

From: [Emory Smith](#)
To: [Kitchings, Jenny](#)
Cc: ["Tyson, Rob"](#); [Jim Carpenter](#); ["Mike Hitchcock"](#); ["Michael Anzelmo"](#); ["Mitch.brown@nelsonmullins.com"](#)
([Mitch.brown@nelsonmullins.com](#)); [Johnhazard@scsenate.gov](#); [Jennifer.Miller@carpenterlawfirm.net](#)
Subject: RE: SCPIF v. Harrell - Letter brief of State Case # 2013-1273 DUE TOMORROW (3/13/14)
Date: Wednesday, March 12, 2014 10:41:07 AM

My final brief is due tomorrow. I would appreciate any guidance that you could provide as to my questions below in my 3/7 email.

Respectfully,

Emory Smith
Counsel for the State

From: Emory Smith
Sent: Friday, March 07, 2014 10:33 AM
To: Kitchings, Jenny (jkitchings@sccourts.org)
Cc: 'Tyson, Rob'; 'Jim Carpenter'; 'Mike Hitchcock'; 'Michael Anzelmo';
'Mitch.brown@nelsonmullins.com' (Mitch.brown@nelsonmullins.com); Johnhazard@scsenate.gov;
'Jennifer.Miller@carpenterlawfirm.net'
Subject: RE: SCPIF v. Harrell - Letter brief of State Case # 2013-1273

Ms. Kitchings:

On January 3, 2014, I 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 13th 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'
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(Mitch.brown@nelsonmullins.com); 'Jonhazzard@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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