



Attorney General
Betty D. Montgomery

August 21, 2000

Quintin F. Lindsmith, Esq.
Bricker & Eckler LLP
100 South Third Street
Columbus, Ohio 43215-4291

Re: Dale R. DeRolph, et al. v. State of Ohio, et al.

Dear Quintin:

We are writing as a courtesy in response to Plaintiffs' *First Set of Post-DeRolph II Interrogatories*.

While we appreciate and well understand your interest in the State's progress in response to the Court's recent decision, there is no basis for using formal discovery procedures at this stage of the proceedings. Indeed, it may well be counterproductive to the objective we all share, that is, achieving compliance with the Court's decision.

No civil rule of which we are aware provides for discovery during an appeal. Even granted that *DeRolph* is a unique case, the Court's decision does not contemplate discovery at this time. By way of comparison, in *DeRolph I*, the Court remanded the case to the trial court to gather evidence. The Court did not elect to do so here and has instead continued the case until June 15, 2001 at which time it will establish a briefing schedule. Therefore, we will not be formally responding to the requests.

Very truly yours,

Betty D. Montgomery
Attorney General

Mary Lynn Readey
Assistant Attorney General
Education Section, Chief
30 East Broad Street, 16th Floor
Columbus, Ohio 43215

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