

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

ROBERT L. SCHULZ, et al.,	)	
	)	
Plaintiffs,	)	
	)	CIVIL ACTION
v.	)	No. 07-00943-LEK-DRH
	)	
STATE OF NEW YORK, et al.,	)	
	)	
Defendants.	)	

**MAINE DEFENDANTS' NOTICE OF 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 counsel shall move, and does hereby move, pursuant to Fed. R. Civ. P. 12(b), for an order dismissing the Plaintiffs' Amended Complaint as to the Defendants State of Maine and Maine's Secretary of State Matthew Dunlap, in his individual and official capacities (collectively referred to herein as the "Maine Defendants"), on the grounds that: (1) this Court lacks jurisdiction over their persons; (2) plaintiffs' claims against the Maine Defendants are barred by the Eleventh Amendment to the United States Constitution; and (3) venue is not proper in the Northern District of New York. No oral argument is requested.

PLEASE TAKE FURTHER NOTICE that in support of this motion, the Maine Defendants will rely on this Notice of Motion, the Affidavit to Join Motions to Dismiss and Supporting Memoranda filed by the State of Oregon, the State of Michigan, and the State of South Carolina, and the Certificate of Service submitted herewith.

PLEASE TAKE FURTHER NOTICE that, pursuant to Rule 7.1(b) of the Local Rules of Practice of the United States District Court for the Northern District of New York, any papers to be submitted in opposition to the Maine Defendants' Motion to Dismiss 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 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 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 and there will not be any trial concerning any of the issues in the complaint.

Respectfully submitted this 17<sup>th</sup> day of December, 2007.

G. STEVEN ROWE, ATTORNEY GENERAL

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