

Rule 29. Brief of an Amicus Curiae

(a) During Initial Consideration of a Case on the Merits.

- (1) **Applicability.** This Rule 29(a) governs amicus filings during a court's initial consideration of a case on the merits.
- (2) **When Permitted.** The United States or its officer or agency or a state may file an amicus brief without the consent of the parties or leave of court. Any other amicus curiae may file a brief only by leave of court or if the brief states that all parties have consented to its filing, but a court of appeals may prohibit the filing of or strike an amicus brief that would result in a judge's disqualification.
- (3) **Motion for Leave to File.** The motion must be accompanied by the proposed brief and state:
 - (A) the movant's interest; and
 - (B) the reason why an amicus brief is desirable and why the matters asserted are relevant to the disposition of the case.
- (4) **Contents and Form.** An amicus brief must comply with Rule 32. In addition to the requirements of Rule 32, the cover must identify the party or parties supported and indicate whether the brief supports affirmance or reversal. An amicus brief need not comply with Rule 28, but must include the following:
 - (A) if the amicus curiae is a corporation, a disclosure statement like that required of parties by Rule 26.1;
 - (B) a table of contents, with page references;
 - (C) a table of authorities — cases (alphabetically arranged), statutes, and other authorities — with references to the pages of the brief where they are cited;
 - (D) a concise statement of the identity of the amicus curiae, its interest in the case, and the source of its authority to file;
 - (E) unless the amicus curiae is one listed in the first sentence of Rule 29(a)(2), a statement that indicates whether:
 - (i) a party's counsel authored the brief in whole or in part;
 - (ii) a party or a party's counsel contributed money that was intended to fund preparing or submitting the brief; and
 - (iii) a person — other than the amicus curiae, its members, or its counsel — contributed money that was intended to fund preparing or submitting the brief and, if so, identifies each such person;

(F) an argument, which may be preceded by a summary and which need not include a statement of the applicable standard of review; and

(G) a certificate of compliance under Rule 32(g)(1), if length is computed using a word or line limit.

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

(6) **Time for Filing.** An amicus curiae must file its brief, accompanied by a motion for filing when necessary, no later than 7 days after the principal brief of the party being supported is filed. An amicus curiae that does not support either party must file its brief no later than 7 days after the appellant's or petitioner's principal brief is filed. A court may grant leave for later filing, specifying the time within which an opposing party may answer.

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

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

(b) During Consideration of Whether to Grant Rehearing.

(1) **Applicability.** This Rule 29(b) governs amicus filings during a court's consideration of whether to grant panel rehearing or rehearing en banc, unless a local rule or order in a case provides otherwise.

(2) **When Permitted.** The United States or its officer or agency or a state may file an amicus brief without the consent of the parties or leave of the court. Any other amicus curiae may file a brief only by leave of court.

(3) **Motion for Leave to File.** Rule 29(a)(3) applies to a motion for leave.

(4) **Contents, Form, and Length.** Rule 29(a)(4) applies to the amicus brief. The brief must not exceed 2,600 words.

(5) **Time for Filing.** An amicus curiae supporting the petition for rehearing or supporting neither party must file its brief, accompanied by a motion for filing when necessary, no later than 7 days after the petition is filed. An amicus curiae opposing the petition must file its brief, accompanied by a motion for filing when necessary, no later than the date set by the court for the response.

Local Rule 29(a). Leave to File Amicus Briefs.

The Court will prohibit the filing of or strike an amicus brief that would result in the recusal of a member of the panel that has been assigned to the case or in the recusal of a member of the en banc court from a vote on whether to hear or rehear a case en banc.

Local Rule 29(b). Copies of Amicus Briefs.

- (1) During Consideration of Case on the Merits.** *If filed during consideration of the case on the merits, one paper copy and one electronic copy of the amicus brief must be filed. The Court will order the filing of additional paper copies for oral argument or if otherwise needed. Service of paper copies of the amicus brief is not required if the brief was served electronically on counsel and on any party not represented by counsel.*
- (2) During Consideration of Petition for Rehearing or Rehearing en Banc.** *If filed during consideration of whether to grant rehearing or rehearing en banc, one electronic copy of the amicus brief must be filed. No paper copies are required unless ordered by the Court. Service of paper copies of the amicus brief is not required if the brief was served electronically on counsel and on any party not represented by counsel.*

Former I.O.P.-29.1 redesignated Local Rule 29 December 1, 1995; rescinded December 1, 1998.

Local Rule 29 adopted December 1, 2016.

Local Rule 29(a) adopted December 1, 2018

Former Local Rule 29 redesignated as Local Rule 29(b) December 1, 2018