

RULE 29. BRIEF OF AN AMICUS CURIAE

(a) When Permitted. The United States, the State of Nevada, ~~an officer or agency of either,~~ a political subdivision thereof, ~~or an officer or agency of the foregoing entities,~~ or a state, territory or commonwealth, or a federally recognized tribe may file an amicus curiae brief without the consent of the parties or leave of court. Any other amicus curiae may file a brief only by leave of court granted on motion or at the court's request or if accompanied by written consent of all parties. ~~Any party may submit to the clerk a letter granting blanket consent to the filing of amicus briefs in support of any party or parties or of neither party.~~

Commented [ME1]: This is Steve Silva's request to add "federally recognized tribe."

~~**(b) Foreign Counsel.** If an amicus brief is prepared in whole or in part by an attorney who is not a member of the State Bar of Nevada, that attorney must move for permission to appear before the Supreme Court or Court of Appeals under SCR 42 and comply with Rule 46(a).~~

Commented [DW2]: Abe: wants us to consider going to the 9th circuit rule.

Commented [ME3R2]: I think we should delete this provision on blanket consent because we already have the stipulation procedure in place, which serves the same purpose.

(eb) Motion for Leave to File. A motion for leave to file an amicus brief ~~shall~~ must be accompanied by the proposed brief and state:

- (1) the movant's interest; and
- (2) the reasons why an amicus brief is desirable and why the matters asserted are relevant to the disposition of the case.

~~**(dc) 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, ~~if any,~~ and indicate whether the brief supports affirmance, ~~or~~ reversal, or extraordinary relief. An amicus brief need not comply with Rule 28, but must include the following:~~

- (1) If the amicus curiae is a corporation, a disclosure statement like that required of a party by Rule 26.1.
- (2) A table of contents, with page references.

(23) A table of cases (alphabetically arranged), statutes and other authorities cited, with references to the pages of the brief where they are cited.

(34) A concise statement of the identity of the amicus curiae, its interest in the case, and the source of its authority to file, which shall not count toward the type-volume limitation.

(5) Unless the amicus curiae is one listed in the first sentence of Rule 29(a), a statement that indicates whether:

(i) a party or a party's counsel authored the brief in whole or in part; and

(ii) any person(s)—other than the amicus curiae, its members, or its counsel—contributed money, or other consideration, intended to fund preparing or submitting the brief and, if so, identifies each person.

(46) An argument, which may be preceded by a summary.

(57) An attorney's certificate that complies with the requirements contained in Rule 28.2.

(ed) Length. Except by the court's permission or as provided in NRAP 21(d) as to writ proceedings, an amicus brief may be no more than one-half the maximum length authorized by these Rules for a party's brief, with the exception of an amicus brief supporting a writ petition or answer as described in NRAP 21(d). If the court grants a party permission to file a longer brief, that extension does not affect the length of an amicus brief.

(fe) 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 brief, petition, or answer 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 opening brief or the writ petition is filed. The court may grant leave for later filing, specifying the time within which an opposing party may answer. -An amicus brief in support of a petition for extraordinary writ must be filed as

Commented [PJK4]: Stylistic suggestion only

Commented [ME5]: This same sentence appears at the end of the new comments. But, I believe that it should stay in the same place as the original rule. I am proposing that the new comments from "An amicus brief in support of a petition for extraordinary writ . . ." be deleted because these comments address a specific situation that would be covered by the general language. I have also added "petition or answer" to include writ petitions and the filings from NRAP 29(h).

soon as practicable, must be supported by a motion for leave to file an untimely brief if submitted outside of the 7-day window established by this rule, and must not be filed after either the a respondent or real party in interest has filed an responsive—briefanswer to the writ petition, unless specifically invitedpermitted by the court. The court may grant leave for later filing, specifying the time within which an opposing party may answer.

Commented [DW6]: rework

(gf) Reply Brief. An amicus may not file a reply brief.

(hg) Oral Argument. An amicus may file a motion to participate in oral argument, but the court will grant such motions only for extraordinary reasons.

(ih) During Rehearing, En Banc Reconsideration, and Review by the Supreme Court. The provisions of this Rule apply to amicus briefs submitted in connection with rehearing, en banc reconsideration, and review by the Supreme Court. An amicus may participate in proceedings for rehearing under Rule 40, en banc reconsideration under Rule 40A, and review by the Supreme Court under Rule 40B. Such a briefs may be filed irrespective of whether an amicus brief was filed by that party in the primary briefing. The same requirements outlined in this Rule for principal briefs shall apply to such rehearing, en banc reconsideration, and review proceedings. Except by the court's permission, the length of an amicus brief in these proceedings must not exceed 3,500 words.

Commented [DW7]: Consider including writ petitions here & adding a section addressing untimely filed amicus briefs, in lieu of the addition in subsection (e) above.

Commented [ME8R7]: I am in favor of the edits as they currently stand.