

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

ROBERT L. SCHULZ, et al.,)	
)	
Plaintiffs,)	
)	CIVIL ACTION
v.)	No. 07-00943-LEK-DRH
)	
STATE OF NEW YORK, et al.,)	
)	
Defendants.)	

MAINE DEFENDANTS’ AFFIDAVIT TO JOIN MOTION TO DISMISS

The State of Maine and Maine’s Secretary of State Matthew Dunlap in his individual and official capacities (collectively referred to herein as “Maine Defendants”), by and through their attorneys, the Attorney General and undersigned counsel, do hereby submit this Affidavit to Join Motions to Dismiss as follows:

I, Phyllis Gardiner, counsel for the Maine Defendants, being duly sworn, do hereby attest and affirm that:


1. I have reviewed the Motions to Dismiss and supporting Memoranda of Law in this matter filed on behalf of the States of Oregon (Doc. 22), South Carolina (Doc. 23), and Vermont (Doc. 133).

2. The Maine Defendants do hereby join in the Motions to Dismiss and supporting Memoranda of Law filed on behalf of the States of South Carolina, Oregon, and Vermont. The arguments made therein apply to the Maine Defendants. In particular, as with those defendants, Plaintiffs’ claims against the Maine Defendants should also be dismissed because: (1) the Court lacks personal jurisdiction over the Maine Defendants because Plaintiffs failed to allege any facts establishing minimum contacts between the State of New York and the Maine Defendants, and

Plaintiffs failed to allege any facts establishing that the Maine Defendants are within the scope of New York's long arm statute; (2) extending jurisdiction over the Maine Defendants would violate the due process clause of the Fourteenth Amendment of the United States Constitution; and (3) the State of Maine is immune from suit pursuant to the Eleventh Amendment to the United States Constitution. In addition, for the same reasons set forth in the Motion and Memorandum of Law filed by the State of South Carolina, New York is not the proper venue for a suit against the Maine Defendants. For the same reasons and authorities set forth in the Motions and supporting Memoranda of Law adopted by the Maine Defendants, this Court should dismiss all claims against the Maine Defendants.

Respectfully submitted this 17th day of December, 2007.

G. STEVEN ROWE, ATTORNEY GENERAL



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STATE OF MAINE
KENNEBEC, ss.

Subscribed and sworn before me this 17th day of December, 2007, by Phyllis Gardiner.



Amy Oliver
Notary Public

AMY J. OLIVER
MY COMMISSION EXPIRES: SEPTEMBER 19, 2009

My Commission expires: _____

