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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 Clausewitzean view

II. Friend of the Court, or friend of a party? – Types of briefs
   • Invitation briefs – the most amicus eye 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
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 respondent, 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 appellant, merits stage, with motion) - (California Retailers Ass'n)