

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF NEW YORK**

ROBERT L. SCHULZ, et al.,)	Case No. 07-CV-0943 LEK/DRH
)	
Plaintiffs)	
v.)	DELAWARE DEFENDANTS'
)	MOTION TO DISMISS
)	
STATE OF NEW YORK, et al.,)	
)	
Defendants)	

MOTION TO DISMISS

The State of Delaware and Elaine Manlove, the Commissioner of Elections for the State of Delaware, by and through her attorney, A. Ann Woolfolk, Deputy Attorney General for the State of Delaware move to dismiss this Complaint, and in support of their Motion to Dismiss, state as follows:

1. This Honorable Court lacks personal jurisdiction over the Delaware Defendants because the Delaware Defendants do not have the minimal contacts necessary to subject them to the jurisdiction of New York courts. *World-wide Volkswagon Corp. v. Woodson*, 444 U.S. 286, 291 (1980).

2. The Northern District of New York is not the proper venue for Plaintiffs' action against the Delaware Defendants. *Leroy v. Great Western United Corp.*, 443 U.S. 173, 184 (1979)

3. The action against the State of Delaware is barred by the Eleventh Amendment to

the United States Constitution. *Pennhurst v. Halderman*, 465 U.S. 89 (1984).

4. In support of their Motion to Dismiss, the Delaware Defendants adopt the arguments made by numerous other states and state election officials, and specifically the arguments set forth in Section II A, B and E of the Memorandum of Law in Support of the New Hampshire Defendants on November 14, 2007.

WHEREFORE, the State of Delaware and the Commissioner of Elections for the State of Delaware respectfully request that this Honorable Court grant their Motion to Dismiss.

STATE OF DELAWARE
DEPARTMENT OF JUSTICE

**BY: A. ANN WOOLFOLK, DEPUTY
ATTORNEY GENERAL**

BY: /s/ A. Ann Woolfolk
A. ANN WOOLFOLK
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Attorney for the State of Delaware and
Elaine Manlove, Delaware Commissioner of
Elections

Dated: December 17, 2007

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CERTIFICATE OF SERVICE

I, A. Ann Woolfolk, Deputy Attorney General for the State of Delaware, do hereby certify that I have this date caused to be electronically filed, a true and correct copy of the above *Delaware Defendants' Motion to Dismiss* with the Clerk of the Court through ECF, and that ECF will send a Notice of Electronic Filing (NEF) to counsel for the other named defendants. I further certify that a copy of the foregoing document was served upon the following by mailing a true and correct copy to the following non-ECF participant who had been designated by the Court as the "Lead Plaintiff's Representative":

Mr. Robert L. Schulz
2458 Ridge Road
Queensbury, NY 12804

THIS the 17th day of December, 2007.

/s/ A. Ann Woolfolk
A. Ann Woolfolk