

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF FLORIDA
TALLAHASSEE DIVISION**

WILLIAM A. LINK, et al.,

Plaintiffs,

v.

Case No.: 4:21cv271-MW/MAF

MANNY DIAZ, JR., et al.,

Defendants,

ORDER DENYING CROSS-MOTIONS FOR SUMMARY JUDGMENT

This Court has considered, without hearing, the parties' cross-motions for summary judgment, ECF Nos. 165 & 167, their responses, replies, and attachments. The parties already know the standard this Court applies in addressing a summary-judgment motion. On cross-motions, that standard remains the same. This Court evaluates the cross-motions separately, viewing the evidence in the light most favorable to the non-movant.

Starting with Defendants' motion, ECF No. 165, they first assert they are entitled to summary judgment because Plaintiffs have not suffered any injury in fact, nor are their asserted injuries traceable to Defendants. As this Court warned earlier in denying Defendants' motion to dismiss for lack of standing, Plaintiffs cannot rest on mere allegations but must set forth specific facts, by affidavit or other evidence, to establish standing at the summary-judgment stage. ECF No. 92 at 2. Plaintiffs

have done just that—coming forward with evidence, which taken as true for purposes of ruling on Defendants’ motion and construing all reasonable inferences in Plaintiffs’ favor, that creates reasonable disputes of material fact as to whether Plaintiffs have suffered cognizable injuries that are traceable to Defendants’ enforcement of the challenged provisions and redressable by an injunction against them.

For this same reason, Defendants’ remaining arguments for summary judgment are unavailing. Plaintiffs’ First Amendment claims present fact-intensive inquiries for this Court to decide. Given the evidence in this record and this Court’s duty to construe reasonable inferences in favor of the non-movant, Defendants have not established that they are entitled to judgment as a matter of law. And as to Plaintiffs’ vagueness claim, whether the challenged provisions fall “within the First Amendment’s ambit,” ECF No. 165 at 43, impacts this Court’s analysis of this claim. Vagueness challenges receive more lenient review when raised in a First Amendment context. *See Vill. of Hoffman Ests. v. Flipside, Hoffman Ests., Inc.*, 455 U.S. 489, 494 (1982). And vagueness claims not implicating the First Amendment “must be examined in the light of the facts of the case at hand.” *United States v. Mazurie*, 419 U.S. 544, 550 (1975). Thus, this Court will not resolve Plaintiffs’ vagueness claim at this juncture.

As for Plaintiffs' motion for summary judgment, ECF No. 167, factual disputes and competing inferences abound. As this Court noted above, Plaintiffs' First Amendment claims require this Court to engage in a fact-intensive inquiry, which this Court is better suited for doing at the bench trial. The same is true with respect to Plaintiffs' vagueness claim.

Accordingly, the parties' cross-motions for summary judgment, ECF Nos. 165 & 167, are **DENIED**.

SO ORDERED on December 9, 2022.

s/Mark E. Walker
Chief United States District Judge