

**IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION**

TYLER CAMERON GUTTERMAN,)
DALE NELSON, HUNTER JOHNSON,)
and BRIAN HILTUNEN,)

Plaintiffs,)

v.)

Case No. 1:20-cv-02801-JMS-MJD

INDIANA UNIVERSITY, BLOOMINGTON,)
and MICHAEL MCROBBIE, in his official)
capacity as President of Indiana University,)

Defendants.)

DEFENDANTS’ MOTION TO DISMISS PLAINTIFFS’ COMPLAINT

Defendants Indiana University, Bloomington (“IU” or “the University”)¹ and Michael McRobbie, in his official capacity as President of Indiana University (“President McRobbie”) (collectively, “Defendants”), pursuant to Fed. R. Civ. P. 12(b)(1) and 12(b)(6), and for the reasons set forth in the Memorandum in Support filed contemporaneously herewith, respectfully request that the Court dismiss Plaintiffs’ Complaint (Dkt. 1) in its entirety. Defendants are entitled to sovereign immunity pursuant to the Eleventh Amendment for all of Plaintiffs’ claims, with the exception of Plaintiffs’ claims for prospective injunctive relief against President McRobbie.

Sovereign immunity aside, Plaintiffs’ Fourth Amendment claims (Counts I and II) must fail, as there was no “search” which violated their privacy interests, making dismissal proper pursuant to Fed. R. Civ. P. 12(b)(6). The breach of contract claim (Count III) must meet the same fate. Not only do Plaintiffs lack Article III standing to bring their breach of contract claim, making dismissal proper under Fed. R. Civ. P. 12(b)(1), but Plaintiffs fail to allege the requisite elements

¹ Plaintiffs incorrectly name “Indiana University, Bloomington” as a defendant in this case. The Trustees of Indiana University is the proper name of that defendant. *See* Ind. Code § 21-27-4-2.

of a breach of contract action—specifically, breach and damages—making dismissal proper under Rule 12(b)(6) as well.

Dated: February 16, 2021

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on February 16, 2021, a copy of the foregoing was filed electronically through the CM/ECF system. Notice of this filing will be sent to the following parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system:

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