

Alabama Rules of Appellate Procedure

Rule 29.

Briefs of an amicus curiae.

(a) When permitted. A brief of an amicus curiae may be filed only by leave of court granted on motion, or at the request of the court.

(b) Motion for leave to file. A motion for leave to file an amicus brief shall identify the interest of the applicant and shall state the reasons why the brief of an amicus curiae is desirable. The brief may be conditionally filed with the motion for leave to file.

(c) Contents and form. The brief shall follow the form prescribed for the brief of an appellee.

(d) Time for filing. Unless otherwise provided by the court, the brief of an amicus curiae shall be filed within the time allowed the party whose position on the appeal the amicus brief will support.

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

(f) Oral argument. An amicus curiae may participate in oral argument only upon motion and leave of court.

[Amended eff. 5-7-2015.]

Committee Comments

The provision of FRAP Rule 29 permitting the filing of an amicus brief by consent of all the parties has been deleted, since it is felt that such consent would so rarely be granted as to make such a provision meaningless.

The elimination of the process of consent to amicus briefs is based upon the reality that most amicus briefs are in fact a type of adversary intervention rather than objective assistance to the court. However, if the court requests an amicus brief as is allowed by the rule, it may obtain such outside objective assistance.

There was no former Supreme Court Rule governing the filing of amicus briefs, but the practice has been generally in accord with this rule. Under former

practice, the time for filing an amicus brief has been set by the court, which is still permitted if the court desires something other than the time fixed by the rule.

The rule is derived from former Alabama practice, FRAP Rule 29 and Colorado Appellate Rule 29.

Note from the reporter of decisions: The order amending Rule 29, effective May 7, 2015 is published in that volume of *Alabama Reporter* that contains Alabama cases from ____ So. 3d.