

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

ROBERT SCHULZ, *et al*,
Plaintiffs

v.

STATE OF NEW YORK, *et al*,
Defendants

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CASE NO: 1:07-CV-0943 LEK/DRH

**Notice of Louisiana Defendants’
Motion to Dismiss Plaintiffs’ Amended Complaint**

NOW COMES the State of Louisiana, and Jay Dardenne, Louisiana Secretary of State and Chief Election Official (Louisiana Defendants) by and through counsel, the Office of the Attorney General for the State of Louisiana, and hereby move this Court to dismiss the Plaintiffs’ original and amended complaints against the Louisiana Defendants on 1/18/2008 09:30 AM, or as soon as thereafter as is convenient for this court. In support of this motion, the Louisiana Defendants state following:

1. The defendants State of Louisiana and Secretary of State Jay Dardenne in his official capacities (collectively “the Louisiana Defendants”) move to dismiss the complaint against them on the same grounds asserted in the motions to dismiss and accompanying memoranda filed by Oregon (Doc. No. 22) and South Carolina (Doc. No. 23): lack of personal jurisdiction, Eleventh Amendment immunity, and improper venue (South Carolina only). The Louisiana Defendants further note that plaintiffs’ Amended Complaint fails to allege any facts specifically relating to activities of the Louisiana Defendants, in New York or otherwise. See generally Doc. No. 21.

Rather than filing a duplicative memorandum, the Louisiana Defendants adopt and join in the arguments asserted in the above-referenced motions and memoranda and respectfully request the corresponding relief: dismissal of the complaint as to the defendants State of Louisiana, and Jay Dardenne, Louisiana Secretary of State and Chief Election Official (Louisiana Defendants).

WHEREFORE, it is respectfully requested that this Court order as follows:

- A. Grant the Louisiana Defendants Motion to Dismiss Plaintiff's Amended Complaint; and
- B. For such other and further relief as is necessary.

Respectfully submitted,

CHARLES C. FOTI, JR.
ATTORNEY GENERAL

BY:

WILLIAM P. BRYAN, III, #26826
Assistant Attorney General
Attorney for the State of Louisiana,
P. O. Box 94005
Baton Rouge, La 70804-9005
Telephone: (225) 326-6081
Fax: (225) 326-6099

December 14, 2007

I hereby certify that a copy of the foregoing was mailed this day, postage prepaid to Robert L. Schultz, *pro se*, 2458 Ridge Road, Queensbury, NY 12804.

William P. Bryan, III

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 the State of Louisiana, and Jay Dardenne, Louisiana Secretary of State and Chief Election Official (Louisiana Defendants), 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.

Respectfully submitted,

CHARLES C. FOTI, JR.
ATTORNEY GENERAL

BY: /s/ William P. Bryan, III
WILLIAM P. BRYAN, III, #26826
Assistant Attorney General
Attorney for the State of Louisiana,
P. O. Box 94005
Baton Rouge, La 70804-9005
Telephone: (225) 326-6081
Fax: (225) 326-6099

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/ William P. Bryan, III
William P. Bryan, III
Assistant Attorney General