

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

ROBERT L. SCHULZ, et al.,

Plaintiffs,

v.

STATE OF NEW YORK, et al.,

Defendants.

CIVIL ACTION
NO. 07-00943-LEK-DRH

NOTICE OF MOTION TO DISMISS PURSUANT TO FRCP 12(b)

PLEASE TAKE NOTICE that upon the annexed motion, defendants Commonwealth of Massachusetts and Secretary of the Commonwealth William Francis Galvin in his individual and official capacities, on 1/18/2008 09:30 AM or as soon thereafter as counsel may be heard, will make a motion as a submission before the Senior Judge Lawrence E. Kahn, at the United States District Court, Northern District of New York, pursuant to Fed. R. Civ. P. 12(b), for an order dismissing the complaint in its entirety on the grounds that this action is barred by lack of personal jurisdiction, Eleventh Amendment immunity, and improper venue, together with such other or further relief as may be just. No oral argument is requested.

PLEASE TAKE FURTHER NOTICE, that pursuant to the Order issued on 12/7/07 (Docket No. 132), any papers to be submitted in opposition to the within motion must be filed with Clerk and served upon counsel for the defendants no later than February 1, 2008. These papers must include, at a minimum, a memorandum of law containing relevant factual and legal arguments.

PLEASE BE FURTHER ADVISED that if you do not respond in opposition to the motion, the motion to dismiss, if appropriate, will be granted and judgment will be entered against you. If the motion to dismiss is granted, your case will be dismissed and there will not be any trial concerning any of the issues asserted in your complaint.

MARTHA COAKLEY
ATTORNEY GENERAL

/s/ Peter Sacks
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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was mailed, postage prepaid, this 13th day of December, 2007, to:

Robert L. Schulz
2458 Ridge Road
Queensbury New York 12804

Service on appearing Defendants is made through the Court's electronic filing system.

/s/ Peter Sacks

Peter Sacks
Assistant Attorney General