

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

ORCUN SELCUK; ALAN DAVID
GWILLIAM; TINGTING ZHEN;
MICHAEL BROKLOFF; NINO
NATENDZE; and THE LEAGUE OF
UNITED LATIN AMERICAN CITIZENS
OF IOWA, on behalf of itself and its
members,

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, JULIE PERSONS, 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
PLAINTIFFS' AMENDED COMPLAINT**

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 January 29, 2025, State Defendant moved to dismiss because Plaintiffs failed to state a claim.
5. Plaintiffs filed an Amended Complaint on April 4, 2025.
6. State Defendant now files a motion to dismiss Plaintiffs' Amended Complaint because Plaintiff still have failed to state a claim.
7. 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, Michael Brokloff, and Nino Natenadze are based on the 2024 election, which is over, those claims are now moot.
8. 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 base direct standing on a diversion-of-resources theory.
9. 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.

10. Further, Plaintiffs failed to plead a plausible claim under the Voting Rights Act (Count VII) because they have not adequately alleged that any vote cast in compliance with State and federal law was not counted or that any voter who complied with State and federal law was prevented from voting.

11. 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.

12. 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.

13. 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

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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 June 18, 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