

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

ROBERT L. SCHULZ, et al.,)

Plaintiffs,)

v.)

STATE OF NEW YORK,)

Neil Kelleher, Douglas Kellner,)

Evelyn Aquilaand, Helena Moses)

Donahue, State Board of Elections,)

et al.,)

Defendants.)

07-943-LEK/DRH

STATE OF GEORGIA

AND KAREN HANDEL’S

NOTICE OF MOTION

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PLEASE TAKE NOTICE that upon the annexed motion, all prior filings with the Court, and upon all prior proceedings, Defendants State of Georgia and Karen Handel, Secretary of State (hereinafter the “Georgia Defendants”), by and through counsel, the Attorney General for the State of Georgia, on January 18, 2008, at 9:30 a.m., or as soon thereafter as counsel can be heard, will make a motion as a submission before the Honorable Lawrence E. Kahn, at the United States District Court for the Northern District of New York, Syracuse, New York, pursuant to Rule 12(b) of the Federal Rules of Civil Procedure, for an order dismissing the Amended Complaint in its entirety on the grounds that the Court lacks personal jurisdiction over the Georgia Defendants, venue is not proper in the Northern District of New York, the action against the State of Georgia is barred by

the 11th Amendment, and the State Defendants are not the proper parties to this action, together with such other and further relief as may be just.

PLEASE TAKE FURTHER NOTICE THAT, pursuant to Rule 7.1(c) of the Local Rules of Practice of the United States District Court for the Northern District of New York, any papers submitted in opposition to the within motion must be filed with the Clerk in Syracuse, New York, and served upon counsel for the defendants no later than seventeen (17) days before the return date of the motion, exclusive of that day. 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 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 the issues asserted in your complaint.

Respectfully submitted this 17th day of December, 2007.

THURBERT E. BAKER
Georgia Bar No. 033887
Attorney General

KATHLEEN M. PACIOUS
Georgia Bar No. 558555
Deputy Attorney General

(Signatures Continue on Following Page)

DEVON ORLAND
Georgia Bar No. 554301
Senior Assistant Attorney General

\s\ Holly Loy Smith
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Georgia Bar No. 036299
Assistant Attorney General

PLEASE ADDRESS
ALL COMMUNICATIONS TO:
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40 Capitol Square, S.W.
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E-mail: hsmith@law.ga.gov

CERTIFICATE OF SERVICE

I hereby certify that on December 17, 2007, I have filed a true and correct copy of the foregoing **DEFENDANTS' NOTICE OF MOTION** with the Clerk of Court using the CM/ECF system which will automatically send email notification of such filing to the Defendants, and I hereby certify that on December 17, 2007, I mailed by United States Postal Service, the document to the following non-registered participant per the Court's October 30, 2007 Order:

Robert L. Schulz
2458 Ridge Road
Queensburg, New York 12804
(Lead Plaintiff)

This 17th day of December, 2007.

\s\ Holly Loy Smith
HOLLY LOY SMITH
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Georgia Bar No. 036299
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