

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

NEW GEORGIA PROJECT, <i>et. al.</i> ,	:	
	:	
Plaintiffs,	:	Civil Action No.
	:	1:24-cv-03412-SDG
vs.	:	
	:	
BRAD RAFFENSPERGER, in his	:	
official capacity as Secretary of State	:	
of the State of Georgia, <i>et. al.</i> ,	:	
	:	
Defendants.	:	
	:	

**LEE COUNTY DEFENDANTS’ REPLY BRIEF IN SUPPORT OF
MOTION TO DISMISS PLAINTIFFS’ FIRST AMENDED COMPLAINT**

Plaintiffs’ Response to the Lee County Defendants’ Motion to Dismiss ignores the facts and the law regarding Plaintiffs’ failure to establish traceability and provide pre-suit notice of Count I. This Court must grant the Motion to Dismiss.

First, Plaintiffs fail to plead a past injury that can be traced to the Lee County Defendants, instead relying on the speculative possibility of future harm. Pursuant to *Murthy v. Missouri*, 603 U.S. 43, 70 (2024), speculative future harm is insufficient to confer standing. (Plaintiffs fail to cite, let alone distinguish, this case from *Murthy*.) Thus this Court must dismiss the Lee County Defendants.

Second, Plaintiffs’ tortured interpretation of its own Notice Letter, the NVRA, and the law regarding notice cannot make up for what the Notice Letter lacks. Despite

Plaintiffs’ contention otherwise, NVRA § 8(d) does *not* operate as a blanket prohibition on removing a voter from the voter rolls due to a changed residence. [Doc. 265, p. 9.] Instead, NVRA § 8(d) prohibits the removal of voters from the voter rolls based on changed residence absent either receipt of written confirmation from the voter or the passage of two federal election cycles. Further, contrary to Plaintiffs’ assertion that it was not required to “outline how and why each section violates the NVRA,” “notice as to one potential NVRA violation is not the equivalent of notice as to all potential NVRA violations . . .” *Bellitto v. Snipes*, 268 F. Supp. 3d 1328, 1334 (S.D. Ga., 2017). [Doc. 265, p. 9.] Therefore, to provide notice of Count I, the July 10 Notice Letter must have linked SB 189 § 5 with either the code section or the substance of NVRA § 8(d). It did neither.

Plaintiffs claim that the phrases “lack a fixed address” and “may be unable to receive timely notice of a challenge against them and unable to refute the finding of probable cause because they are temporarily out of state” allege violations of the substance of NVRA § 8(d). [Doc. 265, p.9.] These phrases neither mention NVRA § 8(d) specifically, nor describe a violation of NVRA § 8(d)’s removal process. They do not provide notice of Count I of the Amended Complaint.

The remainder of the July 10 Notice Letter likewise fails to provide notice of Count I. Section II(a) repeatedly claims that SB 189 § 5 violates NVRA § 8(b). Section II(b) alleges that SB 189 § 4 violates both NVRA §§ 8(b) and 8(d), ending

with, “(f)inally, Section 4 also violates Section 8(d) of the NVRA.” [Doc. 155-3.]

There is no notice of Count I within Section II of the July 10 Notice Letter.

Last, Plaintiffs’ argument that the conclusion to the July 10 Notice Letter provides notice of Count I twists the conclusion out of context. Plaintiffs begin the conclusion with “[e]nforcement of Sections 4 and 5 of S.B. 189 constitute current and ongoing violations of Section 8 of the NVRA . . .” [Doc. 155-3.] But this does not distinguish which section of SB 189 violates which section of the NVRA.

Plaintiffs then provide three specific bullet points, none of which state whether they refer to SB 189 §§ 4 or 5. Plaintiffs’ claim that the third bullet point provides notice that SB 189 § 5 violates NVRA § 8(d) renders the rest of the conclusion nonsense, because it would mean that the second bullet point (which Plaintiffs ignore in their Response) also applies to both SB 189 §§ 4 and 5. [Doc. 265, pp. 9-10.] Yet “[d]iscriminating against unhoused voters by requiring them and not other voters to update their registered mailing address to a specific location . . .” cannot possibly refer to SB 189 § 5. Thus the general language at the beginning of the conclusion regarding both SB 189 §§ 4 and 5 does not automatically apply to each bullet point. The bullet points only correspond to the specific arguments in Sections II(a) and II(b). Since there is no prior allegation in the July 10 Notice Letter that SB 189 § 5 violates NVRA § 8(d), the conclusion does not constitute notice of Count I.

The Lee County Defendants must be dismissed.

Respectfully submitted this 21st day of April, 2025.

/s/ Ann S. Brumbaugh

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CERTIFICATE OF COMPLIANCE WITH LOCAL RULE 5.1 AND
CERTIFICATE OF SERVICE

I hereby certify 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.

I further certify that I have this day electronically filed this Reply Brief in Support of Motion to Dismiss of Defendants Lee County Board of Elections and Registration; Mike Sabot; Scott Beeley; Willie Allen; Charles Johnson; and George Houston; to Plaintiffs' Consolidated First Amended Complaint with the Clerk of Court using the CM/ECF system which will automatically send email notification to all attorneys of record.

Respectfully submitted this 21st day of April, 2025.

/s/ Ann S. Brumbaugh

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