

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
WESTERN DIVISION

Maria Muniz-Muniz, etc., et al.,

Case No. 3:09 CV 2865

Plaintiffs,

O R D E R

-vs-

JUDGE JACK ZOUHARY

United States Border,
Customs and Border Protection,
Department of Homeland Security, et al.,

Defendants.

This Court held a record hearing on May 27, 2014 (Court reporter: Angela Nixon). Counsel present: John Murray, Leslie Murray, Michael Stewart, Mark Heller, and Eugenio Mollo, Jr. for Plaintiffs; William Silvis for the Federal Defendants. This Court heard argument and denied the remaining claims in the Federal Defendants' Motion to Dismiss (Doc. 170). This Order supplements this Court's ruling at the hearing.

The Federal Defendants argue Plaintiffs lack Article III standing to pursue their claims. During the hearing, Plaintiffs represented they will not be proceeding as a class with individual representatives and now only wish to proceed with Organizational Plaintiffs Ohio Immigrant Worker Project and the Farm Labor Organizing Committee for purposes of the instant proceedings. This Court finds the Organizational Plaintiffs have adequately pled standing on their own behalf and on behalf of its members. *See Havens Realty Corp. v. Coleman*, 455 U.S. 363, 378–79 (1982) (organizational standing); *Hunt v. Wash. State Apple Adver. Comm'n*, 432 U.S. 333, 343 (1977) (representational standing). The Federal Defendants' Motion to Dismiss asserting the contrary is denied.

During the hearing, Plaintiffs stipulated they are alleging only constitutional *Bivens* claims against the Federal Defendants, not statutory claims premised on 8 U.S.C. § 1357. Therefore, the Federal Defendants' Motion to Dismiss Plaintiffs' claims as not cognizable is denied.

Finding summary judgment premature at this juncture because discovery is incomplete, this Court also declines the Federal Defendants' invitation to grant summary judgment on the record as it now stands.

Parties to exchange additional discovery. This Court will hold a Status Phone Conference on **Monday, July 28, 2014 at 10:30 a.m.** At that time, counsel are instructed to use the District Court conference line.

IT IS SO ORDERED.

s/ Jack Zouhary
JACK ZOUHARY
U. S. DISTRICT JUDGE

May 28, 2014