

IN THE SUPERIOR COURT OF COLQUITT COUNTY  
STATE OF GEORGIA

JOHN DOE, Individually, and on behalf of all  
others similarly situated,

Plaintiff,

v.

COLQUITT REGIONAL MEDICAL, INC.  
D/B/A COLQUITT REGIONAL MEDICAL  
CENTER D/B/A STERLING PHYSICIAN  
GROUP,

Defendant.

Case No. 2023CV0394

*Donna Georges Wilson*  
Donna Georges-Wilson, Clerk  
Colquitt County, Georgia

**[PROPOSED] ORDER GRANTING DEFENDANT’S MOTION TO DISMISS  
AMENDED CLASS ACTION COMPLAINT**

The above styled matter is before the Court on the Motion to Dismiss filed by Defendant Colquitt Regional Medical, Inc. d/b/a Colquitt Regional Medical Center d/b/a Sterling Physician Group on January 19, 2024. Having considered the Motion, the parties’ arguments, and heard all counsel at a hearing on the Motion on October 22, 2024, the Court hereby **GRANTS** the Motion and dismisses this action for lack of subject matter jurisdiction.

**I. Background**

On January 5, 2024, Plaintiff John Doe filed his Amended Class Action Complaint against Colquitt Regional Medical Center alleging that the latter violated Georgia law by installing certain third-party source code—called Meta Pixel—on Colquitt Regional Medical Center’s publicly available website. On January 19, 2024, Colquitt Regional Medical Center moved to dismiss Plaintiff’s complaint for lack of standing under O.C.G.A. § 9-11-12(b)(1) and failure to state claims for relief under O.C.G.A. § 9-11-12(b)(6). The Court held a hearing on the Motion on October 22, 2024 following briefing by all parties.

As alleged in the Amended Complaint, Colquitt Regional Medical Center is a non-profit healthcare organization that operates a 99-bed community-based teaching hospital and several physicians' offices across Moultrie, Georgia. (Am. Compl. ¶¶ 29, 34-35.) Colquitt Regional Medical Center maintains a public website at <https://colquittregional.com/>. (Am. Compl. ¶ 6.) Through this website, patients and nonpatients alike are able to learn about Colquitt Regional Medical Center on its main website page, to find medical providers, to search for medical conditions, symptoms, and more, to find medical services, to login to a patient portal, pay bills, and more. (Am. Compl. ¶ 7.) Plaintiff alleges that he has been a patient of Colquitt Regional Medical Center for 37 years. (Am. Compl. ¶ 116.) Plaintiff alleges that he used the public website to communicate his confidential patient information starting four to five years ago, including using several functions available on the website. (Am. Compl. ¶ 117.)

According to the Amended Complaint, Colquitt Regional Medical Center unlawfully intercepted or assisted with interceptions of Plaintiff's and hypothetical class members' information to third parties by use of the Meta Pixel and other tracking technology. (Am. Compl. ¶¶ 17-18.) According to Plaintiff, Meta Pixel is a tool on webpages that duplicates and transmits user communications with a webpage and sends those to Facebook. (Am. Compl. ¶ 10.) Plaintiff asserts claims for negligence, negligence per se, invasion of privacy, breach of implied contract, unjust enrichment, breach of fiduciary duty, breach of confidence, bailment, and violation of the Georgia Fair Business Practices Act for Colquitt Regional Medical Center's alleged improper use of the Meta Pixel and other technologies. Colquitt Regional Medical Center moved to dismiss these claims under O.C.G.A. § 9-11-12(b)(1) for lack of subject matter jurisdiction and O.C.G.A. § 9-11-12(b)(6) for failure to state claims for relief. For the reasons discussed below, the Court grants Colquitt Regional Medical Center's Motion under Rule 12(b)(1).

## II. Legal Standard

Colquitt Regional Medical Center moves to dismiss the Amended Complaint on the face of the pleading for lack of subject matter jurisdiction under O.C.G.A. § 9-11-12(b)(1). “Standing, of course, is a prerequisite to the existence of subject-matter jurisdiction.” *In re Estate Wheeler*, 349 Ga. App. 716, 717 (2019) (citation omitted). “[T]he question of standing is a jurisdictional issue[,]” and must be addressed prior to considering the merits. *New Cingular Wireless PCS, LLC v. Georgia Dep’t of Revenue*, 303 Ga. 468, 470 (2018) (citation omitted). “Standing focuses on the party seeking relief and not on the issues the party wishes to have adjudicated.” *Atl. Specialty Ins. Co. v. Lewis*, 341 Ga. App. 838, 845 (2017) (citations and punctuation omitted). As such, a plaintiff must establish his own standing for each form of relief sought. *Id.*; *Ctr. for a Sustainable Coast, Inc. v. Turner*, 324 Ga. App. 762, 765 (2013).

To have standing to sue, a plaintiff must “show that they personally have been injured, not that injury has been suffered by other unidentified members of the class.” *Spokeo, Inc. v. Robins*, 136 S. Ct. 1540, 1547 n.6 (2016) (citations omitted).<sup>1</sup> “To have standing, the party seeking relief must demonstrate that: (1) it has personally suffered some actual or threatened injury (an ‘injury-in-fact’); (2) the injury is causally connected to the challenged wrong; and (3) a favorable decision is likely to redress the injury.” *Georgia Home Appraisers, Inc. v. Trintec Portfolio Servs., LLC*, 349 Ga. App. 356, 362 (2019). For standing purposes, a concrete injury is one that “actually exist[s]” and is “‘real,’ and not ‘abstract.’” *Spokeo, Inc.*, 136 S. Ct. at 1548 (quoting Black’s Law Dictionary 479 (9th ed. 2009)). “For an injury to be ‘particularized,’ it ‘must affect the plaintiff in a personal and individual way.’” *Id.* (citations omitted).

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<sup>1</sup> The Supreme Court of Georgia relied on and cited federal authorities in examining standing in a data breach case, finding those decisions “useful.” See *Collins v. Athens Orthopedic Clinic, P.A.*, 307 Ga. 555, 562 n.4 (2019).

### III. Discussion

In its Motion, Colquitt Regional Medical Center asserts that Plaintiff lacks standing because he does not plead an injury-in-fact that is causally connected to the challenged conduct of Colquitt Regional Medical Center. Colquitt Regional Medical Center argues that the Amended Complaint does not allege any concrete injury specific to Plaintiff, as opposed to a hypothetical patient or website user. In response, Plaintiff argues that he alleges that Colquitt Regional Medical Center disclosed his private information to Facebook, including his identity, his status as a patient, his seeking of medical treatment, the content he viewed, the parameters of his doctor searches, his search terms, and the treatment services Plaintiff accessed, and those disclosures caused him various harms, including loss of privacy, unauthorized disclosure of information, unauthorized access to his information by third parties, use of his private information for advertising purposes, embarrassment, humiliation, frustration, and emotional distress, lost value of private information, lost benefit of bargain, and increased risk of future harm resulting from further unauthorized use and disclosure of his information. (Am. Compl. ¶¶ 119, 123.)


While the Court must take the factual allegations in the Amended Complaint as true on a motion to dismiss, the Court is “not bound to accept as true a legal conclusion couched as a factual allegation.” *Mabra v. SF, Inc.*, 316 Ga. App. 62, 66 (2012) (quoting *Papasan v. Allain*, 478 U.S. 265, 286 (1986)). The Court finds that Plaintiff’s conclusory injury theories are insufficient to survive a motion to dismiss based on lack of subject matter jurisdiction. *See, e.g., Andrews v. Prisma Health*, 2024 WL 3861384, at \*7 n.9 (D.S.C. Aug. 16, 2024) (“[N]owhere in the Complaint does Plaintiff allege facts to demonstrate that Facebook actually sold her information such that she was geotargeted. Instead, this allegation appears to be a conclusory allegation about what Facebook generally does with confidential information it receives from business[es] who use its

tools.”); *T.D. v. Piedmont Healthcare, Inc.*, 2024 WL 3972984, at \*3 (N.D. Ga. Aug. 28, 2024), *reconsideration denied*, 2024 WL 5284883 (N.D. Ga. Dec. 10, 2024) (“No facts are alleged that any of the Plaintiffs have actually suffered any of these damages. No facts are alleged that would explain how receiving targeted advertisements from Facebook and [defendant] would plausibly cause any of the Plaintiffs to suffer these damages. This is not a case where the Plaintiffs’ personal information was stolen by criminal hackers with malicious intent. The Plaintiffs received targeted advertisements because they are Facebook users and have Facebook IDs. The Court finds the Plaintiffs’ damages theories untenable.”).

For the foregoing reasons, the Court agrees with Colquitt Regional Medical Center that Plaintiff’s Amended Complaint fails to allege an imminent, concrete, and particularized injury-in-fact that is causally connected to the challenged conduct of Colquitt Regional Medical Center. The Court therefore grants the Motion and dismisses the Amended Complaint for lack of subject matter jurisdiction under O.C.G.A. § 9-11-12(b)(1). Because the Court concludes that it lacks subject matter jurisdiction, the Court declines to address Colquitt Regional Medical Center’s additional argument for dismissal under O.C.G.A. § 9-11-12(b)(6).

**IT IS HEREBY ORDERED** that Colquitt Regional Medical Center’s Motion is **GRANTED** and this matter is **DISMISSED**. The Clerk is directed to close this case.

**SO ORDERED** this 2<sup>nd</sup> day of May, 2025.

  
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Honorable Gregory A. Voyles  
Superior Court Judge for the Southern  
Judicial Circuit