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

ROBERT SCHULZ, et al.,	) Case No. 1:07-cv-0943 LEK/DRH
Plaintiffs,	
VS.	<ul><li>NOTICE OF IDAHO DEFENDANTS'</li><li>MOTION TO DISMISS</li></ul>
STATE OF NEW YORK, et al.,	
Defendants.	)

PLEASE TAKE NOTICE that on January 18, 2008 at 9:30 AM, or as soon thereafter as is convenient for the Court, Defendants State of Idaho and Ben Ysursa, Secretary of State of the State of Idaho ("Idaho Defendants"), will move as a submission before this Court for the dismissal of Plaintiffs' claims against Idaho Defendants, pursuant to Rules 12(b)(2) and 12(b)(3) of the Federal Rules of Civil Procedure, upon the following grounds: (1) this Court lacks personal jurisdiction as to Idaho Defendants; (2) this action is barred by the Eleventh Amendment as to the State of Idaho; and (3) this Court is not the proper venue for action against Idaho Defendants.

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 this Motion must be filed with the Clerk in Syracuse, New York and served upon counsel for 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 factual and legal arguments.

PLEASE BE FURTHER ADVISED that if you do not respond in opposition to this Motion, the Motion to Dismiss, if appropriate, will be granted and judgment will be entered against you. If the Motion to Dismiss is granted, your case will be dismissed, and there will not be any trial concerning any of the issues asserted in your complaint.

DATED this 17<sup>th</sup> day of December, 2007.

STATE OF IDAHO OFFICE OF THE ATTORNEY GENERAL

By /s/ Michael S. Gilmore

MICHAEL S. GILMORE KARIN D. JONES Deputy Attorneys General Civil Litigation Division Office of the Attorney General P. O. Box 83720 Boise, ID 83720-0010 Telephone: (208) 334-4130

Fax: (208) 854-8073

mike.gilmore@ag.idaho.gov karin.jones@ag.idaho.gov

## **CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 17th day of December, 2007, I electronically filed the foregoing NOTICE OF IDAHO DEFENDANTS' MOTION TO DISMISS with the Clerk of the Court using the CM/ECF system. I also hereby certify that I have mailed by United States Postal Service the foregoing document(s) to the following non-CM/ECF Registered Participant(s).

Robert L. Schulz, pro se 2458 Ridge Road Queensbury, NY 12804	<ul> <li>☑ U.S. Mail</li> <li>☐ Hand Delivery</li> <li>☐ Certified Mail, Return Receipt Requested</li> <li>☐ Overnight Mail</li> <li>☐ Facsimile:</li></ul>
Gary Conway, pro se 6575 N. 16 <sup>th</sup> St. Dalton Gardens, ID 83815	<ul> <li>☑ U.S. Mail</li> <li>☐ Hand Delivery</li> <li>☐ Certified Mail, Return Receipt Requested</li> <li>☐ Overnight Mail</li> <li>☐ Facsimile:</li> </ul>
Paul T. Venable, pro se Susan K. Venable, pro se 1002 N. "D" St. Parma, ID 83660	<ul> <li>☑ U.S. Mail</li> <li>☐ Hand Delivery</li> <li>☐ Certified Mail, Return Receipt Requested</li> <li>☐ Overnight Mail</li> <li>☐ Facsimile:</li> </ul>
	/s/ Michael S. Gilmore  MICHAEL S. GILMORE  Deputy Attorney General