

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

ALFRED G. OSTERWEIL,

Plaintiff,

-against-

GEORGE R. BARTLETT III, et al.,

Defendants.

DEFENDANTS' NOTICE
OF MOTION TO DISMISS

Civil Action No.
09-CV-825

GLS/DRH

PLEASE TAKE NOTICE THAT upon the papers and pleadings filed herein, the undersigned shall move this Court for an order pursuant to Rule 12(b) of the Federal Rules of Civil Procedure dismissing the complaint on the grounds that some or all of the defendants are improper parties, some or all of the defendants were not personally involved, plaintiff has failed to state a cause of action on which relief can be granted and defendants are immune from suit, together with such other and further relief as to the Court may seem just and proper on October 15, 2009 at 9:00 a.m. before the Hon. Gary L. Sharpe, United States District Judge, United States District Court, Northern District of New York, James T. Foley U.S. Courthouse, 445 Broadway, Room 441, Albany, New York 12207.

PLEASE TAKE FURTHER NOTICE, that pursuant to Rule 7.1 of the Local Rules of Practice of the United States District Court for the Northern District of New York, any papers to be submitted in opposition to the within motion must be filed with Clerk in Albany, New York

and served upon counsel for the defendants no later than fourteen (14) days before the return date of the motion, exclusive of that day.

PLEASE BE FURTHER ADVISED that if you do not respond in opposition to the motion, the motion to dismiss, if appropriate, will be granted and judgment will be entered against you. If the motion to dismiss is granted, your case will be dismissed and there will not be any trial concerning any of the issues asserted in your complaint.

DATED: Albany, New York
September 3, 2009

ANDREW M. CUOMO
Attorney General of the State of New York
Attorney for Defendants Bartlett, Paterson and
Cuomo
The Capitol
Albany, NY 12224

By: s / Roger W. Kinsey

Roger W. Kinsey
Assistant Attorney General, of Counsel
Bar Roll No. 508171
Telephone: (518) 473-6288
Fax: (518) 473-1572 (Not for service of papers)
Email: Roger.Kinsey@oag.state.ny.us
Dol #09-099033-O

TO: Alfred G. Osterweil
310 Rossman Fly Road
Summit, New York 12175