

**From:** [Emory Smith](#)  
**To:** [Kitchings, Jenny](#)  
**Cc:** ["Tyson, Rob"](#); [Jim Carpenter](#); ["Mike Hitchcock"](#); ["Michael Anzelmo"](#); ["Mitch.brown@nelsonmullins.com"](#)  
([Mitch.brown@nelsonmullins.com](#)); [Johnhazzard@scsenate.gov](#); [Jennifer.Miller@carpenterlawfirm.net](#)  
**Subject:** RE: SCPIF v. Harrell - Letter brief of State Case # 2013-1273  
**Date:** Friday, March 07, 2014 10:33:26 AM  
**Attachments:** [Initial Brief of State - letter.pdf](#)

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Ms. Kitchings:

On January 3, 2014, submitted the attached initial brief of the State in the form of a letter concurring in the legal arguments of the initial brief of the other respondents. The letter offered to submit the brief in formal format if the Court preferred, but I never received any request for resubmission of the brief in such a format nor was the letter rejected.

When I called today with questions about converting this "initial brief letter" into a final brief format, the assistant said that I probably had needed to do a motion for the initial brief under the appellate court rules.

I realize and appreciate that she was trying to be observant of the rules, but I believe that the initial brief letter should be acceptable and, as noted, it was not rejected nor was I asked to do a motion. I have previously used this format at the Supreme Court without filing a motion.

If this initial brief is acceptable, would you or one of your assistants please inform me as to a few formatting questions regarding the conversion of this initial letter brief into a final brief. I believe that I should delete the paragraph about the designations because we are past that stage of briefing. I also would like to know whether I may incorporate the Rule 211 certificate into the body of the letter or whether I should do a separate document.

I hope that this process that I have followed will be deemed consistent with the Appellate Court rules as it was intended to preserve the State's legal position and serve judicial economy by using a letter of concurrence rather than a formal written, duplicative brief.

I believe that the formal briefs are due on the 13<sup>th</sup> so I would appreciate hearing from you by then.

Thank you for your consideration of this matter.

Respectfully submitted,

Emory Smith  
Counsel for the State

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**From:** Emory Smith  
**Sent:** Friday, January 03, 2014 10:56 AM  
**To:** 'Jim Carpenter'; 'Michael Anzelmo'  
**Cc:** 'Tyson, Rob'; 'Mike Hitchcock'; 'Mitch.brown@nelsonmullins.com' (Mitch.brown@nelsonmullins.com); 'Jonhazard@scsenate.gov'; 'Jennifer.Miller@carpenterlawfirm.net'  
**Subject:** SCPIF v. Harrell - Letter brief of State

Attached is the letter brief of the State. Copies are also being mailed to you today.

Emory

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