary of State and Chief Election Official; STATE OF PENNSYLVANIA, Pedro Cortés, Secretary of the Commonwealth and Chief Election Official; STATE OF RHODE ISLAND, A. Ralph Mollis, Secretary of State and Chief Election Official; STATE OF SOUTH CAROLINA, John Hudgens III, Cynthiz Bensch, Tracey Green, Pamella Pinsonand Edward Pritchard, Jr., State Election Commission; STATE OF SOUTH DAKOTA, Chris Nelson, Secretary of State and Chief Election Official; STATE OF TENNESSEE, Riley Darnell, Secretary of State and Chief Election Official; STATE OF TEXAS, Phil Wilson, Secretary of State and Chief Election Official; STATE OF UTAH, Gary Herbert, Lt. Governor and Chief Election Official; STATE OF VERMONT, Deborah Markowitz, Secretary of State and Chief Election

Official; STATE OF VIRGINIA, Jean Cunningham, Harold Pyonand Nancy Rodriques, State Board of Elections; STATE OF WASHINGTON, Sam Reed, Secretary of State and Chief Election Official; STATE OF WEST VIRGINIA, Betty Ireland, Secretary of State and Chief Election Official; STATE OF WISCONSIN, John Schober, Shane Falk, David Anstaett, Kirby Brant, Donald Goldberg, Carl Holborn, Patrick Hodan, Robert Kasieta and Jon Savage, State Elections Board; STATE OF WYOMING, Max Maxfield, Secretary of State and Chief Election Official;

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**NOTICE OF MICHIGAN DEFENDANTS' MOTION TO DISMISS
PLAINTIFF'S AMENDED COMPLAINT**

NOW COME the State of Michigan and Terri Lynn Land, Secretary of State and Chief Election Official in her individual and official capacity ("Michigan Defendants") by and through counsel, the Office of the Attorney General for the State of Michigan, and hereby move this Court to dismiss Plaintiffs' amended Complaint against the Michigan Defendants. In support of this motion, the Michigan Defendants state the following:

1. Pursuant to Fed R Civ Proc 12(b)(2), this Court does not have personal jurisdiction over these Michigan Defendants. Therefore, this Court should dismiss this action against the Michigan Defendants.

2. Pursuant to Fed R Civ Proc 12(b)(3), this Court is not the proper venue to sue the Michigan Defendants. Therefore, this court should dismiss this action against the Michigan Defendants.

3. Pursuant to the Eleventh Amendment of the United States Constitution, both the State of Michigan and Terri Lynn Land, the Michigan Secretary of State and Chief Election Officer are immune from suit. Additionally, the Michigan Defendants are not "persons" under 42 U.S.C. § 1983. Plaintiffs' claims against the Michigan Defendants must be dismissed.

4. A memorandum of law in support of this motion is filed concurrently with this motion.

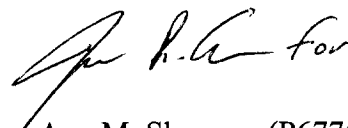
5. This is a dispositive motion. Therefore, there is no requirement that concurrence be sought.

6. Attached to this motion, please find the Michigan Defendants' Memorandum of Law in Support of Motion to Dismiss.

WHEREFORE, the State of Michigan and Terri Lynn Land, Michigan Secretary of State and Chief Election Official in her individual and official capacity, respectfully requests that this Court enter an order granting the Michigan Defendants' Motion to Dismiss Plaintiffs' amended Complaint; and any other relief as this Court deems necessary and just.

Respectfully submitted

Michigan Defendants
By their attorneys,



Ann M. Sherman (P67762)
Admitted *Pro Hac Vice*

Dated: November 20, 2007