

IN THE SUPREME COURT  
STATE OF NORTH DAKOTA

**ORDER OF ADOPTION**  
Supreme Court No. 20070076

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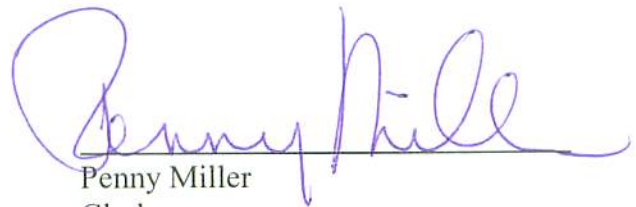
**Amendments to Rule 29 of the North Dakota  
Rules of Appellate Procedure Regarding  
Amicus Curiae Briefs**

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The Supreme Court, sua sponte, considered amendments to N.D.R.App.P. 29, Brief of an Amicus Curiae, to clarify that an amicus brief must be limited to issues raised on appeal by the parties.

**ORDERED**, amendments to N.D.R.App.P. are ADOPTED effective immediately.

The Supreme Court of the State of North Dakota convened March 21, 2007, with the Honorable Gerald W. VandeWalle, Chief Justice, and the Honorable Dale V. Sandstrom, the Honorable Mary Muehlen Maring, the Honorable Carol Ronning Kapsner, the Honorable Daniel J. Crothers, Justices, directing the Clerk of the Supreme Court to enter the above order.



Penny Miller  
Clerk

North Dakota Supreme Court

## 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 raised on appeal 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 21, 2007. New language was added to clarify that  
35 an amicus brief may deal only with issues raised on appeal 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).