

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

ROBERT L. SCHULZ, et al.,

Plaintiffs,

Case No. 07cv-0943

v.

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THE STATE OF NEW YORK, et al.,

Defendants.

NEW MEXICO DEFENDANTS' AFFIDAVIT TO JOIN MOTIONS TO DISMISS

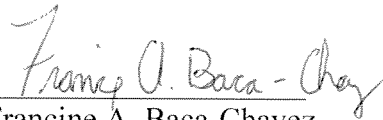
The State of New Mexico and New Mexico's Secretary of State, (collectively referred to herein as "New Mexico Defendants"), by and through their attorneys, Office of the New Mexico Attorney General and undersigned counsel, do hereby submit this Affidavit to Join Motions to Dismiss as follows:

I, Francine A. Baca-Chavez, counsel for the New Mexico Defendants, being duly sworn, do hereby attest and affirm:

1. I have reviewed the Motions to Dismiss and Memorandums of Law in this matter filed on behalf of the State of Texas, the State of Oregon and the State of Michigan.
2. The New Mexico Defendants do hereby join in the Motions to Dismiss and Memorandums of Law filed by the State of Texas, the State of Oregon and the State of Michigan. The arguments made therein apply to the New Mexico Defendants. Specifically, as with those Defendants, Plaintiffs' claims against the New Mexico Defendants should also be dismissed because: (1) the Court lacks personal jurisdiction over the New Mexico Defendants because the Plaintiffs have failed to allege any facts

establishing minimum contacts between the State of New York and the New Mexico Defendants, and Plaintiffs failed to allege any facts establishing the New Mexico Defendants are within the scope of New York's long arm statute; (2) extending jurisdiction over the New Mexico Defendants would violate the due process clause of the Fourteenth Amendment; (3) The New Mexico Defendants are immune from suit pursuant to the Eleventh Amendment to the United States Constitution; (4) The State of New Mexico 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 New Mexico Defendants. For the same reasons and authorities set forth in the Motions and Memorandums of Law adopted by the New Mexico Defendants, this Court should dismiss all claims against the New Mexico Defendants.

Respectfully Submitted,


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CITY AND COUNTY OF SANTA FE

STATE OF NEW MEXICO

Sworn before me this
13th day of December 2007

Rose Butler

Rose Butler
Notary Public

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My Commission Expires: April 6, 2009