

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

INGRID BUQUER, <i>et al.</i> ,)	
)	Cause No. 1:11-cv-0708-SEB-MJD
Plaintiffs,)	
)	
v.)	
)	
CITY OF INDIANAPOLIS, <i>et al.</i> ,)	
)	
Defendants.)	

MOTION TO JOIN NECESSARY PARTY

Defendants Marion County Prosecutor in his official capacity and Johnson County Prosecutor in his official capacity (hereinafter “Defendants”), by counsel Gregory F. Zoeller, Attorney General of Indiana, by Betsy M. Isenberg, Deputy Attorney General, respectfully move the Court pursuant to Rule 12(b)(7) of the Federal Rules of Civil Procedure to join the United States as a necessary party under Rule 19(a). In support, Defendants state:

1. This is an action for declaratory and injunctive relief asserting that Sections 18 and 19 of Senate Enrolled Act 590 or P.L. 171-2011 are unconstitutional and preempted by federal law because regulation of immigration is an area within the control of the United States government.

2. The Complaint alleges the Defendants’ enforcement of Section 19 of Senate Enrolled Act 590, which amends Indiana Code § 35-33-1-1 to add (a)(11) through (a)(13), violates the Fourth Amendment, the Due Process Clause of the Fourteenth Amendment, and is preempted by federal law because it allegedly permits individuals to be arrested without probable cause of any illegal activity and based upon immigration status. (Complaint, ¶¶ 95, 96, 98).

3. The Complaint also alleges the Defendants' enforcement of Section 18 of Senate Enrolled Act 590, which enacts Indiana Code § 34-28-8.2, violates the Due Process Clause of the Fourteenth Amendment and is preempted by federal law because it prevents immigrants from utilizing consular identification cards as valid forms of identification when the individuals may be unable to obtain other forms of identification. (Complaint, ¶¶ 97, 98; DE 1).

4. The United States is a necessary party because without the federal government's involvement, the State of Indiana is subject to a substantial risk of inconsistent or multiple judgments based upon the potential for subsequent litigation by the United States regarding these same matters.

5. Joinder of the United States is feasible.

6. The United States should be joined as a Plaintiff in this action.

7. A memorandum in support of this motion has been filed contemporaneously.

WHEREFORE, the Defendants, by counsel, respectfully move the Court to join the United States as a necessary party in this action, and to grant all other appropriate relief.

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned counsel hereby certifies that a copy of the foregoing was filed electronically on this 11th day of October, 2011. Notice of this filing will be sent to the parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

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