

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

ROBERT L. SCHULZ, et. al., )  
)  
Plaintiffs, )  
)  
vs. )  
)  
STATE OF NEW YORK, et al. )  
)  
Defendants. )

Case No. 07CV-0943 LEK/DRH

**ALASKA DEFENDANTS’ MOTION TO DISMISS  
AND NOTICE OF MOTION**

MOTION TO DISMISS

Pursuant to Fed. R. Civ. P. 12(b)(2) and 12(b)(6), Defendants, State of Alaska, Alaska Division of Elections, Lieutenant Governor Sean Parnell, and Whitney Brewster, the Director of the Division of Elections (“Alaska Defendants”) move for dismissal of Plaintiffs’ amended complaint in the above-captioned matter with respect to said Defendants for the reasons that (1) the Court lacks jurisdiction over the persons of the Alaska Defendants, (2) the Northern District of New York is not the proper venue for Plaintiffs’ action against the Alaska Defendants, and (3) Plaintiffs’ claims against the State of Alaska are barred by the 11<sup>th</sup> Amendment to the United States Constitution.

NOTICE OF MOTION

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, and hereby does, make the above and foregoing Motion to Dismiss Plaintiffs’ claims against the Alaska Defendants. Oral argument is not requested.

1 PLEASE TAKE FURTHER NOTICE, that in support of their motion the  
2 Alaska Defendants will rely upon this Alaska Defendants' Motion to Dismiss and Notice  
3 of Motion and Affidavit of Michael Barnhill.

4 DATED: December 17, 2007

5 TALIS J. COLBERG  
6 ATTORNEY GENERAL

7 s/ Michael A. Barnhill  
8 Alaska Bar No. 9311063  
9 New York Bar Roll No. 106514  
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17 **CERTIFICATE OF SERVICE**

18 I hereby certify that on December 17, 2007, a copy of  
19 the foregoing document was served via electronically  
20 and/or by USPS on the following attorneys or parties of  
21 record:

22 Robert L. Schulz  
23 2458 Ridge Rd.  
24 Queensbury NY 12804

Attorneys for Defendants (via CM/ECF);

James W. Kennedy, III, Esq.  
James E. Smith, Jr., Esq.  
Thomas H. Klein, Esq.  
Thomas J. Turner, Esq.  
Michael A. Casper, Esq.

25   
Rebecca Allison, Law Office Assistant