

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 VACATE ORDER SETTING BRIEFING SCHEDULE AND
STAY PROCEEDINGS PENDING APPEAL**

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, move to vacate the Court's Order Setting Briefing Schedule, issued July 3, 2021, and to stay all proceedings in this case pending resolution of the State's interlocutory appeal.

1. On July 3, 2021, this Court denied the State's motion to strike and motion for a continuance. It simultaneously entered an Order Setting Briefing Schedule, which sets the deadline for motions for summary judgment on August 6, 2021.

2. Contemporaneously with this motion, the State filed a motion to certify this Court's denial of the motion to strike and for alternative relief for interlocutory appeal. If this Court denies that motion, the State intends to file an original action for mandamus asking the Indiana Supreme Court to strike the appearances of unauthorized counsel.

3. Efficiency would be best served by waiting for the resolution of these efforts to secure higher court review before proceeding to summary judgment.

4. Furthermore, this case is not yet ripe for summary judgment. No responsive pleading has yet been filed, and the parties have not yet considered what discovery might be necessary. Indeed, Marion Circuit and Superior Civil Division Rule LR49-TR16-207 provides that the plaintiffs must arrange a meeting of all the parties within 90 days after filing the complaint and then, ten days after that, the parties must file a joint case management order. None of that has happened here, and no party has presented a request or rationale for departing from the timelines set forth by the local rules.

WHEREFORE, the State of Indiana respectfully requests that the Court vacate its July 3, 2021, Order Setting Briefing Schedule and stay all proceedings in this case pending the outcome of the motion for leave to file interlocutory appeal.

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

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 July 6, 2021, the foregoing document was served upon the following person(s) via IEFIS, 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