

Article 8

AMICUS BRIEF POLICY

[APPROVED October 15, 2018]

The filing of an amicus curiae brief will be authorized only on behalf of the CBA. Individual sections or committees of the CBA are not authorized to submit amicus briefs on their own behalf.

The issues to be addressed and the positions to be advanced in any such amicus brief must be consistent with the overall goals and the mission of the CBA, and involve (a) a matter of compelling public interest; or (b) a matter of particular significance to the practice of law, the legal profession, the legal system, or the administration of justice. Any such brief must be of the highest professional quality, and should present the position of the CBA in a fashion that will assist the court in its analysis of the issues rather than simply repeating arguments presented by the parties or others filing amicus briefs. Absent exceptional circumstances, amicus briefs will not be authorized with respect to matters at the trial court level. Consistent with the obligation of member attorneys to provide pro bono/pro publico services, no fees shall be requested or paid for the preparation of amicus filings on behalf of any section or the Association.

The filing of an amicus brief and approval of the position(s) to be taken in such brief must be authorized by the House of Delegates of the CBA or, between meetings of the House of Delegates, by the Board of Governors. The Board of Governors must report on any action taken with respect to a request to file an amicus brief at the next meeting of the House of Delegates.

A request to file an amicus brief must be submitted by a CBA section or committee, following approval by that section (or its executive committee) or committee. The request should note whether the section or committee is acting in response to a request from the court. The section or committee shall submit its request for authorization on an Amicus Brief Request Form to the CBA Executive Director (including a plain-language summary and explanation of the proposal, the rationale for the proposal, and the basis of the approval, i.e. whether it was approved by the section or committee or its executive committee) for distribution to each CBA section and committee. The section or committee proposal, along with any objection, concurrence, comment or action by another section or committee shall then be submitted to the CBA Executive Committee for presentation to the House of Delegates or Board of Governors.

After the approved brief is written, it must be submitted to the CBA President. The CBA President or designee will assure that the brief accurately reflects the legal underpinnings of the approved amicus brief proposal and the highest standards of professionalism, so as to present the issues in a useful manner to the reviewing Court.