

**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.	:	
	:	

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**LEE COUNTY DEFENDANTS’  
CONSOLIDATED MOTION TO DISMISS PLAINTIFFS’  
FIRST AMENDED COMPLAINT AND BRIEF IN SUPPORT**

The Lee County Board of Elections and Registrations (the “Lee BOER”) and Mike Sabot, Scott Beeley, Willie Allen, Charles Johnson, and George Houston, in their official capacities as members of the Lee BOER (collectively, the “Lee County Defendants”), respectfully move this Court to dismiss them from Plaintiffs’ Consolidated First Amended Complaint [Doc. 155] pursuant to Fed. R. Civ. P. 12(b)(1) and (6). Plaintiffs NAACP and GCPA (“Plaintiffs”) lack standing to sue and have literally failed to state any claims upon which relief can be granted against the Lee County Defendants.

## INTRODUCTION

The Amended Complaint is a consolidation and expansion of three previously filed complaints, none of which named the Lee County Defendants. Plaintiffs added the Lee County Defendants, as well as sixteen other county election boards (“the seventeen county defendants”), to the Amended Complaint and have sued them in Counts I, II, and IV for violations of the National Voter Registration Act of 1993, (“NVRA”). [Doc. 155].

This Court should dismiss the Lee County Defendants for the following reasons:

First, Plaintiffs have failed to allege any past action by the Lee County Defendants which violated the NVRA. Nor have they proffered any reason to suggest that the Lee County Defendants will violate the NVRA in the future. As such, they have failed to trace their alleged injuries, which rely on a speculative, discretionary application of SB 189, to the conduct of the Lee County Defendants. Likewise, they have failed to state a claim against the Lee County Defendants which can be granted.

Second, Count I alleges that application of Section 5 of SB 189 (“Section 5”) violates the removal process mandated by NVRA Section 8(d). Yet the July 10, 2024 NVRA Notice Letter (“July 10 Notice Letter”) sent to the Lee County Defendants by

Plaintiffs failed to allege that Section 5 violated NVRA Section 8(d).<sup>1</sup>

Accordingly, the Lee County Defendants move to dismiss Plaintiffs' claims against them in Counts I, II, and IV of the Amended Complaint. In support of this motion, the Lee County Defendants set for the arguments below and also adopt State Defendants' Brief in Support of Motion to Dismiss, Sections I, II(A),(B), and IV(A),(B),(C), [Doc. 168-1], and additional arguments filed by the other "seventeen county defendants."

### **ARGUMENT**

#### **I. Plaintiffs lack standing to sue the Lee County Defendants and have failed to state a claim upon which relief can be granted.**

Outside of the caption and the enumeration of parties, the Amended Complaint does not ever refer specifically to the Lee County Defendants. [Doc. 155]. They are simply one of the "seventeen county defendants." Thus the decision by Plaintiffs to name Lee County as one of these seventeen county defendants – from the 159 counties in Georgia – is unconnected to the Lee County Defendants' application, or lack thereof, of the NVRA. This lack of traceability for past actions "substantially undermines" Plaintiffs' standing theory, and requires them to "build [their] case from

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<sup>1</sup> NGP and APRI, additional plaintiffs, sent a different NVRA Notice Letter on July 8, 2024 to Secretary Raffensperger and the Chatham, Fulton, Gwinnett, Forsyth, Macon-Bibb and Spalding County Defendants which did allege that Section 5 violated NVRA Section 8(d). But the Lee County Defendants did not receive, and were not named, in this letter. [Doc. 155-10].

scratch, showing why they have some newfound reason to fear” that the Lee County Defendants will violate the NVRA. *See Murthy v. Missouri*, 603 U.S. 43, 70, 59 (2024). They have not done so. As both the State Defendants and Cobb County Defendants argue in their respective Motions to Dismiss, [Docs. 168-1, 176-1], Plaintiffs’ alleged injuries are dependent upon a highly speculative, discretionary application of SB 189. The Lee County Defendants must be dismissed.

Additionally, this total lack of factual predicate regarding the Lee County Defendants requires this Court to dismiss the Lee County Defendants for failure to state a claim upon which relief can be granted. *See Ga. Ass’n of Latino Elected Officials, Inc., v. Gwinnett Cnty Bd. Of Registration & Elections*, 36 F. 4<sup>th</sup> 1100, 1113 (11<sup>th</sup> Cir. 2022).

**II. Plaintiffs NAACP and GCPA lack standing with regards to Count I because they did not provide the notice required by the NVRA.**

If plaintiffs do not provide pre-suit notice of NVRA violations, they fail to establish standing. *See* 52 U.S.C. § 20510; *Georgia State Conference of N.A.A.C.P. v. Kemp*, 841 F. Supp. 2d 1320, 1335 (N.D. Ga. 2012).

Count I alleges that Section 5 violates the NVRA 8(d) removal process. [Doc. 155, ¶¶ 249 – 260]. However, the July 10 Notice Letter, the only Notice Letter the Lee County Defendants received, does not allege this violation. [Doc. 155-3].

The initial paragraph of the July 10 Notice Letter states that “enforcement of Sections 4 and 5 of S.B. 189, *as detailed below*, violates . . . the exclusive basis for

removing registered voters for purported change of address, [NVRA Section 8(d)].” [Doc. 155-3, emphasis added]. Yet the portion of the July 10 Notice Letter regarding Section 5 does not mention Section 8(d) of the NVRA at all, let alone allege a violation. It only alleges that enforcement of Section 5 will violate NVRA Section 8(b), which requires that all voter registration programs be uniform and nondiscriminatory. [Doc. 155-3, Section II(a).] Because the July 10 Notice Letter did not state that Section 5 violated NVRA Section 8(d), Plaintiffs lack standing to sue the Lee County Defendants in Count I.

Plaintiffs’ January 9, 2025 Amended Notice Letter does not cure this defect, because it was filed almost one month after Plaintiffs filed the Amended Complaint.

In conclusion, Plaintiffs failed to establish that their speculative injuries could be traced to the Lee County Defendants’ actions, or to state a claim for which relief could be granted. Their July 10, 2024 Notice Letter does not provide notice of Count I. The Lee County Defendants must be dismissed.

Respectfully submitted this 19<sup>th</sup> day of March, 2025.

**/s/ Ann S. Brumbaugh**

Ann S. Brumbaugh  
Georgia Bar No. 090598  
Attorney for the Lee County Defendants

309 Sycamore Street  
Decatur, GA 30030  
404-593-8295  
ab@annbrumbaughlaw.com

**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 Motion to Dismiss and Brief in Support 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 19<sup>th</sup> day of March, 2025.

**/s/ Ann S. Brumbaugh**

Ann S. Brumbaugh

Georgia Bar No. 090598

Attorney for the Lee County Defendants

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Decatur, GA 30030  
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ab@annbrumbaughlaw.com