

STATE OF INDIANA)	IN THE MARION SUPERIOR COURT 12
)	SS:
COUNTY OF MARION)	CAUSE NO. 49D12-2104-PL-014068
)	
ERIC J. HOLCOMB, GOVERNOR)	
OF THE STATE OF INDIANA,)	
)	
Plaintiff,)	
)	
v.)	
)	
RODRIC BRAY, ET AL.,)	
)	
Defendants.)	

MOTION TO STRIKE AND FOR ALTERNATIVE RELIEF

The State of Indiana, including Governor Eric J. Holcomb, President Pro Tempore Rodric Bray, Speaker Todd Huston, the Legislative Council, and the Indiana General Assembly, through the Indiana Attorney General, moves to strike the appearances and all filings by unauthorized attorneys purporting to represent the Governor of Indiana in this case, and states the following in support:

1. On April 27, 2021, unauthorized attorneys purporting to represent the Governor filed their appearances and a Complaint for Declaratory Judgment and Injunctive Relief against Rodric Bray, President Pro Tempore of the Indiana State Senate and Chairman of the Indiana Legislative Council; Todd Huston, Speaker of the Indiana State House of Representatives and Vice Chairman of the Indiana Legislative Council; the Indiana Legislative Council as established by Indiana Code § 2-5-1.1-1, and the Indiana General Assembly.

2. The Court should strike the appearances of unauthorized attorneys and all of their filings.
3. Indiana law unambiguously provides that the Attorney General of Indiana shall represent the State, its agencies, and state officers in their official capacities. The General Assembly has given the Office of the Attorney General “the sole responsibility for the legal representation of the State.” *State ex rel. Sendak v. Marion Cnty. Superior Court, Room No. 2*, 373 N.E.2d 145, 149 (Ind. 1978).
4. The Attorney General has not authorized anyone outside the Office of Attorney General to represent Governor Holcomb, a state officer, in this action.
5. In addition, if the Court did not strike the appearances and all filings, the Court would need to continue all proceedings under the Indiana Constitution and Indiana Code section 2-3-5-1. Article 4, Section 8 of the Indiana Constitution provides that Senators and Representatives shall not be subject to civil process during a General Assembly session. And Indiana Code section 2-3-5-1 provides that a case against a member of the Indiana General Assembly shall be continued to a date not sooner than 30 days following the date of adjournment of the session. Because the General Assembly is in session, the case would need to be continued.
6. A memorandum in support is being filed concurrently with this motion.

WHEREFORE, for these reasons and those in the accompanying memorandum in support of this motion, the State of Indiana, including Governor Eric J. Holcomb, President Pro Tempore Rodric Bray, Speaker Todd Huston, the Legislative Council, and the Indiana General Assembly, respectfully requests that the Court strike the appearances and all other filings by the unauthorized attorneys purporting to represent the Governor or continue this case, and provide all other appropriate relief.

Respectfully submitted,

THEODORE E. ROKITA
Indiana Attorney General
Attorney Number 18857-49

By: /s/ Thomas M. Fisher
Solicitor General
Attorney No. 17949-49

/s/ Patricia Orloff Erdmann
Chief Counsel for Litigation
Attorney No. 17664-49

/s/ Jefferson S. Garn
Deputy Attorney General
Attorney No. 29921-49

/s/ Kian Hudson
Deputy Solicitor General
Attorney No. 32829-02

Office of the Indiana Attorney General
Indiana Government Center South, 5th Floor
302 West Washington Street
Indianapolis, IN 46204-2770
Phone: (317) 232-6318
Fax: (317) 232-7979

CERTIFICATE OF SERVICE

I certify that on April 30, 2021, the foregoing document was served upon the following person(s) via IEFS, if Registered Users, or by depositing the foregoing document in the U.S. Mail, first class, postage prepaid, if exempt or non-registered user:

John C. Trimble
A. Richard M. Blaiklock
Aaron D. Grant
Michael D. Heavilon
LEWIS WAGNER, LLP
501 Indiana Ave., Suite 200
Indianapolis, IN 46202

By: /s/ Thomas M. Fisher
Thomas M. Fisher
Solicitor General

OFFICE OF ATTORNEY GENERAL TODD ROKITA
Indiana Government Center South, 5th Floor
302 West Washington Street
Indianapolis, IN 46204-2770
Telephone: (317) 232-6255
Facsimile: (317) 232-7979
E-mail: Tom.Fisher@atg.in.gov