

Pennsylvania Supreme Court Allows Amicus Briefs On Certification Questions

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The Pennsylvania Supreme Court has made clear that it permits *amici curiae* to submit briefs in cases that the court accepts on certification from federal appellate courts.

The Pennsylvania Rules of Appellate Procedure generally permit the submission of *amicus* briefs in any matter pending before the Commonwealth's appellate courts, except for petitions for allowance of appeal. Pa.R.A.P. 531(a). Petitions for allowance of appeal are the primary means by which appellants obtain discretionary Supreme Court review of appellate decisions of the Superior and Commonwealth courts.

The Supreme Court, however, also accepts matters on certification from the federal appellate courts. Federal courts certify to the Pennsylvania Supreme Court questions hinging on interpretation of Pennsylvania statutory or constitutional law. Previously, it was unsettled whether amicus briefs could be filed in appeals pending on certification from a federal court.

By amendments to its Internal Operating Procedures, the Pennsylvania Supreme Court has made clear that once the Court accepts a certified issue from a federal appeals court, an *amicus curiae* brief may be submitted without prior leave of court. Prospective amici should request a copy of the briefing schedule from the Court's Prothonotary, and abide by the deadlines for filing and service set forth therein. These procedural changes, set forth in section 63.10 of the Court's Internal Operating Procedures, were effective as of October 25, 2010.

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