

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

Martin Cowen, et al.,

Plaintiffs,

vs.

Brad Raffensperger, in his
official capacity as Secretary of
State of the State of Georgia,

Defendant.

Case No. 1:17-cv-04660-LMM

**Plaintiffs' Motion to Alter
or Amend the Judgment**

The plaintiffs respectfully move the Court for an order altering or amending the order and judgment entered on September 27, 2023 (ECF 214, 215).

In its order, the Court declines to address the plaintiffs' viewpoint discrimination claim on the ground that the plaintiffs did not plead a First Amendment claim in their complaint. (ECF 214 at 12.) However, the First Amendment claim appears in paragraph 148 of the Complaint, and the Court's characterization of the plaintiffs' discriminatory purpose

theory as stating a claim only under the Equal Protection Clause is plainly mistaken. Indeed, this Court previously recognized that the plaintiffs' discriminatory purpose theory included a viewpoint discrimination claim under the First Amendment. (ECF 113 at 9 n.5.) Although this Court later characterized the discriminatory purpose theory as solely an Equal Protection claim (ECF 196 at 1 n.1), the plaintiffs have never characterized it that way. The plaintiffs have maintained consistently that discriminatory purpose matters under *both* the First Amendment *and* the Equal Protection Clause. (ECF 96 at 20.)

As a result, the plaintiffs respectfully ask the Court to reconsider whether the Secretary is entitled to summary judgment on the plaintiffs' viewpoint discrimination claim.

Respectfully submitted this 23rd day of October, 2023.

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Certificate of Compliance

I hereby certify that the forgoing **Plaintiffs' Motion for Relief from Judgment or Order** was prepared in 13-point Century Schoolbook in compliance with Local Rules 5.1(C) and 7.1(D).

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