

**United States Court of Appeals
for the Armed Forces
Washington, D.C.**

In Re:

CHANGE TO COURT RULES

ORDER

Upon careful consideration of proposed changes to the Rules of Practice and Procedure, United States Court of Appeals for the Armed Forces, which were presented to and reviewed by the Rules Advisory Committee of the United States Court of Appeals for the Armed Forces and thereafter published in the Federal Register for comment, it is, by the Court, this 1st day of February, 2016,

ORDERED:

That effective March 1, 2016, Rule 26 is hereby amended, as provided in the attachment to this Order (deletions appear with strikethrough and changes appear in bold typeface).

For the Court,

/s/ William A. DeCicco
Clerk of the Court

RULE 26. *AMICUS CURIAE* BRIEFS

(a) A brief of an *amicus curiae* may be filed (1) by an appellate government or defense division of an armed service other than that in which the case has arisen, (2) by invitation of the Court, or (3) by motion for leave to file granted by the Court.

(b) All motions and briefs filed under Rule 26(a)(3) must contain a statement of the movant's interest and why the matters asserted are relevant to the disposition of the case. *Amicus curiae* briefs filed pursuant to Rule 26(a)(3) that bring relevant matter to the attention of the Court 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. The motion must also provide a statement as to whether the parties consent to the filing of the *amicus curiae* brief. Only an attorney admitted to practice as a member of the Bar of the Court or an attorney appearing *pro hac vice* may file an *amicus curiae* brief.

(c) An *amicus curiae* brief submitted before the Court's consideration of a petition for grant of review, petition for extraordinary relief, writ-appeal petition, or petition for new trial may be filed under subparagraphs (a)(1) or (a)(2), or if the Court grants leave to file under subparagraph (a)(3) of this rule.

(d) Unless otherwise ordered by the Court, a brief of an *amicus curiae* in support of a party ~~may~~ **shall** be filed no later than 10 days after that party has filed its brief, **supplement to the petition for grant of review, petition for extraordinary relief, writ-appeal petition, or answer.** If ~~neither~~ **no** party is supported, the brief of an *amicus curiae* shall be filed no later than 10 days after the first brief, **supplement to the petition for grant of review, petition for extraordinary relief, or writ-appeal petition** is filed. **In the case of a petition for new trial, the brief of an *amicus curiae* shall be filed no later than 10 days after the petitioner's brief in support of the petition has been filed with the Court. Motions for leave to file an *amicus curiae* brief under Rule 26(a)(3) must be filed within the time allowed for the filing of the brief and contemporaneously with the *amicus curiae* brief itself. Requests for extensions of time to file an *amicus curiae* brief will be granted for good cause shown. A party may file a motion under Rule 30 for leave to reply to the brief of an *amicus curiae*.**

(e) Neither the hearing nor the disposition of a case will be delayed pending action on a motion for leave to file an *amicus curiae* brief or a motion of an *amicus curiae* to participate in a hearing, or to await the filing of a brief of an *amicus curiae* under this rule.

(f) Except by the Court's permission, a brief of an *amicus curiae* may be no more than one-half the maximum length authorized by Rule 24 for a brief of an appellant/petitioner. If the Court grants a party permission to file a longer brief, that extension does not affect the length of the brief of an *amicus curiae*.

(g) A member of the Bar of the Court who represents an *amicus curiae* and is authorized to file a brief under paragraph (a) of this rule may file a motion for leave to have a law student enter an appearance on behalf of the *amicus curiae*. To be eligible to participate under this rule, a law student must be acting under the attorney's supervision and the attorney and the law student must substantially comply with the requirements of Rule 13(A)(b)(1) – (5) and (c)(1) – (11). Argument by a law student granted permission to appear on behalf of an *amicus curiae* may be requested by motion filed under Rule 30.