



# Court of Appeals

## Memorandum

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To: Chief Judge J.D. Smith  
From: William L. Martin, III  
Subject: Thomson West Purchase of Briefs  
Date: February 24, 2004

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Attached please find a letter I received by facsimile transmission from Mr. Thomas C. Leighton of West Group. Basically, West Group would like to have copies of our Briefs to make them available as a part of their West Law service.

There are some up sides and down sides to this endeavor. Obviously, the up side is that we get to keep the money we receive from copying costs. However, once the Legislative Budget Office and/or the Office of Planning and Budget realize that our income from copying costs will go up significantly, I am certain they would cut our appropriations elsewhere.

The down side is that it would be quite time consuming to make copies of these Briefs available, whether we make the copies or mail them to West Group to make the copies. Of course, we could require an additional copy from the attorneys, but I am not sure I would want to make the lawyers do the extra work to generate income for us.

At any rate, please call me when you get a chance so we can discuss this.

Thank you.

/ld  
Attachments



## Fax Cover Sheet

**From** Mosimann, Robert  
**Company** WEST  
**Department**  
**Phone**  
**Fax**

**To** William L. Martin, Clerk and Cou  
**Fax** 14046516187  
**Company**  
**Date** 19-FEB-2004

**Subject** Georgia Court of Appeals briefs

COMMENTS:



Thomas C. Leighton  
Vice President  
Government Relations and Information Acquisition

610 Opperman Drive  
Eagan, MN 55123  
Telephone 651.687.5676  
Fax 651.687.5686  
E-mail tom.leighton@thomson.com

February 19, 2004

William L. Martin III  
Clerk/Court Administrator  
Georgia Court of Appeals  
334 State Judicial Bldg.  
Atlanta, GA 30334

FAX: 404.651.6187

Dear Bill,

Per our recent conversation, our initiative to make state appellate briefs available on Westlaw is progressing and has been well received. We now have briefs for the Georgia Supreme Court available back to 1990.

Many courts have reported that having the most current briefs on Westlaw is particularly useful for judges preparing for oral argument. For the Georgia Court of Appeals, we would like to make newly filed briefs available for civil cases on an ongoing basis, and archival briefs for civil cases back one or more years. I noticed that your Rule 42 indicates that court records are retained for only one year; we are most interested in prospective briefs as they are filed, and perhaps accumulating an archive on Westlaw will be of benefit to your office.

The arrangements that we make to obtain briefs vary from court to court depending on their specific needs. Where documents are available in paper only, we scan them to create electronic files for Westlaw. Most scanning is done by our facility in Philadelphia, PA; usually, we provide boxes and labels to ship briefs at our expense on a weekly basis. If your court does not have an extra copy of briefs, we can scan the documents and return them to you. These are typical arrangements, but we have flexibility to tailor the process to your needs.

I will call you to discuss specific arrangements. If you have any questions or concerns in the meantime, please call either myself or Rob Mosimann at (651) 848-7838.

We appreciate your assistance in meeting our commitment to provide the highest level of service to our customers on the bench and bar.

Sincerely,

Thomas C. Leighton  
Vice President  
Government Relations and Information Acquisition

**From:** "Leighton, Tom" <tom.leighton@thomson.com>  
**To:** "Bill Martin (E-mail)" <martinw@appeals.courts.state.ga.us>  
**Date:** 4/19/04 11:53AM  
**Subject:** WEST BRIEFS PROJECT

Dear Bill,

Thanks for taking the time to discuss West's briefs project with me last Friday. While we are willing to pay the Court to get your archival briefs information for display on Westlaw a better option for both sides may be to strike a barter deal. In return for your providing briefs we would be willing to add access to Georgia Supreme Court and Court of Appeals briefs to your current Westlaw account. Judges and law clerks have told us that being able to access briefs on Westlaw is a very useful feature. As we discussed, the briefs are fully searchable and linked to the cases cited within them and are fully integrated into KeyCite, West's citator service.

Please let me know if there are any questions likely to come up at the meeting that I can address in advance. I appreciate your bringing our proposal before the court and look forward to continuing the discussion.

Sincerely,

Tom Leighton  
VP Information Acquisition  
West  
610 Opperman Drive  
Eagan, MN 55123  
651-687-5676

**Survey Responses Re: Providing Briefs to Thomson/West**

Alaska - Supreme Court & Court of Appeals	Not yet. In discussions with West. Expect to agree with some limits. Concerns: Attorney unease about release of work product; privacy issues including protection of the names of victims & children and data mining of personal information.
Arkansas - Supreme Court & Court of Appeals	Not yet. Court is considering it now. Will probably permit West to publish briefs.
California - Supreme Court	Yes. Court provides briefs to State Law Library & three county law libraries. One of the county law libraries obtained permission to send its copy to West. Recently the Court began to send briefs directly to West in exchange for microfiche for the Court and the 4 libraries as well as online access to the briefs. Lexis has now expressed interest in obtaining a copy of the briefs.
Colorado - Supreme Court & Court of Appeals	Yes. Supreme Court. Provides briefs to West. Does not receive compensation.  Not yet, Court of Appeals. Approached by West but has not agreed yet. Concerns: 80% of opinions unpublished and privacy of sexual assault victims.
D.C. Court of Appeals	No
Delaware - Supreme Court	Not Yet.
Florida - 1st & 4th District Courts of Appeals	No, 1st District. Would require copying paper briefs.  No, 4th District. Only recently approached.
Illinois - Supreme Court	Not yet. Court has been approached.
Kansas - Supreme Court & Court of Appeals	Yes. Court provides law library extra set of copies for shipment to West. Library is using own copy to provide briefs back to 1995 to West. If any compensation, does not cover costs.

Kentucky - Supreme Court	<p>Not yet.</p> <p>A paper copy of the briefs in cases that are scheduled for oral argument are scanned by a state law school library and placed on its website. West has requested approval of its use of these electronic briefs, but this has not been formalized yet. The librarian has worked with the Court to ensure confidentiality of parties in certain types of cases.</p>
Louisiana - 1st Circuit Court of Appeals	Not yet.
Massachusetts - Supreme Court & Court of Appeals	<p>Yes, Supreme Court. Reporter of Decisions is providing West briefs.</p> <p>Not yet, Court of Appeals. Proposal has been made to Court of Appeals. Both courts paid the Social Law Library to microfilm briefs which were provided to subscribers for a fee. Concerns: Library cannot afford to do just the Court of Appeals briefs; privacy of sexual assault victims, attorneys are upset that West will be able to profit from their work product. The West proposal is to provide free microfiche and an electronic copy of the briefs for the Court's document management system.</p>
Maryland - Court of Appeals	<p>Yes.</p> <p>West picks up paper briefs each week and returns them the following week since there are no extra copies. Maryland receives no compensation.</p>
Minnesota - Supreme Court & Court of Appeals	<p>Not yet, has been contacted.</p> <p>Court provides two copies of the briefs to the state law library. Library microfilms one and permits public access to the other paper copy. Concerns: West services will result in public copy being taken off site and replaced by only a subscription service.</p>
Missouri - Western Distr. Court of Appeals	Not yet contacted by West.
Nevada - Supreme Court	<p>Not yet.</p> <p>Concerns about privacy of parties and the point at which the brief would be provided to West. If the brief is provided as soon as filed, the Court would have to update if it later received a corrected or amended brief.</p>
New Mexico	No
North Carolina - Supreme Court	<p>Yes.</p> <p>Briefs are already on the web. No fee.</p>

North Dakota - Supreme Court & Court of Appeals	Not contacted by West. N.D. has already posted briefs on their own website and, thus, they are available to West from the web. The Court webmaster (a justice) monitors and redacts, as necessary, names for confidentiality reasons.
Pennsylvania - Middle District Supreme Court	No. Court currently ships briefs to various law libraries in the state.
Tennessee - Supreme Court	No. Court made a decision not to provide briefs to West.
Texas - Supreme Court	Yes. Court provides briefs. The Court receives access to Westlaw electronic briefs at no charge as compensation for the briefs.
Virginia - Supreme Court	No. Court is inclined to refuse West because West would charge a fee for access. Instead, the University of Richmond Law School is interested in providing the same service to the public without a fee. The Court is considering this option.
West Virginia - Supreme Court	Not yet, under consideration. Satisfied with the Court's current process which is to post briefs in selected cases of substantial public or media interest on its on web page by scanning the documents. The Court plans to expand this process to include all cases orally argued. Concerns: Confidentiality of parties in certain cases; West would provide the Court only a PDF version of the brief which the Court would be constrained from posting until West completes its process; and there would be no free public access unless the Court continued its web posting.
Wisconsin - Supreme Court & Court of Appeals	Yes. Law library provides briefs to West, Univ. of Wisconsin Law School and others on CD. The Univ. has put the briefs online. West paid \$25,000 for briefs last fall and receive CD updates at \$25 per CD.
U.S. Court of Appeals for the Armed Forces	No. Has not been contacted by West.
U.S. 11th Circuit, Court of Appeals	No. In the past, the Court did send briefs to a company now owned by West. The Court currently sends copies of the briefs to the Library of Congress and West obtains copies from that Library. Recent civil briefs are online through the PACER system.

April 15, 2004