

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF NEW YORK
(Central Division)

ROBERT L. SCHULZ (New York), et al.)	Case No. 1:07-CV-0943 LEK/DRH
)	
Plaintiffs,)	
)	STATE OF IOWA
v.)	NOTICE OF FILING
)	Affidavit Joining Motion to Dismiss
STATE OF NEW YORK, et al.,)	
)	
Defendants.)	

**IOWA DEFENDANT’S NOTICE OF FILING
AFFIDAVIT JOINING MOTION TO DISMISS**

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 State of Iowa and the Iowa Secretary of State, Michael Mauro, on the grounds that: (1) the Plaintiffs have failed to plead facts sufficient to establish personal jurisdiction over the Iowa Defendants under the New York long-arm statute or the Due Process Clause of the Fourteenth Amendment; (2) this Court is not the proper venue to bring this action against the Iowa Defendants; (3) the State of Iowa and Iowa Secretary of State, acting in his official capacity, are immune from suit under the Eleventh Amendment; and (4) the State of Iowa and Iowa Secretary of State, acting in his official capacity, are not persons for purposes of 42 U.S.C. § 1983.

PLEASE TAKE FURTHER NOTICE that in support of this Motion, the Iowa Defendants shall rely on this Notice of Motion, the Iowa Defendant’s Affidavit Joining Motion

to Dismiss filed by the State of Michigan, and the Motion to Dismiss and Memorandum of Law filed on behalf of the Michigan Defendants on November 26, 2007 [Docket entry # 70].

PLEASE TAKE FURTHER NOTICE that, pursuant to Rule 7.1(c) of the Local Rules of Practice of the United States District Court of the Northern District of New York, any papers to be submitted in opposition to the Iowa Defendants' Motion must be filed with the Clerk in Albany, New York and served upon counsel for the Defendants no later than seventeen (17) days before the return date on the motion, exclusive of that day. These papers must include, at a minimum, a memorandum of law containing relevant facts and legal arguments.

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

Respectfully submitted,



CHRISTIE J. SCASE
NDNY Bar Roll # 106523
Assistant Attorney General
Hoover Building, 2nd Floor
Des Moines, Iowa 50319
Tel. (515) 281-6839
FAX: (515) 281-7551
e-mail: cscase@ag.state.ia.us

ATTORNEY FOR IOWA DEFENDANTS
Admitted *Pro Hac Vice*