

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF IOWA  
CENTRAL DIVISION

---

ORCUN SELCUK; ALAN DAVID  
GWILLIAM; TINGTING ZHEN;  
MICHAEL BROKLOFF; and THE  
LEAGUE OF UNITED LATIN AMERICAN  
CITIZENS OF IOWA,

Plaintiffs,

v.

PAUL D. PATE, in his official capacity as  
the Iowa Secretary of State; BENJAMIN D.  
STEINES, in his official capacity as the  
Winneshiek County Auditor and Winneshiek  
County Commissioner of Elections; JAMIE  
FITZGERALD, in his official capacity as the  
Polk County Auditor and Polk County  
Commissioner of Elections, MELVYN  
HOUSER, in his official capacity as the  
Pottawattamie County Auditor and  
Pottawattamie County Commissioner of  
Elections, ERIN SHANE, in her official  
capacity as the acting Johnson County  
Auditor and acting Johnson County  
Commissioner of Elections; and KERRI  
TOMPKINS, in her official capacity as the  
Scott County Auditor and Scott County  
Commissioner of Elections,

Defendants.

Case No. 4:24-cv-00390-SHL-HCA

**STATE DEFENDANT'S  
PRE-ANSWER MOTION TO DISMISS**

---

Paul D. Pate, in his official capacity as Secretary of State (“State Defendant”) moves the  
Court to dismiss Plaintiffs’ Complaint under Federal Rule of Civil Procedure 12(b)(6). In support

of this Motion, State Defendant states the following:

1. Plaintiffs filed their Complaint on October 30, 2024.
2. State Defendant agreed to waive service on October 31, 2024.
3. On October 31, 2024, Plaintiffs filed a Motion for Temporary Restraining Order and Preliminary Injunction, which this Court denied on November 3, 2024.
4. On December 18, 2024, this Court granted State Defendant up to and including January 29, 2025, to respond to Plaintiffs' Complaint.
5. State Defendant now moves to dismiss because Plaintiffs fail to state a claim.
6. In support of this motion, State Defendant refers the Court to his brief supporting his pre-answer motion to dismiss. Because the claims of Plaintiffs Orcun Selcuk, Alan David Gwilliam, Tingting Zhen, and Michael Brokloff are based on the 2024 election, which is over, those claims are now moot.
7. Further, all Plaintiffs lack standing because Plaintiffs' alleged harms are not redressable. Also, LULAC has not adequately pled organizational standing because it has not identified any member that has suffered the requisite harm and cannot based direct standing on a diversion-of-resources theory.
8. Plaintiffs also failed to plead plausible claims against State Defendant for violations of the National Voter Registration Act ("NVRA") in Counts IV through VII of their Complaint because they have not alleged that State Defendant has removed any voters from the voter registration rolls. Indeed, no voter has been removed from the voter rolls related to the allegations in the complaint.
9. And Plaintiffs do not plead or establish that State Defendant discriminated against Plaintiffs in Counts I, II, and V. Classifications discriminating against noncitizens in voting are

legal because noncitizens do not have the right to vote, and Plaintiffs have not plausibly alleged that State Defendant discriminated against voters based on naturalization status.

10. Plaintiffs also do not plead plausible claims that State Defendant denied them due process or improperly denied them access to records (Count III and VII) because State Defendant's actions were consistent with State and federal law.

11. State Defendant violated no part of the First or Fourteenth Amendments to the United States Constitution or of the NVRA. All of Plaintiffs claims fail.

**WHEREFORE**, State Defendant respectfully prays the Court dismiss Plaintiffs' Complaint in its entirety and assess costs against Plaintiffs.

Respectfully submitted,

BRENNA BIRD  
Attorney General of Iowa

Eric Wessan  
Solicitor General

/s/ Breanne A. Stoltze  
Breanne A. Stoltze  
Assistant Solicitor General

Iowa Department of Justice  
Hoover State Office Building  
Des Moines, Iowa 50319  
(515) 281-5164/6957  
(515) 281-4209 (fax)  
eric.wessan@ag.iowa.gov  
breanne.stoltze@ag.iowa.gov

ATTORNEYS FOR STATE DEFENDANT

*Original filed electronically.  
Copy electronically served on all parties of record.*

**PROOF OF SERVICE**

The undersigned certifies that the foregoing instrument was served on each of the persons identified as receiving a copy by delivery as follows on January 29, 2025:

- |  |  |
|--|--|
| <input type="checkbox"/> U.S. Mail   | <input type="checkbox"/> FAX               |
| <input type="checkbox"/> Hand Delivery   | <input type="checkbox"/> Overnight Courier |
| <input type="checkbox"/> Federal Express   | <input type="checkbox"/> Other             |
| <input checked="" type="checkbox"/> CM/ECF System Participant (Electronic Service) |  |

Signature: /s/ Breanne A. Stoltze