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I. Judges profess not to take amicus briefs too seriously, so why bother?

- Sometimes, they do influence: two examples
- Educate the court and the clerks – take the long view
- Advance the law – public education
- Rescue an inept merits brief
- A.B.C. A: Always, B: Be, C: Closing. Always be closing.
- How do you get to Carnegie Hall?
- The Clausewitzian view

II. Friend of the Court, or friend of a party? – Types of briefs

- Invitation briefs – the most amicusy of them all (don’t worry, you’ll probably never do one)
- Industry briefs – turf building and turf protecting
- Litigant briefs – we’re in the same boat
- Lawprofs and other experts – “please don’t screw up this area of the law”

III. Knowing when to say when

- Read a few good ones first
- Always ask the parties, even if it isn’t required – cf. federal vs. Hawaii rules
- Ethical issues
 - You’re a friend and a guest of the court – act like one
 - Bound by the record?
 - Scrupulously maintain credibility – client’s and yours
- Court’s discretion
- Federal courts -- well-defined amicus practice: SCT R. 37; FRAP 29, 9th Cir. R. 29-1
- Hawaii courts – looser rules rules: HRAP 28(g)
 - Motion, then brief?
 - Timing: SCT vs ICA
- Trial courts – much harder to justify, but sometimes worth it.
- Always remember your “meta message”

IV. Recommended reading

- [Sample briefs](#)
- [Eleventh Circuit article](#)
- [Judge Judith Kaye’s views](#)
- Judge Richard Posner: [Voices for Choice v. Illinois Bell Tel. Co., 339 F.3d 542 \(7th Cir. 2003\)](#)

Sample amicus briefs

Hawaii courts

- [Hawaii Supreme Court amici \(supporting respondent, merits stage\)](#) - (General Contractor's Ass'n)
- [ICA amicus \(supporting appellee\)](#) (Pacific Legal Foundation)
- [ICA amicus \(supporting appellants\)](#) - (PLF)

U.S. Supreme Court

- [U.S. Supreme Court amicus \(supporting petitioner, merits stage\)](#) - (Admirals and military support organizations)
- [U.S. Supreme Court amicus \(supporting petitioner, merits stage\)](#) - (American Bar Association)
- [U.S. Supreme Court amicus \(supporting respondent, merits stage\)](#) - (Sun Maid Raisins)
- [U.S. Supreme Court amicus \(supporting petitioner, merits stage\)](#) - (litigants in similar circumstances)
- [U.S. Supreme Court amicus \(supporting petitioner, merits stage\)](#) - (State of Texas)
- [U.S. Supreme Court amicus \(supporting petitioner, merits stage, with motion\)](#) - (Owners' Counsel of America)
- [U.S. Supreme Court amicus \(supporting respondent, merits stage\)](#) - (Nat'l Ass'n of Homebuilders)
- [U.S. Supreme Court amicus \(supporting petitioner, cert stage\)](#) - (Owners' Counsel of America)
- [U.S. Supreme Court amici \(supporting petitioner, cert stage\)](#) - (International Municipal Lawyers Ass'n)
- [U.S. Supreme Court amici \(supporting petitioner, cert stage\)](#) - (Cato, et al)
- [U.S. Supreme Court amici \(supporting petitioner, cert stage\)](#) - (law professors and others)
- [U.S. Supreme Court amicus \(supporting petitioner, cert stage\)](#) - (Manufactured Housing Institute)
- [U.S. Supreme Court amicus \(supporting petitioner, cert stage, with motion\)](#) - (Owners' Counsel of America)

Other courts

- [Federal Circuit amici \(supporting plaintiff, after SCOTUS remand\)](#) - (PLF, Cato, NFIB)
- [Ninth Circuit amici \(supporting appellant, appeal from denial of preliminary injunction\)](#) - (environmental organizations)
- [California Supreme Court amici \(supporting applicant, merits stage, with motion\)](#) - (California Retailers Ass'n)