

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

Case No. 5:24-CV-00578-M

WASSERBERG et al.,

Plaintiffs,

v.

NORTH CAROLINA STATE BOARD OF
ELECTIONS, et al.,

Defendants.

ORDER

This matter comes before the court on Plaintiffs’ motion to remand [16] and the parties’ responses to the court’s show cause order concerning Article III standing [DE 34; DE 35; DE 36]. Given the time-sensitive nature of this matter, the court orders as follows (with a full written order to come):

As it relates to the show cause order, the court finds that the organizational Plaintiffs have made a “threshold showing” of standing. *Republican Nat’l Comm. v. N. Carolina State Bd. of Elections*, No. 24-2044, 2024 WL 4597030, at *13 (4th Cir. Oct. 29, 2024) (Diaz, J., concurring); compare also DE 1-3 at ¶¶ 12-14, 58, with *Havens Realty Corp. v. Coleman*, 455 U.S. 363, 379 (1982); cf. *Village of Arlington Heights v. Metro. Hous. Dev. Corp.*, 429 U.S. 252, 264 n.9 (1977) (explaining that where at least one plaintiff has standing, the court “need not consider whether the other individual and corporate plaintiffs have standing to maintain the suit”).

Further, the court denies Plaintiffs’ motion to remand. Defendants refused to rescind or amend their guidance to county boards of elections in response to Plaintiffs’ request for a

declaratory ruling based on their view that rescission or amendment of that guidance would result in the rejection of absentee ballots for (what Defendants consider) immaterial mistakes or anomalies, which would be contravene the materiality provision of the Civil Rights Act of 1964. See DE 1 at 1-2; DE 1-4 at 5 n.11, 43-44. Defendants therefore “refus[ed] to do an[] act on the ground that it would be inconsistent with [a law providing for equal civil rights].” 28 U.S.C. § 1443(2); *RNC*, 2024 WL 4597030, at *12 (“the Materiality Provision is a law . . . providing for equal rights within the meaning of Section 1443(2)”). Defendants properly removed this action.

SO ORDERED this 31st day of October, 2024.

A handwritten signature in blue ink that reads "Richard E. Myers II". The signature is written in a cursive style with a large initial "R" and "M".

RICHARD E. MYERS II
CHIEF UNITED STATES DISTRICT JUDGE