

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF ALBANY

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In the Matter of the Application of  
LEE BORDELEAU; et al. ,

Plaintiffs,

-against-

The STATE OF NEW YORK, The NEW YORK STATE  
ASSEMBLY, The NEW YORK STATE SENATE, DAVID  
PATTERSON, individually and as Governor of the State of  
New York, et al.,

Defendants.

NOTICE OF MOTION  
TO DISMISS  
Index No. 6582-08  
Justice Lynch

PLEASE TAKE NOTICE that the State defendants, by their attorney, Andrew M. Cuomo, Attorney General of the State of New York, by Robert A. Siegfried, Assistant Attorney General, move this Court on October 13, 2008, based upon the affirmation of Diane Smith, Associate Counsel of the Department of Agriculture and Markets, the affidavit of Douglas Wehrle, Senior Vice President of the Loans and Grants Program of the Urban Development Corporation d/b/a the Empire State Development Corporation, and the affirmation of Kathy Bennett, Counsel to the Director of the Budget, for an order dismissing the complaint pursuant to CPLR § 3211 (a) (1), (a) (2), (a) (7) and (a) (10), for failure to state a claim upon which relief can be granted based upon documentary evidence, lack of subject matter jurisdiction over plaintiffs' New York Constitution article VII § 7 claim, and failure to join necessary parties.

PLEASE TAKE FURTHER NOTICE that, in the event that the motion is denied, the defendants will move for leave to serve an answer, within twenty days, of receiving notice of entry of the order denying defendants' motion, and for such other and further relief as the Court may deem proper and just.

DATED: Albany, New York  
September 29, 2008

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*S/Robert A. Siegfried*

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