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

ROBERT L. SCHULZ (New York), et	al.)
Plaintiffs,	) )
v.	) C/A No. 1:07-CV-0943 LEK/DRH
STATE OF NEW YORK, et al.	)
Defendants.	)

# DEFENDANTS STATE OF WYOMING AND MAX MAXFIELD, SECRETARY OF STATE OF WYOMING, NOTICE OF MOTION TO DISMISS

PLEASE TAKE NOTICE that the Defendants State of Wyoming and Max Maxfield, Secretary of State of Wyoming (collectively "Wyoming Defendants"), by and through their counsel, the Wyoming Attorney General's Office, respectfully move this Court for an ORDER dismissing Plaintiffs' AMENDED VERIFIED COMPLAINT on January 18, 2008 at 9:30 a.m., or at the Court's convenience. In Support of its MOTION, the Wyoming Defendants state the following:

1) This Court lacks personal jurisdiction over the Wyoming Defendants and,

therefore, this action against the Wyoming Defendants should be dismissed pursuant to FED.

R. CIV. P. 12(b)(2).

2) This Court is not the proper venue for suit against the Wyoming Defendants and,

therefore, this action against the Wyoming Defendants should be dismissed pursuant to FED.

R. CIV. P. 12(b)(3).

3) The State of Wyoming is immune from suit pursuant to the Eleventh Amendment

of the United States Constitution and, therefore, all claims against the State of Wyoming

should be dismissed.

4) A memorandum of law fully setting forth the grounds in support of this motion is

filed concurrently and incorporated by this reference as if fully set forth herein.

WHEREFORE, the Wyoming Defendants respectfully request this Court to:

(1) Dismiss Plaintiffs' AMENDED VERIFIED COMPLAINT with prejudice; and

(2) Grant the Wyoming Defendants any other relief deemed appropriate by the

Court.

## **RESPECTFULLY SUBMITTED** this 4<sup>th</sup> day of December 2007.

FOR AND ON BEHALF OF THE STATE OF WYOMING AND MAX MAXFIELD, SECRETARY OF STATE OF WYOMING:

Bruce A. Salzburg Attorney General

### s/ Michael M. Robinson

Michael M. Robinson Wyoming Bar No. 6-2658 Senior Assistant Attorney General 2424 Pioneer Avenue, Third Floor Cheyenne, WY 82002 307-777-7970 Admitted *Pro Hac Vice* Bar Roll Number: 106482

#### **CERTIFICATE OF SERVICE**

I hereby certify that on this 4<sup>th</sup> day of December, 2007, DEFENDANTS STATE OF WYOMING AND MAX MAXFIELD, SECRETARY OF STATE OF WYOMING, NOTICE OF MOTION TO DISMISS and MEMORANDUM IN SUPPORT OF WYOMING DEFENDANTS' MOTION TO DISMISS PLAINTIFFS' AMENDED VERIFIED COMPLAINT was served by depositing a true and correct copy in the United States mail, postage prepaid, addressed to:

Robert L. Schulz 2458 Ridge Road Queensbury, NY 12804

s/ Michael M. Robinson

Michael M. Robinson Wyoming Bar No. 6-2658 Senior Assistant Attorney General 2424 Pioneer Avenue, Third Floor Cheyenne, WY 82002 307-777-7970 Admitted *Pro Hac Vice* Bar Roll Number: 106482