

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

ROBERT L. SCHULTZ, et al.,)	
)	
Plaintiffs,)	
)	
v.)	No. 07 cv-0943
)	
THE STATE OF NEW YORK, et a.,)	
)	
Defendants.)	

**TENNESSEE DEFENDANTS' AFFIDAVIT TO JOIN
MOTIONS TO DISMISS**

STATE OF TENNESSEE
COUNTY OF DAVIDSON

The State of Tennessee and Tennessee's Secretary of State Riley E. Darnell (hereinafter collectively referred to as the "Tennessee Defendants"), by and through their attorneys, the Attorney General and Reporter for the State of Tennessee and undersigned counsel, do hereby submit this Affidavit to Join Motions to Dismiss as follows:

I, JANET M. KLEINFELTER, counsel for the Tennessee Defendants, being duly sworn, do hereby attest and affirm:

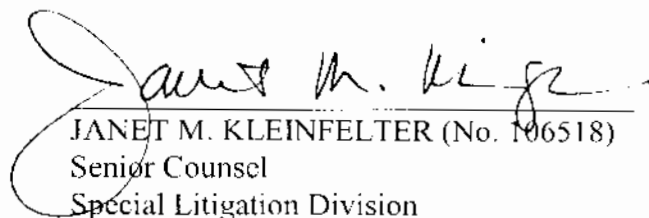
1. I have reviewed the Motions to Dismiss and Memoranda of Law in this matter filed on behalf of the States of Texas, Oregon and Michigan.

2. The Tennessee Defendants do hereby join the Motions to Dismiss and Memoranda of Law filed by the States of Texas, Oregon and Michigan. The arguments made therein apply to the Tennessee Defendants. Specifically, as with those Defendants, Plaintiffs'

claims against the Tennessee Defendants should also be dismissed because: (1) this Court lacks personal jurisdiction over the Tennessee Defendants because the Plaintiffs have failed to allege any facts establishing minimum contacts between the State of New York and the Tennessee Defendants, and Plaintiffs have failed to allege any facts establishing the Tennessee Defendants are within the scope of New York's long arm statute; (2) extending jurisdiction over the Tennessee Defendants would violate the due process clause of the Fourteenth Amendment; (3) the Tennessee Defendants are immune from suit pursuant to the Eleventh Amendment to the United States Constitution; (4) the State of Tennessee and its officials acting in their official capacities are not considered "persons" under § 1983; and (5) New York is not the proper venue for a suit against the Tennessee Defendants. For the same reasons and authorities set forth in the Motions and Memoranda of Law adopted by the Tennessee Defendants, this Court should dismiss all claims against the Tennessee Defendants.

Respectfully submitted,

ROBERT E. COOPER, JR.
Attorney General and Reporter



JANET M. KLEINFELTER (No. 106518)
Senior Counsel
Special Litigation Division
Office of Tennessee Attorney General
P.O. Box 20207
Nashville, TN 37202
(615) 741-7403
[FAX] (615) 741-2009
janet.kleinfelter@state.tn.us

Sworn to and subscribed before me this th 17 day of December, 2007.

William Lee
Notary Public

My Commission expires: 9-10-2008

