

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION  
No. 5:24-CV-00578-M

VIRGINIA WASSERBERG, NORTH  
CAROLINA REPUBLICAN PARTY,  
and REPUBLICAN NATIONAL  
COMMITTEE,

Plaintiffs,

v.

NORTH CAROLINA STATE BOARD  
OF ELECTIONS, ALAN HIRSCH, in  
his Official Capacity as the Chair of  
and a Member of the North Carolina  
State Board of Elections, JEFF  
CARMON, in his Official Capacity as  
the Secretary of and a Member of the  
North Carolina State Board of  
Elections, KEVIN N. LEWIS, in his  
Official Capacity as a Member of the  
North Carolina State Board of  
Elections, SIOBHAN O'DUFFY  
MILLEN, in her Official Capacity as a  
Member of the North Carolina State  
Board of Elections, STACY "FOUR"  
EGGERS IV, in his Official Capacity as  
a Member of the North Carolina State  
Board of Elections, and KAREN  
BRINSON BELL, in her Official  
Capacity as Executive Director of the  
North Carolina State Board of  
Elections,

Defendants.

**MOTION TO REMAND**

Pursuant to 28 U.S.C. § 1447(c), Plaintiffs Virginia Wasserberg, the  
Republican National Committee, and the North Carolina Republican Party

respectfully move the Court for an order remanding this matter to the North Carolina General Court of Justice, Superior Court Division, Wake County. In support of this motion, Plaintiffs respectfully show the Court the following:

1. Plaintiffs filed this case in Wake County Superior Court on September 3, 2024. (Notice of Removal [D.E. 1], ¶ 1.)

2. Defendants removed the case to this Court on October 9, 2024. (Notice of Removal.)

3. Defendants assert that this case is removable to this Court under 28 U.S.C. § 1443(2). (Notice of Removal, ¶¶ 5-6.) Defendants cannot, however, satisfy their burden of proving that the Court possesses subject matter jurisdiction over the case under that statute for several reasons:

- a. **First**, Defendants cannot show that they were sued in state court for refusing to take some action required by state law.
- b. **Second**, Defendants cannot demonstrate that some act required by state law that they refused to commit is inconsistent with federal law prohibiting discrimination based on race or color.
- c. **Third**, Defendants cannot show that complying with the state law at issue in this case would have constituted discrimination on account of race or color.

4. The reasons for granting this Motion to Remand are explained in more detail in the Memorandum of Law in Support of Motion to Remand that Plaintiffs are filing with this motion and to which Plaintiffs respectfully refer the Court.

5. Plaintiffs have conferred with Defendants about the relief requested in this motion, and Defendants have not consented to that relief.

6. Nevertheless, for the reasons shown above and explained in greater detail in Plaintiffs' Memorandum of Law in Support of Motion to Remand, the Court should grant the motion.

**Prayer for Relief**

Accordingly, Plaintiffs respectfully request that the Court:

- A. Grant this motion;
- B. Order that this case be remanded to the North Carolina General Court of Justice, Superior Court Division, Wake County; and
- C. Award such other and further relief in Defendants' favor as the Court deems just and proper.

Respectfully submitted, this the 14th day of October 2024.

/s/ Thomas G. Hooper

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**CERTIFICATE OF SERVICE**

I hereby certify that on this day, I electronically filed the foregoing document with the Clerk of Court using the CM/ECF system, which will send electronic notification of the filing to the following: Laura H. McHenry, Esq. (lmchenry@ncdoj.gov); and Mary Carla Babb, Esq. (mcbabb@ncdoj.gov). Additionally, a courtesy copy of the foregoing document has been e-mailed to Narendra K. Ghosh, Esq. (nghosh@pathlaw.com).

This, the 14th day of October 2024.

/s/ Thomas G. Hooper  
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