

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

NEW GEORGIA PROJECT AND
A. PHILLIP RANDOLPH INSTITUTE,

Plaintiffs,

v.

BRAD RAFFENSBERGER, in his official
Capacity as Georgia Secretary of State,
JOHN FERVIER, SARA TINDALL GHAZAL,
JANICE W. JOHNSTON, RICK JEFFARES,
and JANELLE KING, in their official capacity
as members of the Georgia State Election Board,
COLIN McRAY, WANDA ANDREWS,
WILLIAM L. NORSE, KATHERINE A. DURSO,
and DEBRA GEIGER, in their official capacity as
members of the Chatham County Board of
Registrars, BARBARA LUTH, JOEL NATT,
CARLA RADZIKINAS, ANITA TUCKER, and
DAN THALIMER, in their official capacity as
Members of the Forsyth County Board of Voter
Registrations and Elections, CATHY WOOLARD,
AARON V. JOHNSON, MICHAEL HEEKIN,
TERESA K. CRAWFORD, and JULIE ADAMS,
in their official capacity as members of the Fulton
County Board of Registration and Elections;
KAREN EVANS-DANIEL, ROBERT ABBOTT,
JOEL HAZARD, THOMAS ELLINGTON, and
MIKE KAPLAN, in their official capacity as
members of the Macon-Bibb County Board of
Elections, WANDY TAYLOR, DAVID
HANCOCK, LORETTA MIRANDOLA, ALICE

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) Civil Action
) File No. 1:24-CV-03412-SDG
)

O'LENICK, and ANTHONY RODRIGUEZ, in)
their official capacity as members of the Gwinnett)
County Board of Registrations and Elections and)
BEN JOHNSON, JAMES NEWLAND, ROY)
McCLAIN, JAMES A. O'BRIEN, and DEXTER)
WIMBISH, in their official capacity as members)
of the Spalding County Board of Elections and)
Voter Registration,)
)
)
Defendants.)

ANSWER AND AFFIRMATIVE DEFENSES OF
FORSYTH COUNTY DEFENDANTS

COME NOW, Defendants FORSYTH COUNTY BOARD OF VOTER REGISTRATION AND ELECTIONS (“FCBRE”), and Members BARBARA LUTH, JOEL NATT, CARLA RADZIKINAS, ANITA TUCKER, and DAN THALIMER, in their official capacities (collectively, “Forsyth Defendants”) and file their Answer and Affirmative Defenses to Plaintiffs’ Complaint for Injunctive and Declaratory Relief, showing this Court as follows:

AFFIRMATIVE DEFENSES

FIRST DEFENSE

Plaintiffs lack standing to bring all or a portion of their claims against the Forsyth Defendants.

SECOND DEFENSE

Plaintiffs have failed to state a claim upon which relief may be granted against the Forsyth Defendants.

THIRD DEFENSE

The Forsyth Defendants were not responsible for the drafting or enactment of Senate Bill (“S.B.”) 189 and do not have discretion over whether to comply with validly passed state election laws. The Forsyth Defendants show that they will abide by any order of this Court regarding the constitutionality of S.B. 189 or injunctive relief granted as to the enforcement of its provisions and would have done so without being named as defendants in this litigation.

FOURTH DEFENSE

The Forsyth Defendants have neither violated the National Voter Registration Act of 1993 (“NVRA”) nor deprived Plaintiffs or any Forsyth County electors of any rights, due process, or equal protections guaranteed by the Georgia constitution or the Constitution of the United States.

FIFTH DEFENSE

Relief against the Forsyth Defendants will not be sufficient to redress the alleged harms suffered by Plaintiffs in this action.

SIXTH DEFENSE

Plaintiffs' Complaint fails to allege any action or omission on the part of the Forsyth Defendants which has caused or contributed or will cause or contribute to the harm or deprivations allegedly suffered by Plaintiffs.

ANSWER TO COMPLAINT

Subject to and without waiving the foregoing Defenses, the Forsyth Defendants respond to the numbered allegations as follows:

INTRODUCTION

1.

The Forsyth Defendants do not take a position on the constitutionality of S.B. 189 but admit that they follow Georgia law once properly enacted by the General Assembly. To the extent this Paragraph asserts conclusions of law, the Forsyth Defendants are without sufficient knowledge or information to form a belief as to the truth of the remainder of the allegations as set forth in Paragraph 1 of Plaintiffs' Complaint.

2.

The Forsyth Defendants show that Section 8(d) of the NVRA speaks for itself and constitutes the best evidence of its content, context and meaning, and any

allegations not contained within the NVRA are denied. By way of further response, the Forsyth Defendants admit that in the governmental administration of general voter list maintenance procedures, they must follow the requirements under Section 8(d) of the NVRA but deny that Section 8(d) provides the only mechanism for removal of a voter from the registration list following such voter's relocation to another jurisdiction. The Forsyth Defendants deny that they have engaged in any act or practice in violation of the NVRA, the Georgia constitution or the Constitution of the United States.

3.

The Forsyth Defendants deny the allegations addressed to them and set forth in Paragraph 3 of the Complaint. The Forsyth Defendants further deny that they have engaged in any act or practice in violation of the NVRA, the Georgia constitution or the Constitution of the United States. By way of further response, the Forsyth Defendants are without knowledge or information sufficient to form a belief as the truth of the allegations asserted against any other Defendant in Paragraph 3 of the Complaint.

4.

The Forsyth Defendants show that Section 5 of S.B. 189 speaks for itself and constitutes the best evidence of its content, context and meaning, and any allegations not contained within Section 5 of S.B. 189 are denied. By way of further response, the Forsyth Defendants deny that they have engaged in any act or practice in violation of the NVRA, the Georgia constitution or the Constitution of the United States or that they unlawfully removed any voter from the registration list.

5.

The Forsyth Defendants show that Section 4 of S.B. 189 speaks for itself and constitutes the best evidence of its content, context and meaning, and any allegations not contained within Section 5 of S.B. 189 are denied. By way of further response, the Forsyth Defendants admit that Section 4 of S.B. 189 provides, in part, that “[t]he mailing address for election purposes” of unhoused voters without a permanent address is “the registrar's office of the county in which such person resides”. To the extent this Paragraph asserts conclusions of law, the Forsyth Defendants are without sufficient knowledge or information to form a belief as to the truth of such allegations.

The Forsyth Defendants deny that they have engaged in any act or practice in violation of the NVRA, the Georgia constitution or the Constitution of the United States.

6.

The Forsyth Defendants deny the allegations set forth in Paragraph 6 of the Complaint.

JURISDICTION AND VENUE

7.

The Forsyth Defendants admit that this Court has subject matter jurisdiction over claims arising under 28 U.S.C. § 1331, 28 U.S.C. §§ 1343(a)(3)-(4) and 1357, and 42 U.S.C. §§ 1983 and 1988, but deny that any such claims were appropriately alleged against the Forsyth Defendants and further deny that Plaintiffs have standing to bring any such claims against the Forsyth Defendants.

8.

The Forsyth Defendants admit that this Court has authority to issue declaratory and injunctive relief pursuant to 28 U.S.C. §§ 2201 and 2202 but deny that any such relief is appropriately sought against the Forsyth Defendants and further deny that Plaintiffs have standing to seek any such relief against the Forsyth Defendants.

9.

The Forsyth Defendants admit the allegations set forth in Paragraph 9.

10.

The Forsyth Defendants deny that Plaintiffs have standing to bring any of the claims raised against them but are without sufficient knowledge or information to form a belief as to the truth of the remainder of the allegations set forth in Paragraph 10.

PARTIES

11.

The Forsyth Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations set forth in Paragraph 11.

12.

The Forsyth Defendants deny removing eligible voters from the registration list, or that they have engaged in any act or practice in violation of the NVRA, the Georgia constitution or the Constitution of the United States. The Forsyth Defendants further deny that any expenditure of additional funds by NGP is attributable to any

act or omission of the Forsyth Defendants. The Forsyth Defendants deny the remainder of the allegations set forth in Paragraph 12.

13.

The Forsyth Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations set forth in Paragraph 13. By way of further response, the Forsyth Defendants deny that they have engaged in any act or practice in violation of the NVRA, the Georgia constitution or the Constitution of the United States. The Forsyth Defendants further deny that any diversion of NGP's resources is attributable to any act or omission of the Forsyth Defendants. The Forsyth Defendants deny the remainder of the allegations set forth in Paragraph 13.

14.

The Forsyth Defendants deny removing eligible voters from the registration list, or that they have engaged in any act or practice in violation of the NVRA, the Georgia constitution or the Constitution of the United States. The Forsyth Defendants further deny that any diversion of NGP's funds or resources is attributable to any act or omission of the Forsyth Defendants. The Forsyth Defendants deny the remainder of the allegations set forth in Paragraph 14.

15.

The Forsyth Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations set forth in Paragraph 15. By way of further response, the Forsyth Defendants deny that they have engaged in any act or practice in violation of the NVRA, the Georgia constitution or the Constitution of the United States.

16.

The Forsyth Defendants deny removing eligible voters from the registration list or that they have engaged in any act or practice in violation of the NVRA, O.C.G.A. § 21-2-230, the Georgia constitution or the Constitution of the United States. The Forsyth Defendants further deny that any expenditure of additional funds by APRI is attributable to any act or omission of the Forsyth Defendants. The Forsyth Defendants deny the remainder of the allegations set forth in Paragraph 16.

17.

The Forsyth Defendants deny that they have engaged in any act or practice in violation of the NVRA, the Georgia constitution or the Constitution of the United States. The Forsyth Defendants deny that APRI's alleged expenditures or diversion of funds or resources is attributable to any act or omission of the Forsyth Defendants.

The Forsyth Defendants deny the remainder of the allegations set forth in Paragraph 17.

18.

The Forsyth Defendants deny removing eligible voters from the registration list or that they have engaged in any act or practice in violation of the NVRA, the Georgia constitution or the Constitution of the United States. The Forsyth Defendants deny that APRI's alleged diversion of funds or resources is attributable to any act or omission of the Forsyth Defendants. The Forsyth Defendants deny the remainder of the allegations set forth in Paragraph 18.

Defendants

19.

The Forsyth Defendants admit that Brad Raffensperger is the current officeholder for the Georgia Secretary of State. The Forsyth Defendants show that Georgia law defining the responsibilities of the Georgia Secretary of State speaks for itself and constitutes the best evidence of the extent of those duties, and any allegations not contained within Georgia law are denied. By way of further response, the Forsyth Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations set forth in Paragraph 19.

20.

Upon information and belief, the Forsyth Defendants admit that John Fervier, Sara Tindall Ghazal, Janice W. Johnston, Rick Jaffares, and Janelle King are current members of the Georgia State Election Board (“SEB”). The Forsyth Defendants show that Georgia law defining the responsibilities of the SEB speaks for itself and constitutes the best evidence of the extent of those duties, and any allegations not contained within Georgia law are denied. By way of further response, the Forsyth Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations set forth in Paragraph 20.

21.

The Forsyth Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations set forth in Paragraph 21.

22.

The Forsyth Defendants admit the allegations set forth in Paragraph 22.

23.

The Forsyth Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations set forth in Paragraph 23.

24.

The Forsyth Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations set forth in Paragraph 24.

25.

The Forsyth Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations set forth in Paragraph 25.

26.

The Forsyth Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations set forth in Paragraph 26.

27.

Upon information and belief, the Forsyth Defendants admit the allegations set forth in Paragraph 27.

28.

The Forsyth Defendants admit they received the letter attached to Plaintiffs' Complaint as Exhibit 1 as set forth in Paragraph 28.

FACTS AND BACKGROUND

Requirements of the NVRA

29.

The Forsyth Defendants admit that Paragraph 29 of the Complaint accurately quotes a section of 52 U.S.C. 20501(b)(1), (4). The Forsyth Defendants show that 52 U.S.C. 20501(b)(1), (4) speaks for itself and constitutes the best evidence of its content and meaning, and any allegations not contained therein are denied. By way of further response, the Forsyth Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations set forth in Paragraph 29.

30.

The Forsyth Defendants admit that Section 8 of the NVRA outlines procedures for state administration of voter registration. By way of further response, the Forsyth Defendants show that Section 8 of the NVRA speaks for itself and constitutes the best evidence of its content and meaning, and any allegations not contained therein are denied.

31.

The Forsyth Defendants admit that the NVRA contains provisions requiring election officials to provide notice to voters and voter registration applicants under

certain circumstances. By way of further response, the Forsyth Defendants show that Sections 8(a), (c), and (d) of the NVRA speak for themselves and constitute the best evidence of their content and meaning, and any allegations not contained therein are denied.

32.

The Forsyth Defendants admit that Section 8(b)(1) of the NVRA requires that a government program of list maintenance be “uniform, nondiscriminatory, and in compliance with the Voting Rights Act of 1965”. By way of further response, the Forsyth Defendants show that Section 8(b)(1) of the NVRA speaks for itself and constitutes the best evidence of its content and meaning, and any allegations not contained therein are denied.

33.

The Forsyth Defendants admit that section 8(c)(2)(A) of the NVRA provides that “[a] State shall complete, not later than 90 days prior to the date of a primary or general election for Federal Office, any program the purpose of which is to systematically remove the names of ineligible voters from the official lists of eligible voters”. By way of further response, the Forsyth Defendants show that Section

8(c)(2)(A) of the NVRA speaks for itself and constitutes the best evidence of its content and meaning, and any allegations not contained therein are denied.

34.

The Forsyth Defendants admit that Section 8(d) limits the method of a state's "program or activity". By way of further response, the Forsyth Defendants show that Section 8(d) of the NVRA speaks for itself and constitutes the best evidence of its content and meaning, and any allegations not contained therein are denied.

35.

The Forsyth Defendants deny the allegations set forth in Paragraph 35 in the form and manner pled.

Georgia's Voter Challenge Process Before SB 189

36.

The Forsyth Defendants admit that O.C.G.A. §§ 21-2-229 ("Section 229") and 21-2-230 ("Section 230") provides a process for individuals to challenge a voter's registration or right to cast a vote at the next election. By way of further response, the Forsyth Defendants show that Sections 229 and 230 speak for themselves and constitute the best evidence of their content and meaning, and any allegations not contained therein are denied.

37.

The Forsyth Defendants admit that Section 229 provides a process for an individual to challenge a voter's registration in the same jurisdiction. By way of further response, the Forsyth Defendants show that Section 229 speaks for itself and constitutes the best evidence of its content and meaning, and any allegations not contained therein are denied.

38.

The Forsyth Defendants admit that Section 230 provides a process for an individual to challenge a voter's ability to cast a vote in an upcoming election and provides further processes should that voter cast a ballot or appear at the polling location. By way of further response, the Forsyth Defendants show that Section 230 speaks for itself and constitutes the best evidence of its content and meaning, and any allegations not contained therein are denied.

39.

The Forsyth Defendants show that Sections 229 and 230 speak for themselves and constitute the best evidence of their content and meaning, and any allegations not contained therein are denied. By way of further response, the Forsyth Defendants

admit that Sections 229 and 230 allow individuals to challenge an unlimited number of voters.

40.

The Forsyth Defendants show that Section 229 speaks for itself and constitutes the best evidence of its content and meaning, and any allegations not contained therein are denied. The Forsyth Defendants admit that Paragraph 40 accurately summarizes some of the provisions of Section 229.

41.

The Forsyth Defendants show that Section 230 speaks for itself and constitutes the best evidence of its content and meaning, and any allegations not contained therein are denied. The Forsyth Defendants deny the allegations asserted in Paragraph 41 in the form and manner alleged.

42.

The Forsyth Defendants show that Section 230 speaks for itself and constitutes the best evidence of its content and meaning, and any allegations not contained therein are denied. The Forsyth Defendants admit that Paragraph 42 accurately quotes a portion of Section 230.

43.

The Forsyth Defendants admit that under Section 230, when probable cause is found in support of a challenge, the “registrars shall notify the poll officers of the challenged elector's precinct or, if the challenged elector voted by absentee ballot, notify the poll officers at the absentee ballot precinct and, if practical, notify the challenged elector and afford such elector an opportunity to answer.”

44.

The Forsyth Defendants admit that Section 230 provides procedures to be followed when a challenged voter casts a ballot or arrives at the polling location and requests a hearing before the FCBRE, but deny that any voter is removed from the registration list pursuant to this procedure.

45.

Upon information and belief, the Forsyth Defendants admit that Section 230, prior to S.B. 189, did not contain a definition of “probable cause.”

Voter Registration of Unhoused Persons Before SB 189

46.

The Forsyth Defendants admit that O.C.G.A. § 21-2-216 provides general qualifications for electors but further show that O.C.G.A. § 21-2-216 speaks for itself

and constitutes the best evidence of its content and meaning, and any allegations not contained therein are denied.

47.

The Forsyth Defendants admit that O.C.G.A. § 21-2-217(a)(2) provides factors for determining an elector's residence, but further show that O.C.G.A. § 21-2-217(a)(2) speaks for itself and constitutes the best evidence of its content and meaning, and any allegations not contained therein are denied.

48.

The Forsyth Defendants admit that O.C.G.A. § 21-2-217(b) provides procedures for evaluating the factors in determining an elector's residence but further show that O.C.G.A. § 21-2-217(b) speaks for itself and constitutes the best evidence of its content and meaning, and any allegations not contained therein are denied.

49.

The Forsyth Defendants admit that O.C.G.A. § 21-2-217(a) provides procedures for evaluating the factors in determining an elector's residence, but further show that O.C.G.A. § 21-2-217(a) speaks for itself and constitutes the best evidence of its content and meaning, and any allegations not contained therein are denied.

50.

The Forsyth Defendants are without sufficient knowledge or information to form a belief as to the truth of the remaining allegations set forth in Paragraph 50.

51.

The Forsyth Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations set forth in Paragraph 51.

52.

The Forsyth Defendants admit that voter registration applicants must provide a residence address when registering to vote and that unhoused voters who lack a permanent address may register to vote at a location where their “habitation is fixed” but are without sufficient knowledge or information to form a belief as to the truth of the remaining allegations set forth in Paragraph 52.

53.

The Forsyth Defendants admit that voter registration applicants may provide a second mailing address but are without sufficient knowledge or information to form a belief as to the truth of the remaining allegations set forth in Paragraph 53.

54.

The Forsyth Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations set forth in Paragraph 54.

Georgia Enacts S.B. 189

55.

The Forsyth Defendants admit that the Georgia Legislature enacted S.B. 189 but are without sufficient knowledge or information to form a belief as to the truth of the allegations set forth in Paragraph 55.

56.

The Forsyth Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations set forth in Paragraph 56.

57.

The Forsyth Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations set forth in Paragraph 57.

58.

The Forsyth Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations set forth in Paragraph 58.

59.

The Forsyth Defendants admit the allegations set forth in Paragraph 59.

S.B. 189's Changes to Georgia's Voter Challenge Provisions

60.

The Forsyth Defendants show that S.B. 189 speaks for itself and constitutes the best evidence of its content and meaning, and any allegations not contained therein are denied. By way of further response, and upon information and belief, the Forsyth Defendants admit the allegations set forth in Paragraph 60.

61.

The Forsyth Defendants show that S.B. 189 speaks for itself and constitutes the best evidence of its content and meaning, and any allegations not contained therein are denied. By way of further response, the Forsyth Defendants admit the allegations set forth in Paragraph 61.

62.

The Forsyth Defendants show that S.B. 189 speaks for itself and constitutes the best evidence of its content and meaning, and any allegations not contained therein

are denied. By way of further response, the Forsyth Defendants admit the allegations set forth in Paragraph 62.

63.

The Forsyth Defendants show that S.B. 189 speaks for itself and constitutes the best evidence of its content and meaning, and any allegations not contained therein are denied. By way of further response, the Forsyth Defendants admit the allegations set forth in Paragraph 63.

Voter Challenges in Georgia from 2022 to Present

64.

The Forsyth Defendants deny improperly removing voters from the voter registration list in violation of the NVRA but are without sufficient knowledge or information to form a belief as to the truth of the remainder of the allegations set forth in Paragraph 64.

65.

The Forsyth Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations set forth in Paragraph 65.

66.

The Forsyth Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations set forth in Paragraph 66.

67.

The Forsyth Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations set forth in Paragraph 67.

68.

The Forsyth Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations set forth in Paragraph 68.

69.

The Forsyth Defendants admit that in 2023 it received at least 800 voter challenges filed under Section 229 and at least 1,000 voter challenges filed under Section 230. However, Forsyth Defendants deny removing “over 900” voters from the registration list from those challenges filed in 2023. Further, while challenge hearings were held on March 5, 2024, the FCBRE denies taking any actions that were to be effective at the March 12, 2024 presidential preference primary.

70.

The Forsyth Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations set forth in Paragraph 70.

71.

The Forsyth Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations set forth in Paragraph 71.

72.

The Forsyth Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations set forth in Paragraph 72.

73.

The Forsyth Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations set forth in Paragraph 73.

74.

The Forsyth Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations set forth in Paragraph 74.

75.

The Forsyth Defendants admit that O.C.G.A. § 21-2-225.1 provides a mechanism for certain individuals who are victims of family violence or reside in a

domestic violence shelter to request to have their address kept confidential, but deny that it permits such individuals from using a P.O. Box as a residential address for purposes of voter registration records maintained by the FCBRE.

76.

The Forsyth Defendants show that S.B. 189 speaks for itself and constitutes the best evidence of its content and meaning, and any allegations not contained therein are denied. By way of further response, the Forsyth Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations set forth in Paragraph 76.

S.B. 189's Changes to Voter Registration for Unhoused Individuals

77.

The Forsyth Defendants show that S.B. 189 speaks for itself and constitutes the best evidence of its content and meaning, and any allegations not contained therein are denied. By way of further response, the Forsyth Defendants admit the allegations set forth in Paragraph 77.

78.

The Forsyth Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations set forth in Paragraph 78.

79.

The Forsyth Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations set forth in Paragraph 79.

80.

The Forsyth Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations set forth in Paragraph 80.

81.

The Forsyth Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations set forth in Paragraph 81.

82.

The Forsyth Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations set forth in Paragraph 82.

CAUSES OF ACTION

83.

The Forsyth Defendants deny that Plaintiffs have a cause of action under the NVRA against the Forsyth Defendants but admit that 52 U.S.C. § 20510(b)(1) contains the stated notice provision.

84.

The Forsyth Defendants admit that they received the notice of alleged violations on or about July 8, 2024, but deny the remainder of the allegations set forth in Paragraph 84. The Forsyth Defendants further deny that they have engaged in any act or practice in violation of the NVRA, the Georgia constitution or the Constitution of the United States.

COUNT I

Residency-Based Probable Cause Provisions of Section 230 Violate the NVRA's Residency-Based Removal Process

(All Defendants)

52 U.S.C. § 20507(d)

85.

The Forsyth Defendants show that S.B. 189 speaks for itself and constitutes the best evidence of its content and meaning, and any allegations not contained therein are denied. By way of further response, the Forsyth Defendants admit that S.B. 189 amended Section 230 with respect to probable cause criteria as alleged in Paragraph 85.

86.

The Forsyth Defendants show that Section 230 speaks for itself and constitutes the best evidence of its content and meaning, and any allegations not contained therein

are denied. By way of further response, the Forsyth Defendants admit that Section 230 requires them to make probable cause determinations on voter challenges containing allegations that the voter no longer resides in the jurisdiction. The Forsyth Defendants deny the remaining allegations as set forth in Paragraph 86.

87.

The Forsyth Defendants deny that they have engaged in any act or practice in violation of the NVRA, the Georgia constitution or the Constitution of the United States and deny the allegations set forth in Paragraph 87 in the form and manner pled.

88.

The Forsyth Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations as set forth in Paragraph 88.

COUNT II

Chatham, Forsyth, Gwinnett, and Spalding County Defendants' Voter Removal Practices Violate the NVRA's Requirements for Processing Voters Who Move

52 U.S.C. § 20507(d)

89.

The Forsyth Defendants show that the NVRA speaks for itself and constitutes the best evidence of its content and meaning, and any allegations not contained therein are denied. By way of further response, the Forsyth Defendants admit that its general

program of list maintenance must conform to the NVRA but deny that they have engaged in any act or practice in violation of the NVRA, the Georgia constitution or the Constitution of the United States.

90.

The Forsyth Defendants deny the allegations set forth in Paragraph 90 against the Forsyth Defendants.

COUNT III

SB 189 Section 4's Unhoused Voter Mailing Address Restriction Violates the NVRA's Notice Requirements

(State Defendants, Chatham, Fulton, and Macon-Bibb Defendants)

52 U.S.C. § 20507(a)(2), (c)(J)(B), (d)(1)-(2)

91.

This Paragraph fails to make factual allegations against Forsyth County and thus does not require a response from Forsyth County. To the extent this Paragraph does make allegations against Forsyth County, such allegations as to Forsyth County are denied. Otherwise, the Forsyth Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 91.

92.

This Paragraph fails to make factual allegations against Forsyth County and thus does not require a response from Forsyth County. To the extent this Paragraph

does make allegations against Forsyth County, such allegations as to Forsyth County are denied. Otherwise, the Forsyth Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 92.

93.

This Paragraph fails to make factual allegations against Forsyth County and thus does not require a response from Forsyth County. To the extent this Paragraph does make allegations against Forsyth County, such allegations as to Forsyth County are denied. Otherwise, the Forsyth Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 93.

94.

This Paragraph fails to make factual allegations against Forsyth County and thus does not require a response from Forsyth County. To the extent this Paragraph does make allegations against Forsyth County, such allegations as to Forsyth County are denied. Otherwise, the Forsyth Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 94.

95.

This Paragraph fails to make factual allegations against Forsyth County and thus does not require a response from Forsyth County. To the extent this Paragraph

does make allegations against Forsyth County, such allegations as to Forsyth County are denied. Otherwise, the Forsyth Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 95.

COUNT IV

SB 189 Section 4's Unhoused Voter Mailing Address Restriction Violates the
NVRA's Uniform and Nondiscriminatory Provision
(State Defendants, Chatham, Fulton, and Macon-Bibb County Defendants)

52 U.S.C. § 20507(b)

96.

This Paragraph fails to make factual allegations against Forsyth County and thus does not require a response from Forsyth County. To the extent this Paragraph does make allegations against Forsyth County, such allegations as to Forsyth County are denied. Otherwise, the Forsyth Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 96.

97.

This Paragraph fails to make factual allegations against Forsyth County and thus does not require a response from Forsyth County. To the extent this Paragraph does make allegations against Forsyth County, such allegations as to Forsyth County are denied. Otherwise, the Forsyth Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 97.

98.

This Paragraph fails to make factual allegations against Forsyth County and thus does not require a response from Forsyth County. To the extent this Paragraph does make allegations against Forsyth County, such allegations as to Forsyth County are denied. Otherwise, the Forsyth Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 98.

COUNT V

SB 189 Section 4 Violates Unhoused Voters' Fundamental Right to Vote
(Georgia State Election Board, Chatham, Fulton, Macon-Bibb County
Defendants)

42 U.S.C. § 1983, First and Fourteenth Amendments to the U.S. Constitution

99.

This Paragraph fails to make factual allegations against Forsyth County and thus does not require a response from Forsyth County. To the extent this Paragraph does make allegations against Forsyth County, such allegations as to Forsyth County are denied. Otherwise, the Forsyth Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 99.

100.

This Paragraph fails to make factual allegations against Forsyth County and thus does not require a response from Forsyth County. To the extent this Paragraph

does make allegations against Forsyth County, such allegations as to Forsyth County are denied. Otherwise, the Forsyth Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 100.

101.

This Paragraph fails to make factual allegations against Forsyth County and thus does not require a response from Forsyth County. To the extent this Paragraph does make allegations against Forsyth County, such allegations as to Forsyth County are denied. Otherwise, the Forsyth Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 101.

102.

This Paragraph fails to make factual allegations against Forsyth County and thus does not require a response from Forsyth County. To the extent this Paragraph does make allegations against Forsyth County, such allegations as to Forsyth County are denied. Otherwise, the Forsyth Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 102.

103.

This Paragraph fails to make factual allegations against Forsyth County and thus does not require a response from Forsyth County. To the extent this Paragraph

does make allegations against Forsyth County, such allegations as to Forsyth County are denied. Otherwise, the Forsyth Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 103.

WHEREFORE, having answered Plaintiffs' Complaint for Injunctive and Declaratory Relief and stated defenses and objections, the Forsyth Defendants respectfully request that Plaintiffs' claims be dismissed, Plaintiffs' prayers for relief be denied in each and every particular with all costs taxed to the Plaintiffs, and the Forsyth Defendants be granted such other relief as this Court may deem just and proper.

Respectfully submitted this 15th day of October 2024.

JARRARD & DAVIS, LLP

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New Georgia Project, et al. v. Raffensberger, et al.
U.S District Court N.D. GA; CAFN: 1:24-CV-03412-SDG
Forsyth County Defendants' Affirmative Defenses and Answer

CERTIFICATE OF COMPLIANCE WITH LOCAL RULE 5.1

The undersigned hereby certifies that the foregoing document has been prepared in accordance with the font type and margin requirements of Local Rule 5.1 of the Northern District of Georgia, using a font type of Times New Roman and a point size of 14.

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CERTIFICATE OF SERVICE

I hereby certify that on October 15, 2024, I electronically filed the foregoing ANSWER AND AFFIRMATIVE DEFENSES OF FORSYTH COUNTY DEFENDANTS with the Clerk of Court using the CM/ECF system which will automatically send email notification of such filing to all attorneys of record.

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