

Rule 129. Brief of an Amicus Curiae**Rule 129.01 Request for Leave to Participate**

(a) Leave Required. Upon prior notice to the parties, a brief of an amicus curiae may be filed with leave of the appellate court.

(b) Timing of Request. The applicant shall serve and file a request for leave no later than 14 days after the filing of the notice of appeal, the petition which initiates the appeal, the appellate petition for declaratory judgment, or the appellate court order granting review. Any request for leave to participate filed before a pending petition for review is granted under Rule 117 of these rules shall be served and filed not later than 14 days after the filing of any party's petition for review. This 14-day limitation does not apply to a request for leave to participate limited solely to an issue raised in a conditional cross-petition.

(c) Content of Request. A request for leave shall identify whether the applicant's interest is public or private in nature, identify the party supported or indicate whether the amicus brief will suggest affirmance or reversal, and shall state the reason why a brief of an amicus curiae is desirable.

The request shall not exceed 1,500 words, exclusive of the caption, signature block, and any addendum, and shall be accompanied by a certificate of document length.

(Amended effective January 1, 1999; amended effective March 1, 2001; amended effective September 1, 2019.)

Rule 129.02 Time for Filing and Service of Brief

Copies of an amicus curiae brief shall be served on all parties and filed with the clerk of the appellate courts with proof of service no later than 7 days after the time allowed for filing the brief of the party supported, or if in support of neither party, no later than 7 days after the time allowed for filing the petitioner's or appellant's brief.

(Amended effective January 1, 1999; amended effective March 1, 2001; amended effective September 1, 2019; amended effective March 1, 2024.)

Advisory Committee Comment - 2019 Amendments

Rule 129.01 is amended to make two important changes in amicus practice before the appellate courts. First, all requests for leave to participate as an amicus are limited to 1,500 words, exclusive of the caption, signature block, and any addendum. This limitation is intended to prevent the inclusion of argument not germane to the question of whether the request should be allowed.

The second change establishes a new deadline for filing requests for leave to file an amicus brief - 14 days (rather than 15) after the appeal is commenced. The new limitation is designed to level the playing field where any potential amicus asks to participate before the Supreme Court has decided whether to grant a pending Rule 117 petition for further review (PFR). Any request to appear as amicus while a PFR is pending must be filed within 14 days of any party's filing of a PFR. If that deadline is missed, an amicus request cannot properly be filed until the court decides the PFR. This allows the parties to the appeal to express their views on the request for leave in the PFR briefing if appropriate. A companion change is made in Rule 117, subd. 5.

Advisory Committee Comment - 2024 Amendment

Rule 129.02 is amended in 2024 to clarify that an amicus brief in support of neither party must be filed no later than 7 days after the time allowed for filing the petitioner's or appellant's brief.

Rule 129.03 Certification in Brief

A brief filed under this rule shall indicate whether counsel for a party authored the brief in whole or in part and shall identify every person or entity, other than the *amicus curiae*, its members, or its counsel, who made a monetary contribution to the preparation or submission of the brief. The disclosure shall be made in the first footnote on the first page of text.

(Added effective March 1, 2001.)

Rule 129.04 Oral Argument

An *amicus curiae* shall not participate in oral argument except with leave of the appellate court.

(Amended effective January 1, 1999; amended effective March 1, 2001.)

Advisory Committee Comment - 2000 Amendments

*Rule 129.01 is amended to delete a provision that provided for an automatic stay of a briefing period until a request for leave to participate as amicus curiae was decided. Under the revised rule, the parties proceed with the normal briefing schedule without regard to whether amici will participate. A party or a potential amicus curiae who believes a delay in the briefing schedule is necessary may move for a stay. Rule 129.03 is a new provision requiring disclosure, in the brief, of whether any counsel for a party authored the brief in whole or in part and shall identify persons other than the amicus curiae who provided monetary contribution to its preparation or submission. This rule is patterned on Rule 37.6 of the Rules of the Supreme Court of the United States. This rule is intended to encourage participation of independent amici, and to prevent the courts from being misled about the independence of amici or being exposed to "a mirage of amicus support that really emanates from the petitioner's word processor." Stephen M. Shapiro, *Certiorari Practice: The Supreme Court's Shrinking Docket*, reprinted at 24 LITIGATION, Spring 1998, at 25, 74. The rule is not intended to discourage the normal cooperation between the parties to an action and the amici, including the providing of access to the record, the exchange of briefs in advance of submission, and other such activities that do not result in someone other than the amicus preparing the amicus brief.*

The numbering of the rule is changed to conform it to the style predominantly used in the other rules. This change is not intended to modify the meaning or interpretation of the rule.