

Invitation to Comment

Title	Appellate Procedure: Applications to File Amicus Briefs in the Court of Appeal and the Supreme Court (amend Cal. Rules of Court, rule 8.200)
Summary	This proposal would amend rule 8.200 to require that an application to file an amicus brief in the Court of Appeal be filed no later than 14 days after the last appellant’s reply brief is filed or was required to be filed and would require that any amicus brief from the Attorney General be filed within this same time frame. It would also amend rules 8.200 and 8.520 to authorize the Supreme Court or the Court of Appeal to extend their respective deadlines for filing amicus applications for “good cause.”
Source	Appellate Advisory Committee Hon. Kathryn Doi Todd, Chair
Staff	Heather Anderson, Committee Counsel, 415-865-7691, heather.anderson@jud.ca.gov
Discussion	<p>Rule 8.200(c) of the California Rules of Court addresses applications to the presiding justice seeking to file amicus briefs in the Court of Appeal. This rule does not currently set a time frame within which an application must be filed. This may create confusion for those interested in potentially filing an amicus brief. The rule does, however, require that the Attorney General file any amicus briefs no later than 14 days after the last respondent’s brief is filed.</p> <p>Last spring, the Appellate Advisory Committee circulated for public comment a proposal to require that an application to file an amicus brief in the Court of Appeal be filed no later than 14 days after the last respondent’s brief is filed. Commentators expressed concern that this time frame was too early in the process.</p> <p>In response to these comments, the committee revised its proposal to set a later time frame and is now circulating this revised proposal for public comment. This revised proposal would amend rule 8.200 to require that an application to file an amicus brief in the Court of Appeal be filed no later than 14 days after the last appellant’s reply brief is filed or was required to be filed. This time limit is set after all the briefs are filed so that potential amici can take these briefs into account in determining whether it is necessary to file an amicus brief and which supplemental arguments would be most helpful to the court. To make the time frames consistent, the time frame for the Attorney General to file an amicus brief would also be changed to 14 days after</p>

the last appellant's reply brief is filed or was required to be filed.

The revised proposal would also amend rule 8.200 to provide that the Court of Appeal can extend this deadline for good cause. Rule 8.520(f), which addresses amicus brief in the California Supreme Court, currently contains different language concerning the showing that parties must make if they want an extension on the application deadline. This proposal would amend 8.520 to similarly provide that the Supreme Court may extend the amicus application deadline for good cause.

Attachment

Rules 8.200 and 8.520 of the California Rules of Court would be amended, effective January 1, 2008, to read:

1 **Rule 8.200. Briefs by parties and amici curiae**

2
3 (a)–(b) * * *

4
5 (c) **Amicus curiae briefs**

6
7 (1) Within 14 days after the last appellant’s reply brief is filed or was
8 required to be filed, whichever is earlier, any person or entity may serve
9 and file an application for permission of the presiding justice to file an
10 amicus curiae brief. For good cause, the presiding justice may allow later
11 filing.

12
13 (2)–(5) * * *

14
15 (6) The Attorney General may file an amicus curiae brief without the
16 presiding justice’s permission, unless the brief is submitted on behalf of
17 another state officer or agency. The Attorney General must serve and file
18 the brief within 14 days after the last ~~respondent’s~~ appellant’s reply brief
19 is filed or was required to be filed, whichever is earlier, and must provide
20 the information required by (2) and comply with (4). Any party may serve
21 and file an answer within 14 days after the brief is filed.

22
23
24 **Rule 8.520. Briefs by parties and amici curiae; judicial notice**

25
26 (a)–(e) * * *

27
28 (f) **Amicus curiae briefs**

29
30 (1) * * *

31
32 (2) The application must be filed no later than 30 days after all briefs that the
33 parties may file under this rule—other than supplemental briefs—have
34 been filed or were required to be filed. For good cause, the Chief Justice
35 may allow later filing if the applicant shows specific and compelling
36 reasons for the delay.

37
38 (3)–(7)

39
40 (g)–(h) * * *

Item SPR07-06 Response Form

Title: Appellate Procedure: Applications to File Amicus Briefs in the Court of Appeal and the Supreme Court (amend Cal. Rules of Court, rule 8.200)

- Agree** with proposed changes
- Agree** with proposed changes **if modified**
- Do not agree** with proposed changes

Comments: _____

Name: _____ Title: _____

Organization: _____

- Commenting on behalf of an organization**

Address: _____

City, State, Zip: _____

Please **write** or **fax** or **respond using the Internet** to:

Address: Ms. Camilla Kieliger,
Judicial Council, 455 Golden Gate Avenue,
San Francisco, CA 94102
Fax: (415) 865-7664 **Attention:** Camilla Kieliger
Internet: www.courtinfo.ca.gov/invitationstocomment

DEADLINE FOR COMMENT: 5:00 p.m., Wednesday, June 20, 2007
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Your comments may be written on this *Response Form* or directly on the proposal or as a letter. If you are not commenting directly on this sheet please remember to attach it to your comments for identification purposes.

Circulation for comment does not imply endorsement by the Judicial Council, the Rules and Projects Committee, or the Policy Coordination and Liaison Committee. All comments will become part of the public record of the council's action.