

## Circuit Rule 29

### Brief of an Amicus Curiae

This Rule governs the brief for an amicus curiae during the court's initial consideration of the case on the merits and applies only to the brief for an amicus curiae not appointed by the court. A brief for an amicus curiae appointed by the court is governed by the provisions of Circuit Rule 28.

**(a) Contents of Brief.** The brief must avoid repetition of facts or legal arguments made in the principal (appellant/petitioner or appellee/respondent) brief and focus on points not made or adequately elaborated upon in the principal brief, although relevant to the issues before this court.

**(b) Leave to File.** Any individual or non-governmental entity intending to participate as amicus curiae must file either a written representation that all parties consent to such participation, or, in the absence of such consent, a motion for leave to participate as amicus curiae. (For this purpose, the term "governmental entity" includes the United States or an officer or agency thereof, the District of Columbia, or a State, Territory, or Commonwealth of the United States.) Any disclosure statement required by Circuit Rule 26.1 must accompany a written representation of consent to participate as amicus curiae or a motion for leave to participate as amicus. The time for filing is governed by FRAP 29(a)(6); however, the court encourages individuals and non-governmental entities to file a written representation of consent or motion for leave to participate, and governmental entities to file a notice of intent to file an amicus brief, as promptly as practicable after the case is docketed in this court. Leave to participate as amicus will not be granted and an amicus brief will not be accepted if the participation of amicus would result in the recusal of a member of the panel that has been assigned to the case.

**(c) Timely Filing.** Generally, a brief for amicus curiae will be due as set by the briefing order in each case. In the absence of provision for such a brief in the order, the brief must be filed in accordance with the time limitations described in FRAP 29(a)(6).

**(d) Single Brief.** Amici curiae on the same side must join in a single brief to the extent practicable. This requirement does not apply to a governmental entity. Any separate brief for an amicus curiae must contain a certificate of counsel plainly stating why the separate brief is necessary. Generally unacceptable grounds for the filing of separate briefs include representations that the issues presented require greater length than these rules allow (appropriately addressed by a motion to exceed length limits), that counsel cannot coordinate their efforts due to geographical dispersion, or that separate presentations were allowed in earlier proceedings.

See Circuit Rule 28(d) (Briefs for Intervenors), Circuit Rule 34(e) (Participation in Oral Argument by Amici Curiae), and Circuit Rule 35(f) (Limitation on amici briefs during consideration whether to grant rehearing).