

MEMORANDUM

To: Interested Parties
From: Dan Rossmiller, Public Affairs Director
Date: June 10, 2004
Re: Checklist for Section *amicus*

Pursuant to Article VII, §2 of the State Bar of Wisconsin bylaws, any party seeking the authorization of a Section brief *amicus curiae* by the State Bar of Wisconsin must meet the following criteria:¹

AUTHORIZATION²

- A Section's brief *amicus curiae* must be approved by a two-thirds majority* by the State Bar of Wisconsin's Board of Governors or, where applicable, of the Executive Committee. (*two-thirds of the members present and voting)
- Upon receiving a request to file an *amicus*, the President or designee shall, as soon as practicable, telephonically or electronically communicate such a request to counsel for the opposing party and to any other Committee, Section or Division of the State Bar that would reasonably be expected to have an interest in the issues of the case and invite any timely comment to such request.

APPROPRIATE CASE STANDARD³

- A brief *amicus curiae* may be authorized only when consistent with the purposes of the State Bar, as expressed in SCR 10.02(2) and the purposes of the Section as expressed in the Section bylaws.

PREPARATION AND FILING OF BRIEFS⁴

- A brief *amicus curiae* may be filed only after review and approval of the chairperson of the Section who, in consultation with others as may be necessary and appropriate, shall insure that the brief is of high professional quality and in accurate representation of Section policy

¹ The standards can be found in your *2004 Wisconsin Lawyer Directory*, page 653.

² Article VII, §2, (a).

³ Article VII, §2, (b).

⁴ Article VII, §2, (c).

and in accordance with the authorization of the Board of Governors or, where applicable, of the Executive Committee.

- In addition to the person or persons actually preparing the brief, the chairperson of the Section shall also appear as counsel on the brief.
- The Section may pay for the costs of printing and filing a brief *amicus curiae* but will pay no legal fees for preparation or review of such a brief.
- The brief must include a statement that it is filed only by the Section, not the Board of Governors or any other State Bar entity.

ROLE OF INDIVIDUAL MEMBERS, COMMITTEES, DIVISIONS, AND SECTIONS⁵

- Whenever practicable, appropriate State Bar Committees, Divisions, and Sections shall be consulted prior to the authorization of a brief *amicus curiae* by the Board of Governors or, where applicable, of the Executive Committee.

SECTION REQUIREMENTS IN ASKING FOR AUTHORIZATION TO FILE AN AMICUS CURIAE⁶

A Section request for authorization to file an *amicus curiae* brief shall include:

- A full statement of the facts of the controversy and the status of the litigation.
- A statement of the principles of law to be supported with a full explanation of the applicant's reasons for believing that the case is an appropriate one for Section involvement.
- A statement advising when and by what vote it was decided to request authorization to file an *amicus* brief and a description of any dissenting views.
- A full disclosure of any personal or professional interests in the matter of any individual member or officer or director of the Section.
- The name of the person or persons who are proposed to prepare the brief *amicus curiae*.
- The names of all interested parties to whom a copy of the request for authorization has been furnished prior to submission to the Board of Governors or Executive Committee.

REQUIREMENTS FOR INVOLVEMENT BY STATE BAR MEMBERSHIP⁷

⁵ Article VII, §2, (d) 1.

⁶ Article VII, §2, (d) 2.

⁷ Article VII, §2, (e).

- Whenever practicable prior to authorizing or filling a brief *amicus curiae*, notice of the proposed action shall be published in the State Bar *Wisconsin Lawyer* or *Newsletter* inviting comment and recommendations from the State Bar membership.
- All comments and recommendations from the membership timely received in response to the publication procedure outline above shall be considered by the Board of Governors or Executive Committee prior to taking action.

OTHER ODDS AND ENDS – PRACTICAL ADVICE FOR SECTIONS REQUESTING AUTHORIZATION OF A BRIEF AMICUS CURIAE

- A member of the Section will likely be asked to present the position to the Board of Governors.
- When presenting to the Board of Governors, it is suggested that the presenter use a template similar to this memo illustrating how the Section has fully complied with all the requirements enumerated in Article VII, §2 of the State Bar of Wisconsin bylaws.