



State of New York Court of Appeals

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April 23, 2024

NOTICE TO THE BAR AMICUS CURIAE RULES

After considering public comment received, the Court of Appeals has amended its Rules of Practice relating to amicus curiae relief, effective May 8, 2024. Amendments to the timing requirements for amicus curiae motions (Rule 500.23[a]) will apply to all matters pending as of May 8, 2024, except for normal course appeals and certified questions where the filing date for appellant's reply brief has passed or is on or before June 7, 2024. For such normal course appeals and certified questions, motions for amicus curiae relief must be served by July 8, 2024 and noticed for a return date that complies with Rule 500.21.

A copy of the order amending the Rules is attached. Questions may be directed to the Clerk's Office at (518) 455-7701, (518) 455-7702 or (518) 455-7705.

Changes to the Rules are summarized below:

Recusal or Disqualification—Rule 500.23

Amicus curiae relief will be denied where acceptance of the amicus curiae submission may cause the recusal or disqualification of one or more Judges of the Court.

Timing of Amicus Curiae Requests—Rule 500.23(a)

Rule 500.23(a)(1)(iii):

Amicus curiae relief on normal course appeals and certified questions. The motion shall be served no later than 30 days after the filing date set for appellant's reply brief.

Rule 500.23(a)(2):

Amicus curiae relief on appeals and certified questions selected for review by the alternative procedure. The motion shall be served no later than 30 days after the filing date set for respondent's submission.

Rule 500.23(a)(3):

Amicus curiae relief on motions for leave to appeal in civil cases. The motion shall be served no later than 15 days after the return date of the motion for permission to appeal to which it relates.

Timing of Amicus Filings by Attorney General—Rules 500.12, 500.11 and 500.23(b)(1):

The Attorney General may file as amicus curiae without a motion no later than 30 days after the filing date set for appellant's reply brief on normal course appeals and certified questions; no later than 30 days after the filing date set for respondent's submission on appeals and certified questions selected for alternative review; and no later than 15 days after the return date of a motion for permission to appeal.

Judicial Conduct Matters—Rule 530.8(c)

Corresponding changes were made to the Court's Rules for Review of Determinations of the State Commission on Judicial Conduct.

Due dates for briefs in normal course appeals, certified questions and judicial conduct matters can be found through the docket section of the Court of Appeals Public Access and Search System (Court-PASS).

Lisa LeCours

Chief Clerk and Legal Counsel to the Court

State of New York,

Court of Appeals

*At a session of the Court, held at Court of Appeals
Hall in the City of Albany, on the 19th
day of April, 2024.*

HON. ROWAN D. WILSON, Chief Judge presiding.

In the Matter

of

The Amendment of the Rules of Practice of the Court of Appeals
(22 NYCRR Part 500) and the Rules for Review of Determinations
of the State Commission on Judicial Conduct (22 NYCRR Part 530).

Pursuant to section 51 of the Judiciary Law, it is hereby

ORDERED that the Rules of Practice of the Court of Appeals (22 NYCRR Part 500) and the Rules for Review of Determinations of the State Commission on Judicial Conduct (22 NYCRR Part 530) are amended, effective May 8, 2024, or as soon thereafter as section 52 of the Judiciary Law is complied with, by deleting the bracketed material and adding the underlined material to sections 500.11(j); 500.12(e); 500.23; 500.23(a)(1)(iii), (a)(2), (a)(3), (b)(1); and 530.8(c) to read as follows:

500.11 Alternative Procedure for Selected Appeals.

(j) Amicus curiae relief. The Attorney General of the State of New York may file, no later than 30 days after the filing date set for respondent's submission, an original and two copies of an amicus curiae submission without leave of the Court, with proof of service of one copy on each party. Any other proposed amicus curiae shall request amicus curiae relief pursuant to subsection 500.23(a)(2) of this Part.

500.12 Filing of Record Material and Briefs in Normal Course Appeals.

(e) Amicus curiae briefs. The Attorney General of the State of New York may file, no later than 30 days after the filing date set for [respondent's brief] appellant's reply brief or, in the case of cross-appeals, cross-appellant's reply brief, and in addition to the submission in digital format required by subsection (h) of this section, an original and nine copies of an amicus curiae brief without leave of the Court, with proof of service of three copies on each party. Any other proposed amicus curiae shall request amicus curiae relief pursuant to subsection 500.23(a)(1) of this Part.

500.23 Amicus Curiae Relief.

Any nonparty other than the Attorney General seeking to file an amicus brief on an appeal, certified question or motion for leave to appeal must obtain permission by motion. Amicus curiae relief will be denied where acceptance of the amicus curiae submission may cause the recusal or disqualification of one or more Judges of the Court. Potential amici seeking information are encouraged to contact the Clerk's Office by telephone during business hours. Information on the [calendar] briefing status of appeals and certified questions[, Court session dates] and appropriate return dates for amicus motions also is available on the Court's web site.

(a) Motions for amicus curiae relief.

(1) Amicus curiae relief on normal course appeals and normal course certified questions.

(iii) Unless otherwise directed or permitted by the Court, [T]the motion shall be served no later than 30 days after the filing date set for appellant's reply brief or, in the case of cross-appeals, cross-appellant's reply brief, and the motion shall be noticed for a return date that complies with section 500.21 of this Part. [noticed for a return date no later than the Court session preceding the session in which argument or submission of the appeal or certified question is scheduled. When an appeal or certified question is scheduled for argument or submission during the Court's

January or September session, the motion shall be noticed for a return date no later than the first Monday in December or the first Monday in August, respectively.]

(2) Amicus curiae relief on appeals and certified questions selected for review by the alternative procedure. In addition to the submission in digital format required by subsection 500.23(c) of this section, movant shall file an original and one copy of its motion, accompanied by an original and one copy of the proposed submission, with proof of service of one copy on each other party. Unless otherwise directed or permitted by the Court, [T]the motion shall be served no later than 30 days after the filing date set for respondent's submission and the motion shall be noticed for a return date that complies with section 500.21 of this Part. [noticed for a return date no later than the filing date set for respondent's submission on the appeal.] The proposed submission shall conform to the word and page limits set forth in subsection 500.11(m) of this Part and the requirements of section 500.1 of this Part.

(3) Amicus curiae relief on motions for permission to appeal in civil cases. In addition to the submission in digital format required by subsection 500.23(c) of this section, movant shall file an original and one copy of its papers, accompanied by an original amicus brief, with proof of service of the motion and one copy of the brief on each other party. Unless otherwise directed or permitted by the Court, [T]the motion shall be served no later than 15 days after the return date of the motion for permission to appeal to which it relates and shall be noticed for a return date that complies with section 500.21 of this Part. [noticed for a return date as soon as practicable after the return date of the motion for permission to appeal to which it relates.] The granting of a motion to appear amicus curiae on a motion for permission to appeal does not authorize the movant to appear amicus curiae on the subsequent appeal. A new motion for amicus curiae relief on the appeal must be brought pursuant to subsection (a)(1) or (2) of this section.

(b) Amicus curiae filings by the Attorney General.

(1) Amicus curiae relief on motions for permission to appeal in civil cases. In addition to the submission in digital format required by subsection 500.23(c) of this section, the Attorney General shall file an original and one copy of the submission with proof of service of one copy on each other party. The submission shall be filed without leave of the Court no later than 15 days after[on or before] the return date of the motion for permission to appeal.

530.8 Motions

(c) Amicus curiae relief. Movant shall file an original and one copy of its motion papers, accompanied by an original amicus brief, with proof of service of one copy of the motion and one copy of the brief on each other party. If the motion is granted, nine copies of the brief shall be filed, with proof of service of two copies on each party, within the time set by the Court's order. Unless otherwise directed or permitted by the Court, the motion shall be served no later than 15 days after the filing date set for petitioner's reply. [The motion shall be noticed for a return date no later than the Court session preceding the session in which argument or submission of the request for review is scheduled. When the request for review is scheduled for argument or submission during the Court's January or September session, the motion shall be noticed for a return date no later than the first Monday in December or the first Monday in August, respectively.] Amicus curiae relief will be denied where acceptance of the amicus curiae submission may cause the recusal or disqualification of one or more Judges of the Court.

Potential amici seeking information are encouraged to contact the Clerk's Office by telephone during business hours. Information on the briefing [calendar] status of requests for review[, Court session dates] and appropriate return dates for amicus motions also is available on the Court's web site. A motion for amicus curiae relief shall [demonstrate that]:

(i) demonstrate that the parties are not capable of full and adequate presentation and that [the] movant could remedy this deficiency; the movant could identify law or arguments that might

otherwise escape the Court's consideration; or the proposed amicus curiae brief otherwise would be of assistance to the Court;

(ii) [the movant could identify law or arguments that might otherwise escape the Court's consideration; or] include a statement of the identity of movant and the movant's interest in the matter; and

(iii) [the proposed amicus curiae brief otherwise would be of assistance to the Court.] include a statement indicating whether:

(a) a party's counsel contributed content to the brief or participated in the preparation of the brief in any other manner;

(b) a party or a party's counsel contributed money that was intended to fund preparation or submission of the brief; and

(c) a person or entity, other than movant or movant's counsel, contributed money that was intended to fund preparation or submission of the brief and, if so, identifying each such person or entity.