

RULE 29. BRIEF OF AN AMICUS CURIAE

1 (a) **When Permitted.** An amicus curiae brief may be filed only with leave of court or at the
2 court's request. An amicus brief must be limited to issues on appeal raised by the parties.

3 (b) **Motion for Leave to File.** The motion may be accompanied by the proposed brief. The
4 motion must state:

5 (1) the movant's interest; and

6 (2) the reasons why an amicus brief is desirable and why the matters asserted are relevant to the
7 disposition of the case.

8 (c) **Contents and Form.** An amicus brief must comply with Rule 32. In addition to the
9 requirements of Rule 32, the cover must identify the party or parties supported, if any, and indicate
10 whether the brief supports affirmance or reversal. An amicus brief need not comply with Rule 28,
11 but must include the following:

12 (1) a table of contents, with page references;

13 (2) a table of authorities -- cases (alphabetically arranged) , statutes and other authorities -- with
14 references to the pages of the brief where they are cited;

15 (3) a concise statement of the identity of the amicus curiae, and its interest in the case; and

16 (4) an argument, which may be preceded by a summary and which need not include a statement
17 of the applicable standard of review.

18 (d) **Length.** Except by the court's permission, an amicus brief may be no more than one-half
19 the maximum length authorized by these rules for a party's principal brief (see Rule 32(a) (7)). If
20 the court grants a party permission to file a longer brief, that extension does not affect the length of
21 an amicus brief.

22 (e) **Time for Filing.** An amicus curiae must file its brief within the time allowed for filing the

23 principal brief of the party being supported. An amicus curiae that does not support either party must
24 file its brief within the time allowed for filing the appellant's principal brief. The court may grant
25 leave for later filing, specifying the time within which an opposing party may answer.

26 (f) **Reply Brief.** Except by the court's permission, an amicus curiae may not file a reply brief.

27 (g) **Oral Argument.** An amicus curiae may participate in oral argument only with the court's
28 permission.

29 EXPLANATORY NOTE

30 Rule 29 was amended, effective March 1, 1996; March 1, 2003.

31 Rule 29 was revised, effective March 1, 2003, in response to the December 1, 1998, amendments
32 to Fed.R.App.P. 29. The language and organization of the rule were changed to make the rule more
33 easily understood and to make style and terminology consistent throughout the rules.

34 Subdivision (a) was amended, effective ~~March 1, 2003~~ _____. New language was added
35 to clarify that an amicus brief may deal only with issues on appeal raised by the parties.

36 Subdivision (b) was amended, effective March 1, 2003. New language in paragraph (2) was
37 added to require that the motion state the relevance of the matters asserted to the disposition of the
38 case.

39 Subdivision (c) was adopted, effective March 1, 2003, to eliminate any confusion as to contents
40 and form and to require compliance with Rule 32.

41 Subdivision (d) was adopted, effective March 1, 2003, to establish a shorter page limit for an
42 amicus brief than for a party's principal brief. The rationale for this limitation is that an amicus brief
43 is supplemental--it need not address all issues or facets of a case, but only matters not adequately
44 addressed by a party.

45 Subdivision (f) was adopted, effective March 1, 2003, to prohibit the filing of a reply brief by

46 an amicus curiae without the permission of the court.

47 SOURCES: Joint Procedure Committee Minutes of September 27-28, 2001, pages 19-22;
48 September 29-30, 1994, page 16; May 25-26, 1978, pages 13-14. Fed.R.App.P. 29.

49 CROSS REFERENCE: N.D.R.App.P. 32 (Form of Briefs, Appendices, and Other Papers).