



CWBA Policy Regarding AMICUS CURIAE (Amended and Restated May 8, 2020)

MISSION AND PURPOSE

The Colorado Women's Bar Association (CWBA) *Amicus Curiae* Subcommittee's (the "Subcommittee") Mission and Purpose is to provide a voice on issues of law and policy representative of the CWBA's position, as stated in its Purpose and Bylaws. The Subcommittee will identify and address relevant issues at the state and national level which would impact the advancement of justice; and promote, advance, and protect the interests and welfare of women.

The Subcommittee operates as its limited resources allow. The Subcommittee is highly selective in determining those requests to which it can respond and the issues it will champion, and it will prioritize cases that are likely to directly impact the validity, interpretation, or application of Colorado law or policy. After careful selection, the Subcommittee advocates either by adopting an issue and authoring the main brief in the CWBA's name or by providing support when solicited by outside organizations to join on pertinent issues.

The Subcommittee aims to provide thoughtful perspectives that will influence the ultimate decisions of appellate courts where complex legal questions affecting women are at issue. Such input and guidance will expand the CWBA's presence and further its commitment to shaping meaningful public policy.

REQUESTS FOR AMICUS BRIEFS

A. Sources of requests

The Subcommittee will consider requests for amicus briefs from internal and external sources. An internal request is a request made by any

CWBA committee (including the Subcommittee), member, or other CWBA constituent. An external request is one made by any other entity, court, or individual. Requests may take many forms, including applications or invitations. If the request substantially complies with the criteria set forth below, the Amicus Committee will consider the request.

B. Directing requests to the Committee

An internal request shall be made by delivery to the Chair(s) of the CWBA Public Policy Committee. An external request received by any CWBA member, committee, or other CWBA constituent shall be forwarded to the Chair(s) of the CWBA Public Policy Committee.

Upon receipt of the request, the Chair(s) of the CWBA Public Policy Committee shall forward the request to all Subcommittee members. The Chair(s) may, in their discretion, include with the request any additional information that may have been obtained regarding the request or its context.

C. Content of internal requests

Each internal request for an *amicus* brief made by a CWBA committee, member, or other CWBA constituent shall include the following items:

1. A letter, addressed to the Chair(s) of the CWBA Public Policy Committee, that includes the following:
 - a. The caption for the case in which *amicus* participation is requested (including case name, case number, and court);
 - b. The parties' identities, with designation of the party requesting the *amicus* brief, to the extent the internal requesting party is seeking support on a party's behalf;
 - c. The last court to render a decision in the case (including case name, case number, and court);

- d. The deadline by which the requested *amicus* brief must be filed, and the dates of any extensions requested of that deadline;
- e. An estimate of costs associated with the requested *amicus* brief's preparation and filing (including, but not limited to, filing fees, reproduction fees, or other court-related costs);
- f. A statement of the case's relevant facts (not to exceed two, double-spaced pages) or instructions directing the Committee as to where in the provided materials this information may be found;
- g. A statement of the position(s) the *amicus* brief is requested to support;
- h. A statement as to the value, evidence, or argument that the requesting individual believes the CWBA will add to the case;
- i. A statement identifying the core values, policies, or principles of the CWBA that the requested *amicus* brief will further and an explanation of how the requested *amicus* brief will further them;
- j. An explanation as to why the case's subject matter is an important one for CWBA participation;
- k. A statement disclosing all personal and professional interests of the member requesting the *amicus* brief, including whether the member is providing legal services to any party in the case; and
- l. A statement as to whether one or more lawyers have been identified as willing and able to write the requested *amicus* brief, and if so, a listing of each lawyer's contact information and a brief statement as to their qualifications relevant to the drafting of the brief or, if no writers are identified, a statement that the requesting party desires the Subcommittee

to appoint an author from its approved slate of volunteer lawyers.

2. The following attachments:
 - a. A complete copy of the decision or order from which the appeal is taken, with the portions relevant to the subject of the requested *amicus* brief highlighted or otherwise notated; and
 - b. A complete copy of the brief(s) filed to date in the case, with the portions relevant to the subject matter of the requested *amicus* brief highlighted or otherwise notated.

D. Content of external requests

The Subcommittee recognizes that it cannot control the form or content of external requests. In its discretion, the Subcommittee may determine whether any external request is appropriate for its consideration and may communicate with any entity, court, or individual related to the external request for the purpose of clarifying, reformulating, or supplementing the information provided with the external request.

E. Deadlines for internal and external requests

Internal requests for amicus participation must be made not later than 30 days before the anticipated deadline for filing the requested *amicus* brief. The Subcommittee retains discretion to consider internal requests made past that deadline, but the requesting CWBA committee, member, or other CWBA constituent must provide an explanation in the request as to why the request could not have been made at an earlier date.

External requests for amicus participation may be made at any time.

F. Process for consideration of an internal or external request

The Subcommittee shall review any internal or external request using the guidelines set forth in its Mission and Purpose, above. If the Subcommittee determines the requested *amicus* brief should be filed, it will make a recommendation in writing to the CWBA Board or Executive

Committee, as appropriate, setting forth that recommendation and supporting rationale.

If the Subcommittee determines the requested *amicus* brief should not be filed on the CWBA's behalf, the CWBA Public Policy Committee shall notify the Executive Committee of its decision to deny such request. In its discretion, the Subcommittee may request that the Executive Committee issue the denial on behalf of the CWBA. The Chair(s) of the CWBA Public Policy Committee may communicate the denial, and any explanation they choose to provide, to the requesting individual, entity, or court. The Subcommittee will report to the Board on a quarterly basis its denial of requests for *amicus* briefs in a form to be approved by the Board.

BRIEFING PROCESS FOR APPROVED *AMICUS* REQUESTS

A. The Subcommittee's role

Nothing in these policies and procedures precludes an individual on either the CWBA Public Policy Committee or the Subcommittee from volunteering to write an *amicus* brief. The Subcommittee will maintain a slate of lawyers who are willing to draft *amicus* briefs on a *pro bono* basis on the CWBA's behalf.

The Subcommittee shall ensure that each *amicus* brief is timely filed and complies with all aspects of the applicable rules, guidelines, and practice standards. The Subcommittee may set deadlines with the lawyer(s) authoring the *amicus* brief in its discretion to ensure these requirements are met.

No *amicus* brief shall be submitted on the CWBA's behalf without final approval of the brief by the Board or Executive Committee.

B. Signatures and identification of participants

Amicus briefs filed on the CWBA's behalf shall be filed in the name of the CWBA and signed by the CWBA President, in their official capacity. The primary author(s) of the brief, to the extent any such individuals wish to be included, may also appear as counsel for the CWBA. As necessary, any individual, including the CWBA President, who wishes to enter an appearance or sign an *amicus* brief on behalf of the CWBA shall obtain timely *pro hac vice* admission to the court in which such brief is to be filed.

The *amicus* brief should also include a statement of any or all individuals who assisted in the drafting process.

C. Costs

The CWBA shall not pay any fees for the drafting or review of an *amicus* brief or the costs of electronic legal research. The CWBA will pay the actual costs of printing (as required) and filing of an *amicus* brief, unless such brief's author agrees to pay the costs.

D. Oral argument

Leave of court to participate in oral argument in connection with any *amicus* brief filed on the CWBA's behalf should be sought only with prior approval of the Board or the Executive Committee on the recommendation of the Subcommittee. If such approval is granted, and unless the Board or Executive Committee deems otherwise, the Subcommittee shall select the person or persons who are to participate in oral argument. The Subcommittee shall consider the recommendations of the requesting individual or entity, together with the brief's authoring lawyers. The Subcommittee views oral argument as the exception, rather than the rule, and requests will rarely be recommended.