

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

ROBERT L. SCHULZ, et al.,

Plaintiffs,

vs.

Case No. 1:07-CV-0943

STATE OF NEW YORK, et al.,

Defendants.

**NOTICE OF MOTION TO DISMISS
PURSUANT TO FED. R. CIV. P. 12(b)(6)**

____ PLEASE TAKE NOTICE that upon the annexed declaration of Christie S. Utt, counsel for the West Virginia Defendants, with its attached exhibits; the accompanying memorandum of law; all prior filings with the Court; and upon all prior proceedings, the West Virginia Defendants will, on January 18, 2008, at 9:30 a.m., or as soon thereafter as counsel can be heard, make a motion, pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, for an order dismissing the complaint in its entirety on the grounds that this action is barred by the doctrine of a lack of personal jurisdiction together with such other or further relief as may be just.

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 the within motion must be filed with the Clerk and served upon counsel for said 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 the 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: Charleston, West Virginia
December 17, 2007

West Virginia Defendants

By Counsel

By: s/ *Christie S. Utt*

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