

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

AFFIDAVIT OF MICHAEL A. BARNHILL

STATE OF ALASKA)
) s.s.
FIRST JUDICIAL DISTRICT)

Michael A. Barnhill, being first duly sworn, deposes and says:

1. I am a Senior Assistant Attorney General employed with the Alaska Department of Law. I represent the State of Alaska, the Alaska Division of Elections, Lieutenant Governor Sean Parnell and Whitney Brewster, the Director of the Division of Elections in this matter.

2. I have read the motions to dismiss filed by the states of Texas, South Carolina and Oregon.

3. The State of Alaska moves to dismiss on the exact same grounds. This court lacks personal jurisdiction over the Alaska defendants because the Alaska defendants are not doing business in New York and the Alaska defendants are not within the scope of the New York long-arm statute. Extending jurisdiction over the Alaska defendants is impermissible under the Due Process Clause of the United States Constitution. The State of Alaska is immune from this suit under the Eleventh

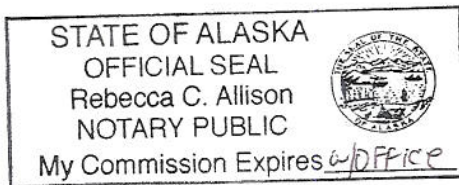
1 Amendment. New York is not the proper venue for plaintiffs' action against the Alaska
2 defendants.

3 4. Rather than file a duplicative motion to dismiss, we adopt and join in
4 the motions filed by the states of Texas, South Carolina and Oregon, and respectfully
5 move for the same relief on behalf of the State of Alaska, the Alaska Division of
6 Elections, Lieutenant Governor Sean Parnell, and Director Whitney Brewster.

7 DATED: December 14, 2007

8 s/ Michael A. Barnhill
9 Alaska Bar No. 9311063
10 New York Bar Roll No. 106514
11 Attorney for State of Alaska
12 Alaska Attorney General Office
13 P.O. Box 110300
14 Juneau AK 99811
15 Phone: (907)465-3600
16 Fax: (907)465-6735
17 E-mail: mike.barnhill@alaska.gov

18 SWORN TO AND SUBSCRIBED before me this 17th day of
19 December, 2007.



20 Rebecca C. Allison
21 Notary public in and for Alaska.

22 **CERTIFICATE OF SERVICE**

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

Robert L. Schulz
2458 Ridge Rd.
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.

26 Rebecca Allison
27 Rebecca Allison, Law Office Assistant