

Rule 531. Participation by ~~[Amicus Curiae]~~Amicus Curiae.

(a) General.—An amicus curiae is a non-party interested in the questions involved in any matter pending in an appellate court.

(b) Briefs[.--Anyone interested in the questions involved in any matter pending in an appellate court, excluding Petitions for Allowance of Appeal, although not a party, may, without applying for leave to do so, file a brief amicus curiae in regard to those questions.]

(1) Amicus Curiae Briefs Authorized.—[Unless otherwise ordered by the court, any amicus curiae shall file and serve its brief in the manner and number required and within the time allowed by these rules with respect to the party whose position as to affirmance or reversal the amicus brief will support, or with respect to the appellant, if the amicus brief does not support the position of any party.] An amicus curiae may file a brief (i) during merits briefing; (ii) in support of or against a petition for allowance of appeal, if the amicus curiae participated in the underlying proceeding as to which the petition for allowance of appeal seeks review; or (iii) by leave of court. An amicus curiae does not need to support the position of any party in its brief.

(2) Content.—[In an appeal proceeding under Rules 2154(b), 2185(c) and 2187(b), any amicus curiae shall file and serve its brief within the time allowed by these rules for service of the advance text of the brief by the party whose position as to affirmance or reversal the amicus brief will support or, if the amicus brief does not support the position of any party, within the time allowed by these rules for service of the advance text by the appellant. Alternatively, the amicus curiae may, but is not required to, serve an advance text and then file and serve a definitive copy of its brief. If the amicus curiae chooses to serve an advance copy and then file and serve a definitive copy, its deadlines for each are the same as for the party whose position as to affirmance or reversal the amicus brief supports or, if the amicus brief does not support the position of any party, as for the appellant.]An amicus curiae brief must contain a statement of the interest of amicus curiae. The statement of interest shall disclose the identity of any person or entity other than the amicus curiae, its members, or counsel who (i) paid in whole or in part for the preparation of the amicus curiae brief or (ii) authored in whole or in part the amicus curiae brief. It does not need to contain a Statement of the Case and does not need to address jurisdiction or the order or other determinations in question.

(3) Length.—An amicus curiae brief under subparagraph (b)(1)(i) is limited to 7,000 words. An amicus curiae brief under subparagraph (b)(1)(ii) is

limited to 4,500 words. An *amicus curiae* brief under subparagraph (b)(1)(iii) is limited to the length specified by the court in approving the motion or, if no length is specified, to half the length that a party would be permitted under the rules of appellate procedure. Any *amicus curiae* brief must comply with the technical requirements for briefs, including certificates of compliance, set forth in Pa.R.A.P. 1115, 2135(b)-(d), 2171-2174, and 2187, or other pertinent rules.

(4) *Time for filing briefs.*—An *amicus curiae* brief must be filed on or before the date of the filing of the party whose position as to affirmance or reversal the *amicus curiae* will support. If the *amicus curiae* will not support the position of any party, the *amicus curiae* brief must be filed on or before the date of the appellant’s filing. In an appeal proceeding under Pa.R.A.P. 2154(b), 2185(c), and 2187(b), the *amicus curiae* must file on or before the date of service of the advance text by the party whose position as to affirmance or reversal the *amicus curiae* supports or, if the *amicus curiae* does not support the position of any party, on or before the date of service of the advance text of the appellant.

[(b)](c) *Oral argument.*—Oral argument may be presented by [amicus curiae]*amicus curiae* only as the appellate court may direct. Requests for leave to present oral argument shall be by application and will be granted only for extraordinary reasons.

Official Note: [Where the *amicus curiae* cannot comply with the requirements of this rule because of ignorance of the pendency of the question, relief may be sought under Rule 105(b). The last eight words of the rule are new. In *Piccirilli Bros. v. Lewis*, 282 Pa. 328, 336, 127 Atl. 832, 835 (1925) the court noted the applicability of this rule to public officers who are represented by official counsel with an adverse position.] The Pennsylvania Supreme Court has held that “[a]n *amicus curiae* is not a party and cannot raise issues that have not been preserved by the parties.” *Commonwealth v. Cotto*, 753 A.2d 217, 224 n.6 (Pa. 2000). In addition, the Court shares the view of the United States Supreme Court that “[a]n *amicus curiae* brief that brings to the attention of the Court relevant matter not already brought to its attention by the parties may be of considerable help to the Court. An *amicus curiae* brief that does not serve this purpose burdens the Court, and its filing is not favored.” See U.S. Supreme Ct. R. 37.1.

The rule allows interested persons to be *amicus curiae* as to one or more questions during the merits briefing on that question. An *amicus curiae* can file a brief of right in support of or against a petition for allowance of appeal only if the *amicus curiae* participated in the underlying proceedings giving rise to the order for which further review is sought. Any persons wishing to file *amicus curiae* briefs in any other circumstance must seek leave of court.

The 2016 amendment to the rule set forth content and length requirements for *amicus curiae* briefs. The amendment also established a requirement that all *amicus curiae* briefs include a statement of interest disclosing whether any party to the appeal has paid in whole or in part for the preparation of the brief.

The 2011 amendment to the rule clarified when those filing **[amicus curiae]***amicus curiae* briefs should serve and file their briefs when the appellant has chosen or the parties have been directed to proceed under the rules related to large records (**[Rule]Pa.R.A.P. 2154(b)**), advance text (**[Rule]Pa.R.A.P. 2187(b)**) and definitive copies (**[Rule]Pa.R.A.P. 2185(c)**). Under those rules, the appellant may defer preparation of the reproduced record until after the briefs have been served. The parties serve on one another (but do not file) advance texts of their briefs within the times required by **[Rule]Pa.R.A.P. [2187]2185(c)**. At the time they file their advance texts, each party includes certified record designations for inclusion in the reproduced record. The appellant must then prepare and file the reproduced record within 21 days of service of the appellee's advance text (**[Rule]Pa.R.A.P. 2186(a)(2)**). Within 14 days of the filing of the reproduced record, each party that served a brief in advance text may file and serve definitive copies of their briefs. The definitive copy must include references to the pages of the reproduced record, but it may not otherwise include changes from the advance text other than correction of typographical errors. Those filing **[amicus curiae]***amicus curiae* briefs may choose to serve an advance text and then file and serve definitive copies according to the procedure required of the parties or they may choose to file a definitive brief without citations to the reproduced record.