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6 Attorneys for Arizona Defendant

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

9 ROBERT L. SCHULZ, et al.,
10 Plaintiffs,
11 v.
12 STATE OF NEW YORK, et al.,
13 Defendants.
14

No. 07-CV-943 (LEK/DRH)

**NOTICE OF ARIZONA
DEFENDANTS' MOTION TO
DISMISS PLAINTIFFS' AMENDED
VERIFIED COMPLAINT**

15 PLEASE TAKE NOTICE THAT ON January 18, 2007, or as soon thereafter as is
16 convenient for the Court, the undersigned attorney shall and hereby does move the United
17 States District Court for the Northern District of New York to dismiss the above
18 referenced complaint with respect to the Arizona Defendants. Oral argument is not
19 requested.

20 PLEASE TAKE FURTHER NOTICE that in support of this Motion, the Arizona
21 Defendants shall rely upon this Notice of Motion, Memorandum of Law in Support of the
22 Arizona Defendants' Motion to Dismiss, and the Certification of Mr. Skolnik submitted
23 herewith.

24 Pursuant to Rule 12(b)(2) of the Federal Rules of Civil Procedure, the Arizona
25 Defendants move to dismiss Plaintiffs' Complaint for lack of jurisdiction over their
26 persons. The Arizona Defendants also move to dismiss Plaintiffs' Complaint on the

1 ground that Plaintiffs' claims against the Defendant State of Arizona are barred by the
2 Eleventh Amendment to the United States Constitution. In addition, the State is not a
3 "person" as that term is used in 42 U.S.C. § 1983. This Motion is supported by a
4 Memorandum submitted herewith.

5 RESPECTFULLY SUBMITTED this 6th day of December, 2007.

6 **TERRY GODDARD**
7 **ATTORNEY GENERAL**

8 /s/ Bruce L. Skolnik
9 Bruce L. Skolnik
10 Assistant Attorney General
11 Attorney for Arizona Defendants
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CERTIFICATE OF SERVICE

I hereby certify that on December 6th, 2007, I served the foregoing ARIZONA DEFENDANTS' MOTION TO DISMISS AND NOTICE OF MOTION upon the parties hereto by the method indicated below, and addressed to the following:

MAIL DELIVERY TO:

Robert L. Schulz
2458 Ridge Road
Queensbury, NY 12804

**TERRY GODDARD
ATTORNEY GENERAL**

/s/ Bruce L. Skolnik
Bruce L. Skolnik
Assistant Attorney General
Attorney for Arizona Defendants