

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

HARVEY N. LEVIN,)	
)	
Plaintiff,)	
)	
v.)	No. 07 C 4765
)	
LISA MADIGAN, ILLINOIS ATTORNEY)	Hon. David H. Coar,
GENERAL, OFFICE OF THE ILLINOIS)	Judge Presiding
ATTORNEY GENERAL, and THE STATE)	
OF ILLINOIS,)	
)	
Defendants.)	

DEFENDANTS' MOTION TO DISMISS

NOW COME Defendants, LISA MADIGAN, Illinois Attorney General, the OFFICE OF THE ATTORNEY GENERAL, and the STATE OF ILLINOIS, by and through their attorney, LISA MADIGAN, Attorney General of Illinois, and pursuant to Federal Rule of Civil Procedure 12(b)(6), move this Honorable Court to Dismiss Plaintiff's Complaint, with prejudice.

1. Plaintiff, Harvey Levin, filed his Complaint on August 23, 2007, alleging that Defendants discriminated against him on the basis of gender in violation of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000 ("Title VII") and on the basis of age in violation of the Age Discrimination in Employment Act, 29 U.S.C. § 621 ("ADEA").

2. Plaintiff's claims against the Defendants should be dismissed with prejudice pursuant to Federal Rule of Civil Procedure 12(b)(6), because Plaintiff was not an employee protected by either Title VII or the ADEA.

3. Alternatively, Plaintiff's claims against the State of Illinois should be dismissed because the Office of the Attorney General, not the State, was Plaintiff's employer.

4. Plaintiff's claims against Lisa Madigan, Illinois Attorney General, should alternatively be dismissed as they are redundant to the claims against the Office of the Attorney General.

5. Plaintiff's claims for punitive damages should be stricken because §1981a(b)(1) specifically exempts government entities and government actors sued in their official capacities from liability for punitive damages.

6. Defendants move to dismiss Plaintiff's Complaint pursuant to Fed. R. Civ. P. 12(b)(6) because Plaintiff can state no set of facts that would permit him to recover.

7. Defendants incorporate the attached Memorandum in Support of their 12(b)(6) Motion to Dismiss in support of this motion.

WHEREFORE, Defendants, LISA MADIGAN, Illinois Attorney General, the OFFICE OF THE ATTORNEY GENERAL, and THE STATE OF ILLINOIS, pray that this Court enter an Order, pursuant to Federal Rule of Civil Procedure 12(b)(6), dismissing with prejudice Plaintiff's claims against them.

Respectfully submitted,

**LISA MADIGAN, Illinois Attorney General,
the OFFICE OF THE ATTORNEY GENERAL,
and THE STATE OF ILLINOIS**

LISA MADIGAN
Attorney General

s/ Deborah J. Allen
DEBORAH J. ALLEN
Assistant Attorney General
100 West Randolph Street
13th Floor
Chicago, Illinois 60601
(312) 814-3739