



# Supreme Court

STATE OF ARIZONA

402 ARIZONA STATE COURTS BUILDING  
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RACHELLE M. RESNICK  
CLERK OF THE COURT

KATHLEEN E. KEMPLEY  
CHIEF DEPUTY CLERK

September 6, 2007

**RE: RULE 16 AZ.R.CIV.APP.P./RULE 7(f) AZ.R.P.SPEC.ACT.**  
Arizona Supreme Court No. R-06-0013

GREETINGS:

The following action was taken by the Supreme Court of the State of Arizona on August 27, 2007, in regard to the above-referenced cause:

**ORDERED: [Sua Sponte Petition to Amend Rule 16, Rules of Civil Appellate Procedure and Rule 7(f), Rules of Procedure for Special Actions] = ADOPTED, effective January 1, 2008.**

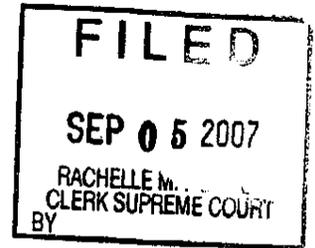
Rachelle M Resnick, Clerk

TO:

Mary R O'Grady, Solicitor General, Arizona Attorney General's Office  
Andrew J Petersen, Humphrey & Petersen PC  
Final Rule Distribution List  
cf

**IN THE SUPREME COURT OF THE STATE OF ARIZONA**

Supreme Court No. R-06-0013



ORDER AMENDING  
RULE 16, ARIZONA RULES OF CIVIL APPELLATE PROCEDURE  
AND  
RULE 7, RULES OF PROCEDURE FOR SPECIAL ACTIONS

IT IS ORDERED that Rule 16, Arizona Rules of Civil Appellate Procedure, and Rule 7, Rules of Procedure for Special Actions, be amended in accordance with the attachment hereto,\* effective as of January 1, 2008.

DATED in the City of Phoenix, Arizona at the Arizona Courts Building, this 5<sup>th</sup> day of September, 2007.

For the Court:

  
RUTH V. MCGREGOR  
Chief Justice

\* Changes or additions in text are indicated by underscoring and deletions from text are indicated by ~~strikeouts~~.

# ARIZONA RULES OF CIVIL APPELLATE PROCEDURE

\* \* \*

## Rule 16. Amicus Curiae

(a) **Filing and Form of Brief; Participation in Oral Argument.** [No change in text.]

(b) **Time and Length Limits Applicable to Amicus Curiae Briefs in the Supreme Court.** Parties desiring to file an amicus curiae brief shall file such briefs as provided by this rule, except that an amicus curiae brief relating to a special action petition shall be filed as expeditiously as possible after the special action petition is filed, as provided for in Rule 7(g), Rules of Procedure for Special Actions.

*(1) Briefs filed prior to a decision by the Court to grant review.* Unless otherwise ordered by the Supreme Court, an amicus brief filed in support of a petition for review or a response to a petition for review by the State, a county, city, or town, or an amicus brief accompanied by written consent of all parties, or a motion for leave to file an amicus the brief, shall be filed no later than 21 days after the filing of the response to the petition for review. Such briefs shall comply with Rule 6(c) and shall not exceed 12 pages, whether done in proportionately spaced or monospaced typeface, exclusive of any appendix.

*(2) Briefs filed after the Court has granted review.* After the Court has granted review, and unless otherwise ordered, an amicus brief filed by the State, a county, city, or town, or an amicus brief accompanied by written consent of all parties or a motion for leave to file an amicus brief, shall be filed no later than 10 days after the date ordered by the Court at the time review was granted for filing supplemental briefing by the parties in the particular case. 40 days after the Court's order granting review. The brief shall be lodged with the motion, if any. Such briefs shall comply with Rule 6(c) and shall not exceed the page limitation imposed for the parties' supplemental briefs.

(3) Responses to amicus curiae briefs. A party wishing to respond to ~~the~~ an amicus brief shall file the response within 20 days of service of a brief filed with consent or by a governmental entity or agency, or within 20 days of the Court's order granting a motion for leave to file an amicus brief. The response shall comply with the page and formatting requirements imposed on the particular amicus brief to which it relates.

(4) Late-filed briefs and responses. Leave for filing a late amicus or response brief shall be granted only for good cause shown.

### **Comment to the 1998 Amendments**

Although the 1998 amendments to Rule 15 permit amicus briefs to be filed without leave of court with consent of all parties, amicus curiae should keep in mind the purpose of an amicus brief. As the name implies, an amicus curiae brief should assist the Court, not advocate a particular litigant's case. Ideally, it should not duplicate the briefs of the parties, nor merely extend the length of a litigant's brief. Rather, it should provide a broader, more abstract presentation of law that is not narrowly tied to the facts of the case. It should provide background and context for the Court's decision. Amicus briefs should normally be allowed when a party is not represented competently or is not represented at all, when the amicus has an interest in some other case that may be affected by the decision in the present case, or when the amicus can provide information, perspective, or argument that can help the Court beyond the help that the lawyers for the parties have provided.

Additionally, an amicus brief should clearly identify the group or organization sponsoring the brief and the interests of the sponsoring entity in the outcome of the appeal. It should also identify every person or entity, other than the amicus curiae, its members, or its counsel, who made a monetary contribution to the preparation or submission of the brief. Counsel for a party should not be permitted to write the amicus brief in whole or in part.

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## RULES OF PROCEDURE FOR SPECIAL ACTIONS

\* \* \*

### Rule 7. Special Appellate Court Provisions

(a)-(e) [No change in text.]

(f) An amicus curiae brief, or a request to participate as amicus curiae, shall conform to the requirements of Rule 16(a), Arizona Rules of Civil Appellate Procedure, and shall be filed as expeditiously as possible after the special action petition is filed.

(g)-(j) [No change in text.]

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