

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

---

IVY HILL CONGREGATION OF	:	
JEHOVAH’S WITNESSES,	:	
Petitioner	:	
	:	
v.	:	No. 316 MD 2020
	:	
DEP’T OF HUMAN SERVS.,	:	
Respondent	:	<i>Electronically Filed Document</i>

---

APPLICATION TO STRIKE PETITIONER’S BRIEF IN SUPPORT OF SUMMARY RELIEF

AND NOW, comes Respondent, Department of Human Services, by and through counsel, and for the following reasons respectfully requests that the Brief in Support of Summary Relief filed by Petitioner be stricken from the record.

1. On May 20, 2020, Petitioner filed a Petition for Review in this Court’s original jurisdiction.
2. Soon thereafter, Petitioner filed an Application for Summary Relief.
3. Initially, the Court ordered Petitioner’s brief in support to be filed on or before July 17, 2020.
4. The Court granted Respondent’s initial request to extend the time to respond to both pleadings and Petitioner’s brief was ordered to be filed by August 17, 2020.

5. The Court also granted Petitioner's request to extend the time to file a brief in support of summary relief and requested that their brief be filed no later than September 7, 2020 with Respondent's brief due thirty-days thereafter.

6. Briefs filed in Commonwealth Court, whether in its original or appellate jurisdiction, must conform, as each case will permit, to the requirements set forth in Chapter 21 of the Rules of Appellate Procedure or risk being suppressed. *See Pa.R.A.P. 2101.*

7. While many of the identified requirements in Chapter 21 are for briefs submitted in cases involving an appeal, Rule 2135(a)(1) makes no such distinction.

8. In particular, Rule 2135(a)(1) states that the principal or initial brief of any party shall not exceed 14,000 words. *See Pa.R.A.P. 2135(a)(1).*

9. Further, the rule requires a party to file a certificate of compliance with the word count limit if the principal brief is longer than 30 pages. *See id.*

10. On September 4, 2020, Petitioner filed its brief in support of their application for summary relief.

11. The substantive portions of the brief are 90-pages in length and the brief fails to include a certificate of compliance with the word count limit as provided for in Appellate Rule 2135(d).

12. Undersigned counsel reached out to Petitioner's counsel on September 8, 2020 concerning the length of the brief, but Petitioner's counsel asserted that

Appellate Rule 2135(a)(1) was not applicable to a brief filed in a matter before the Court in its original jurisdiction.

13. Respondent's brief in opposition to the application for summary relief is due on or before October 2, 2020.

14. Respondent respectfully requests that this Court strike Petitioner's brief in support of their application for summary relief as it fails to comply with Appellate Rule 2135.

15. A brief in support of this application shall only be filed if requested by the Court as all applicable details have been included within this application.

WHEREFORE, Respondent respectfully requests that this Honorable Court strike Petitioner's Brief in Support of their Application for Summary Relief as it fails to comply with Chapter 21 of the Rules of Appellate Procedure.

Respectfully submitted,

JOSH SHAPIRO  
Attorney General

By: s/ Nicole R. DiTomo

NICOLE R. DITOMO  
Deputy Attorney General  
Attorney ID: 315325

Office of Attorney General  
1000 Madison Avenue, Suite 310  
Norristown, PA 19403  
Phone: (610) 631-6205  
[nditomo@attorneygeneral.gov](mailto:nditomo@attorneygeneral.gov)

KAREN M. ROMANO  
Chief Deputy Attorney General  
Civil Litigation Section

Date: September 21, 2020

Counsel for Respondent

CONFIDENTIAL INFORMATION CERTIFICATION

I certify that this filing complies with applicable state and local rules and the provisions of the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts*, which require filing confidential information and documents differently than non-confidential information and documents.

*s/ Nicole R. DiTomo*  
NICOLE R. DITOMO  
Deputy Attorney General

CERTIFICATE OF SERVICE

I, Nicole R. DiTomo, Deputy Attorney General for the Commonwealth of Pennsylvania, Office of Attorney General, hereby certify that on September 21, 2020, I caused to be served a true and correct copy of the Respondent's Application to Strike Petitioner's Brief to the following:

VIA ELECTRONIC FILING

Matthew H. Haverstick, Esquire  
Mark E. Seiberling, Esquire  
Joshua J. Voss, Esquire  
Shohin Vance, Esquire  
Kleinbard LLC  
Three Logan Square  
1717 Arch Street, 5th Floor  
Philadelphia, PA 19103  
[mhaverstick@kleinbard.com](mailto:mhaverstick@kleinbard.com)  
[mseiberling@kleinbard.com](mailto:mseiberling@kleinbard.com)  
[jvoss@kleinbard.com](mailto:jvoss@kleinbard.com)  
[svance@kleinbard.com](mailto:svance@kleinbard.com)  
*Counsel for Petitioner*

ADDITIONAL COPIES SENT VIA REGULAR MAIL TO:

Commonwealth Court of Pennsylvania  
Attn: Michael F. Krimmel, Chief Clerk  
601 Commonwealth Avenue, Suite 2100  
P.O. Box 69185  
Harrisburg, PA 17106

*s/ Nicole R. DiTomo*  
NICOLE R. DITOMO  
Deputy Attorney General