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Three Benefits of Filing an Amicus Brief

Amicus curiae briefs (also known as “friend of the court” briefs) represent one of the best and most expedient ways that an industry, organization, trade association, etc. can ensure that law is formed and guided based on all relevant information and considerations. An *amicus* brief represents a unique opportunity to develop public policy and speak to the court on a matter that directly affects your industry and organization.

Amicus participation is particularly important when the party you are supporting is seeking discretionary review before an appellate court. The presence of an *amicus* party tells the reviewing court that the issue presented affects more than just the specific parties to the case.

Prevent Rulings with Unintended Consequences

Amicus parties try to “help” the court reach its decision by offering facts, analysis, or perspective that the parties to the case have not provided. *Amicus* briefs are particularly well-suited to advise the court of a decision’s unintended ramifications by providing the court with the real-world experience of the *amicus* party to help the court avoid potential unintended consequences of a decision.

More specifically, *amicus* briefs help educate the court about possible the public policy implications of a decision, providing the court with economic, social science, or historical perspectives, as well as technical assistance or industry data necessary to make informed decisions.

More Sympathetic Advocate

But in addition to addressing policy issues, *amicus* briefs provide the court with a more sympathetic advocate. When done correctly, *amicus* arguments take on a neutral, informative, and educational tone—not a partisan tone—which makes the information presented appear more trustworthy and, ultimately, more palatable as a result.

Because of its neutral role, an *amicus* brief is given great leeway to supplement the record with new or additional facts or data that are not in the actual appellate record.

Marketing Tool

From a business perspective, an *amicus* brief can also be a great marketing tool, and therefore a practical and positive use of a marketing budget. It shows that you are on the cutting edge of issues important to your clients and members. Filing an *amicus* brief in a high-profile case often receives positive press coverage. An *amicus* party can not only educate the court on the particular case, but it can also educate the public on the interests of your members or your business.

Drafting and filing *amicus* briefs is a specialized form of appellate briefing that is different from the type of appellate brief that would otherwise be filed by a party. It also requires advance planning and the consent of the court to allow its filing.

Frost Brown Todd has extensive experience in drafting and filing *amicus* briefs. Our attorneys have filed *amicus* briefs before every level of appellate courts throughout the nation, including the United States Supreme Court, Seventh Circuit, Sixth Circuit, Indiana Supreme Court, Indiana Court of Appeals, Kentucky Supreme Court, Ohio Supreme Court.

This experience is critical and often leads to the reviewing court deciding the case based on information presented by the *amicus* party. For example, FBT was retained to file an *amicus* brief on behalf of a utility trade association in *Duke Energy Indiana, LLC v. Town of Avon*, 82 N.E.3d 319, which was a case that had the potential to impact every utility in the state. In deciding the case, the Court of Appeals opinion block-quoted almost two pages of the *amicus* brief and decided the case based on those *amicus* arguments.

In summary, attorneys and their clients should constantly be on the watch for opportunities to influence the law in their respective jurisdictions through the use of *amicus* briefs.

For more information, contact any attorney with Frost Brown Todd's [Appellate](#) practice group.

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