

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

ROBERT L. SCHULZ, et al.,

Plaintiffs,

v.

STATE OF NEW YORK, et al.,

Defendants.

CIVIL ACTION
NO. 07-00943-LEK-DRH

MASSACHUSETTS' MOTION TO DISMISS

The defendants Commonwealth of Massachusetts and Secretary of the Commonwealth William Francis Galvin in his individual and official capacities (collectively “the Massachusetts Defendants”) move to dismiss the complaint against them on the same grounds asserted in the motions to dismiss and accompanying memoranda filed by Oregon (Doc. No. 22) and South Carolina (Doc. No. 23): lack of personal jurisdiction, Eleventh Amendment immunity, and improper venue (South Carolina only). The Massachusetts Defendants further note that plaintiffs’ Amended Complaint fails to allege any facts specifically relating to activities of the Massachusetts Defendants, in New York or otherwise. See generally Doc. No. 21.

Rather than filing a duplicative memorandum, the Massachusetts Defendants adopt and join in the arguments asserted in the above-referenced motions and memoranda and respectfully request the corresponding relief: dismissal of the complaint as to the defendants Commonwealth of Massachusetts and Secretary of the Commonwealth William Francis Galvin in his individual and official capacities.

COMMONWEALTH OF
MASSACHUSETTS and

SECRETARY OF THE
COMMONWEALTH
WILLIAM FRANCIS GALVIN

By their attorney,

MARTHA COAKLEY
ATTORNEY GENERAL

/s/ Peter Sacks

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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/ Peter Sacks

Peter Sacks
Assistant Attorney General