

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

ROBERT L. SCHULZ, et al.,

Plaintiffs,

Case No. 07cv-0943

v.

[Case 1:07-cv-00943-LEK-DRH](#) [Document 164](#) [Filed 12/13/2007](#) [Page 1 of](#)

THE STATE OF NEW YORK, et al.,

Defendants.

NEW MEXICO 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 attorney shall move and does hereby move the United States District Court of the Northern District of New York to dismiss the above referenced complaint with respect to the State of New Mexico and New Mexico's Secretary of State, (collectively referred to herein as "New Mexico Defendants") on the grounds that: (1) this Court lacks jurisdiction over their persons; (2) plaintiffs' claims against the New Mexico 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.

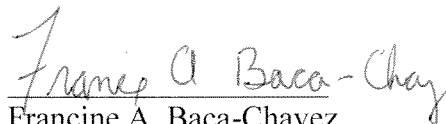
PLEASE TAKE FURTHER NOTICE that in support of this Motion, the New Mexico Defendants shall rely on this Notice of Motion, New Mexico Defendants' Affidavit to Join Motions to Dismiss, Motions to Dismiss and Memorandums of Law filed by State of Texas, the State of Oregon and the State of Michigan, as well as the certificate of service submitted herein.

PLEASE TAKE FURTHER NOTICE that pursuant to Rule 7.1 (c) 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 New Mexico Defendants' Motion 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 facts and legal arguments.

Case 1:07-cv-00943-LEK-DRH Document 164 Filed 12/13/2007 Page 2 of

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 asserted in your complaint.

Respectfully Submitted,



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