

Amendments To The Federal Appellate Rules Increase Scrutiny of Amicus Briefs

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On December 1, 2010, amendments to Federal Rule of Appellate Procedure 29, governing the submission of *amicus curiae* briefs, went into effect. The amendments include new requirements that increase federal appellate courts' scrutiny of *amici* filers.

The amended Rule 29(c) requires that all *amicus* briefs include a certification stating whether: (A) a party's counsel authored the brief in whole or in part; (B) a party or a party's counsel contributed money that was intended to fund preparing or submitting the brief; and (C) 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, identifying each such person.

The newly amended Rule 29 is intended to discourage the practice of parties either drafting or paying for the creation of *amicus* briefs. Under the prior Rule, counsel for the parties could use *amicus* briefs not only to create the illusion of support for their positions by proxies, but also to circumvent the page limitations on principal briefs.

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