

**NASP AMICUS COMMITTEE**

**PRINCIPLES & PROCEDURES**

**REGARDING THE FILING OF AMICUS CURIAE BRIEFS**

Determining when and whether NASP should take up the banner of subrogation and file amicus curiae briefs in legal appeals involving issues of significance to the subrogation industry is the province of the NASP Amicus Committee. In order to better and more efficiently address requests, from members and nonmembers alike, to file amicus curiae briefs on behalf of the subrogation industry, the Amicus Committee has set forth a number of procedures and principles to guide and facilitate the process.

The NASP Board of Directors and the Amicus Committee are in agreement that amicus curiae briefs should be sponsored and filed by NASP in only a limited number of circumstances and situations. While the existence of an amicus brief on behalf of NASP may tend to further the visibility of NASP and communicate to the judiciary the prominent role which NASP intends to play within our industry, public relations and promotional reasons alone may be inadequate to justify NASP's intervention. It is the desire of NASP to file amicus curiae briefs only where there is a substantive basis for doing so and the underlying motion or appeal involve issues which are significant to the subrogation industry as a whole, or which significantly affect specific rights of subrogating insurers, or those of their insureds or claimants, against responsible third parties. The following are some of the principles, criteria and guidelines which the Amicus Committee will take into consideration in the process of making determinations as to whether and when to file an amicus brief.

1. Whether the appeal involves, directly or indirectly, issues which pervade or preempt the field of subrogation;
2. Whether there is a likelihood that an amicus curiae brief filed by NASP could play a role in positively affecting the outcome of a motion or an appeal of significance to NASP;
3. Whether the legal matter or issue involved in a motion or an appeal is likely to result in a proscription or significant reduction in the ability to subrogate within a particular state or jurisdiction;
4. Whether the filing of an amicus curiae brief would serve to further the goal of NASP to increase the stature of subrogation professionals in general;
5. Whether, and to what extent, intervention by NASP might benefit one segment of NASP membership to the detriment of another; and
6. Whether an amicus curiae brief filed by NASP in any other manner would assist in increasing the efficacy of pursuing subrogation on an industry-wide basis.

In order to uniformly, fairly, and efficiently address requests for the filing of an amicus curiae brief on behalf of NASP, any such requests must be made, in writing, and contain the following information (if known):

1. The name, employer, address, and telephone number of the person or entity making a request;

2. The name, address, and telephone number of counsel of record, and the names of the parties which they represent;
3. A detailed statement regarding the relationship of the amicus applicant to the motion or appeal (whether a party, non-party, etc.) or to any of the parties involved in the motion or appeal;
4. Any other reasons why the applicant believes that NASP should file an amicus brief in the matter;
5. The name, address, and telephone number of any lawyer or lawyers whom you feel would be qualified and eager to handle the filing of the amicus curiae brief on behalf of NASP, and whether they can handle the matter on a pro bono basis or reduced fee basis;
6. The dates of any briefing schedule or deadline for the filing of an amicus brief;
7. The caption, case number, and court in which the motion or appeal is pending or of the lower court from which an appeal has or will be taken;
8. A description of the legal issue(s) involved;
9. A brief description of the facts underlying the appeal;
10. A brief statement as to why the legal issue or issues involved are significant enough to warrant the filing of an amicus curiae brief by NASP, and
11. A statement regarding how, in the applicant's opinion, an adverse decision in the appellate court will affect NASP and/or the subrogation industry.

All applications and requests for amicus briefs should address each of the issues above and should be e-mailed to the following Amicus Committee members: Daran Kiefer, Chair, Amicus Committee ([dkiefer@subrogation-recovery.com](mailto:dkiefer@subrogation-recovery.com)) and John Kolb, Chair, Standing Subcommittee for Amicus Briefs ([john.kolb@sharpslaw.com](mailto:john.kolb@sharpslaw.com)). In general, try to allow a minimum of two weeks for the Amicus Committee to review the request and respond regarding whether approval will be given for the filing of an NASP amicus brief in the matter under consideration. While NASP cannot grant every request for the filing of an amicus brief, it can and will give due consideration to every request it receives based on the foregoing principles and procedures. No NASP Amicus brief may be filed without the express written consent of the NASP Amicus Committee, which will be entitled to review any such brief prior to filing, and will have final approval regarding the contents of the brief. NASP member lawyers will be used, whenever possible, for the preparation and filing of amicus briefs.