

NOTICE TO THE BAR

PUBLICATION FOR COMMENT – PROPOSED AMENDMENTS TO AMICUS CURIAE RULE (R. 1:13-9)

The Supreme Court is considering amendments to Rule 1:13-9 that will clarify the periods within which motions for leave to appear as amici curiae must be filed to be considered timely. The Court has determined to publish its proposal for comment. Publication of the proposal accompanies this Notice. Those seeking to comment must do so, in writing, by Friday, April 30, 2010, at the following address:

Glenn A. Grant, J.A.D.
Acting Administrative Director of the Courts
Rules Comments (Re: Amicus Curiae Rule)
Hughes Justice Complex; P.O. Box 037
Trenton, New Jersey 08625-0037

Alternatively, comments on the accompanying proposal may also be submitted via Internet e-mail to the following address: Comments.Mailbox@judiciary.state.nj.us.

The Supreme Court will not consider comments submitted anonymously. Thus, those submitting comments by mail should include their name and address (and those submitting comments by e-mail should include their name and e-mail address). However, comments submitted in response to this notice will be maintained in confidence if the author specifically requests confidentiality. In the absence of such a request, the author's identity and his or her comments may be subject to public disclosure after the Court has acted on the proposal.

/s/ Glenn A. Grant

Glenn A. Grant, J.A.D.
Acting Administrative Director of the Courts

Dated: March 31, 2010

Proposed Amendments to Rule 1:13-9

1:13-9 Amicus Curiae; Motion; Grounds for Relief; Briefs

(a) An application for leave to appear as amicus curiae in any court shall be made by motion in the cause stating with specificity the identity of the applicant, the issue intended to be addressed, the nature of the public interest therein and the nature of the applicant's special interest, involvement or expertise in respect thereof. The court shall grant the motion if it is satisfied under all the circumstances that the motion is timely, the applicant's participation will assist in the resolution of an issue of public importance, and no party to the litigation will be unduly prejudiced thereby. The order granting the motion shall define with specificity the permitted extent of participation by the amicus and shall, where appropriate, fix a briefing schedule.

(b) An amicus curiae who has been granted leave to appear in a cause may, without seeking further leave[,]:

(1) file a brief in an appeal taken to any court from the final judgment [therein] entered, provided that the brief is filed on or before the day on which the last respondent's brief is due;

(2) file a brief in support of or in opposition to a motion for leave to appeal, provided that the brief is filed on or before the day on which the last answering brief is due;

(3) file a brief in the Supreme Court in support of or in opposition to a petition for certification, provided that the brief is filed on or before the day on which the last respondent's brief is due; and

(4) file a brief on the merits after the Supreme Court has granted a petition for certification or a motion for leave to appeal, provided that the brief is filed in compliance with the time frames fixed in subsection (d) of this Rule.

(c) Briefs filed by an amicus curiae in any court shall comply with all applicable rules.

(d) An amicus curiae who has not been granted leave to appear in a cause may file a motion for leave to appear in the Supreme Court, provided that the motion is accompanied by the proposed amicus curiae brief. Except as provided in Subsection (e) of this Rule, motions for leave to appear as an amicus curiae in the Supreme Court shall be filed within sixty days of:

(1) an order granting certification;

(2) an order granting leave to appeal; or

(3) the filing of a notice of appeal.

Untimely motions may be granted by the Supreme Court only on a showing of good cause demonstrated to the satisfaction of the Court.

(e) In the event that the Supreme Court, in granting a motion for leave to appeal or a petition for certification, has directed that the parties submit briefs in accordance with a designated schedule or has otherwise directed that the matter be accelerated, an amicus curiae shall file its motion for leave to appear, accompanied with its brief, on or before the date fixed for the last responsive brief.

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