

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

ROBERT L. SCHULZ, et al.,)	
)	
Plaintiffs,)	
)	
v.)	Case No: 1:07CV943LEK/DRH
)	
STATE OF NEW YORK, et al.,)	
)	
Defendants.)	

MISSOURI’S MOTION TO DISMISS

Defendants State of Missouri and Secretary of State Robin Carnahan (collectively “Missouri” where appropriate), through counsel, hereby move to dismiss Plaintiffs’ Amended Complaint for the reasons that Missouri is entitled to Eleventh Amendment immunity, the Court lacks personal jurisdiction over defendants, and venue is improper in this Court. Missouri would show the Court the following:

1. Missouri has read the motions to dismiss and accompanying memoranda filed by Oregon (Doc. No. 22), South Carolina (Doc. No. 23) and Texas (Doc. No. 36), requesting that the Court dismiss claims against their respective defendants for lack of personal jurisdiction (each state), Eleventh Amendment immunity (Oregon and South Carolina only) and improper venue (South Carolina only).
2. Missouri moves for dismissal on these same grounds, supported by the same law and argument, stated in the above referenced motions and accompanying memoranda filed by Oregon, South Carolina and Texas. Missouri notes that

plaintiffs' Amended Complaint fails to allege *any* facts specifically relating to activities of the State of Missouri or Ms. Carnahan. *See generally* Doc. No. 21.

3. Rather than file a duplicative motion to dismiss, Missouri adopts and joins the motions to dismiss and accompanying memoranda filed by Oregon, South Carolina and Texas (Doc. Nos. 22, 23, 36) and respectfully requests the same relief.

WHEREFORE, the State of Missouri and Robin Carnahan request that the Court enter an order dismissing this case and for such other and further relief to which they have shown themselves entitled.

Respectfully submitted,

JEREMIAH W. (JAY) NIXON
Attorney General
JAMES R. McADAMS
Senior Chief Counsel for Special Litigation

/s/ James Farnsworth
JAMES FARNSWORTH
Assistant Attorney General
NYND Ball Roll No. 106513
Mo. Bar No. 59707

P.O. Box 899
Jefferson City, MO 65102
Phone No. (573) 751-3321
Fax No. (573) 751-9456
Jim.Farnsworth@ago.mo.gov

ATTORNEY FOR DEFENDANTS
CARNAHAN AND STATE OF MISSOURI

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was mailed, postage prepaid, this 13th day of December, 2007, to:

Robert L. Schulz
2458 Ridge Road
Queensbury New York 12804

Service on appearing Defendants is made through the Court's electronic filing system.

/s/ James Farnsworth
Assistant Attorney General