

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK**

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ROBERT L. SCHULTZ, et al.,

Case No. 07-cv-943  
(LEK)(DRH)

*Plaintiffs,*

v.

STATE OF NEW YORK, et al.

**COLORADO DEFENDANTS'  
NOTICE OF MOTION  
TO DISMISS**

*Defendants.*

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PLEASE TAKE NOTICE that on January 18, 2008 at 9:30 a.m. or as soon thereafter as is convenient for the court, the undersigned attorney shall move and does hereby move the United States District Court of the Northern District of New York to dismiss the above referenced complaint with respect to the Colorado Defendants (the State of Colorado and Colorado's Secretary of State).

PLEASE TAKE FURTHER NOTICE that in support of this motion, the Colorado Defendants shall rely on this Notice of Motion, Affidavit to Join Motions to Dismiss, Motions to Dismiss filed by the State of Oregon, the State of Texas, the State of New Hampshire, and the State of South Carolina, as well as undersigned's certificate of service submitted herewith.

Pursuant to Fed.R.Civ.Pro. 12(b)(2), the Colorado Defendants move to dismiss plaintiffs' claims against them for lack of jurisdiction over their person and because the claims are barred by the Eleventh Amendment to the United States Constitution.

Respectfully submitted this 10th day of December, 2007.

JOHN SUTHERS, ATTORNEY GENERAL

/s/ Melody Mirbaba

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