

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

ROBERT L. SCHULZ, et al.,)	
)	
Plaintiffs,)	
)	
v.)	07-943-LEK/DRH
)	
STATE OF NEW YORK,)	
Neil Kelleher, Douglas Kellner,)	
Evelyn Aquilaand, Helena Moses)	
Donahue, State Board of Elections,)	
et al.,)	
)	
Defendants.)	

STATE OF GEORGA AND KAREN HANDEL’S
MOTION TO DISMISS AMENDED COMPLAINT
BY SPECIAL APPEARANCE

COME NOW Defendants State of Georgia and Karen Handel, Secretary of State (hereinafter the “Georgia Defendants”), by and through counsel, the Attorney General for the State of Georgia, and without subjecting themselves to the jurisdiction of this Court or waiving any objections to jurisdiction or adequate service of process, respectfully submit their Motion to Dismiss Plaintiff’s Amended Complaint. Plaintiffs have failed to bring this action against the proper defendants, this Court lacks personal jurisdiction over the Georgia Defendants, the State of Georgia is entitled to Eleventh Amendment immunity, and venue is improper in this Court. In further support of their Motion, the Georgia Defendants respectfully submit their Brief in Support, filed contemporaneously herewith.

Respectfully submitted this 17th day of December, 2007.

THURBERT E. BAKER
Georgia Bar No. 033887
Attorney General

KATHLEEN M. PACIOUS
Georgia Bar No. 558555
Deputy Attorney General

DEVON ORLAND
Georgia Bar No. 554301
Senior Assistant Attorney General

\s\ Holly Loy Smith
HOLLY LOY SMITH
USDC NDNY Bar Code 106505
Georgia Bar No. 036299
Assistant Attorney General

PLEASE ADDRESS
ALL COMMUNICATIONS TO:
HOLLY LOY SMITH
State Law Department
40 Capitol Square, S.W.
Atlanta, Georgia 30334-1300
Telephone: 404-463-8850
Facsimile: 404-651-5304
E-mail: hsmith@law.ga.gov

CERTIFICATE OF SERVICE

I hereby certify that on December 17, 2007, I have filed a true and correct copy of the foregoing **DEFENDANTS' MOTION TO DISMISS BY SPECIAL APPEARANCE** with the Clerk of Court using the CM/ECF system which will automatically send email notification of such filing to the Defendants, and I hereby certify that on December 17, 2007, I mailed by United States Postal Service, the document to the following non-registered participant per the Court's October 30, 2007 Order:

Robert L. Schulz
2458 Ridge Road
Queensburg, New York 12804
(Lead Plaintiff)

This 17th day of December, 2007.

\s\ Holly Loy Smith
HOLLY LOY SMITH
USDC NDNY Bar Code 106505
Georgia Bar No. 036299
Assistant Attorney General
State Law Department
40 Capitol Square, S.W.
Atlanta, Georgia 30334-1300
Telephone: 404-463-8850
Facsimile: 404-651-5304
E-mail: hsmith@law.ga.gov