

**ILLINOIS STATE BAR ASSOCIATION
POLICY ON PARTICIPATION AS *AMICUS CURIAE***

Adopted, Illinois State Bar Association Board of Governors, January 25, 2002

It shall be the general policy of the Illinois State Bar Association to authorize participation as *amicus curiae* sparingly and only in appropriate cases as described. Briefs *amicus curiae* authorized by the Association shall be filed only in the name of the Association.

A. Appropriate Cases

1. Participation as *amicus curiae* shall be authorized in the Illinois or U.S. Supreme Court. In extraordinary circumstances, participation as *amicus curiae* may be authorized in other courts for compelling legal or policy reasons.
2. Participation as *amicus curiae* shall be authorized when the case raises significant issues of law or public policy involving:
 - a) the practice of law, the legal profession, or members of ISBA;
 - b) the independence or integrity of the judiciary or the bar;
 - c) the effectiveness or accessibility of the legal system;
 - d) the integrity or interpretation of the Illinois Constitution.
3. Briefs *amicus curiae* shall advance arguments with respect to legal issues and not factual questions. Briefs should not merely restate arguments advanced by the participating parties. ISBA will generally decline to participate when the issues, which concern the ISBA are already briefed by the parties.

B. Standing Committee

1) The President shall appoint a standing committee on *amicus curiae* participation. The Committee shall include members from differing backgrounds and/or geographical regions of the state and include members of the ISBA Assembly, who are not also members of the Board of Governors. The Committee shall consist of seven members who may serve no more than five consecutive years. The ISBA General Counsel shall serve ex-officio as Secretary of the Committee. The President shall serve ex-officio as the liaison to the Board of Governors

2) The Committee will review requests for participation as *amicus curiae* and make recommendations to the President and the Board of Governors. In making a recommendation, the Committee shall determine how the requested participation would further the principles stated in paragraph A.2. The Committee shall recommend what position and general legal arguments should be addressed by ISBA participation. If other entities are seeking participation in the case as *amicus curiae*, the Committee shall consider the appropriateness of participation in a common brief or adoption of other briefs or arguments in the interest of judicial economy and use of ISBA resources. The Committee shall review existing ISBA policy and, when practicable, communicate with appropriate

representatives of other Committees and Section Councils in preparing a recommendation.

C. Procedures for Requesting ISBA Participation

Requests for ISBA participation as *amicus curiae* shall be filed with the ISBA General Counsel and shall include:

- 1) copies of opinions from lower courts and briefs/memoranda from all parties or other *amici*;
- 2) a service list of all parties and attorneys-of-record in the case;
- 3) a list of all judges who have issued substantive rulings in the case;
- 4) a statement disclosing interests of the attorney seeking ISBA participation directly or through an ISBA Committee or Section Council;
- 5) disclosure of whether any of the attorneys of record are members of the ISBA Board of Governors or Committee on *Amicus Curiae* Participation;
- 6) a statement of proposed position and argument consistent with the principles for ISBA participation in Paragraph A.2.

D. Internal Procedures

- 1) Upon receipt of a request to participate as *amicus curiae*, the Committee shall communicate where practicable with counsel for other parties for comment on the proposed ISBA participation;
- 2) ISBA Legal Department will prepare a memorandum explaining practical and political issues raised by requested ISBA participation;
- 3) Upon review, the Committee shall recommend to the President whether ISBA should seek leave to participate and, if so, what position and general arguments are proposed. The Committee shall seek to avoid arguments which are duplicative of the parties' or other's briefs, but should recommend arguments which bring to the attention of the Court relevant information not already presented to the Court;
- 4) Upon receipt of a recommendation from the Committee:
 - a) to seek leave to participate, the President shall seek approval from the Board of Governors, or, if briefing schedule prevents consideration by the Board of Governors, the Executive Committee.
 - b) not to seek leave to participate, the President may either accept the recommendation or may refer the declination to the Board of Governors or Executive Committee for further action.

E. Briefs *Amicus Curiae*

Briefs *amicus curiae* shall be prepared and filed under the supervision of the General Counsel. Unless otherwise specified by the Board of Governors, the President or next highest ranking officer of the Association shall be included as counsel along with attorneys who prepared the brief.