

TCDLA's Amicus Curiae Brief Committee Policy
Updated by Board 8/2023

Amicus Brief Submission Form

[https://www.tcdla.com/TCDLA/cleandevents/docs/TCDLA Amicus Brief Submission Form.pdf](https://www.tcdla.com/TCDLA/cleandevents/docs/TCDLA%20Amicus%20Brief%20Submission%20Form.pdf)

TCDLA's Amicus Curiae Brief Committee aims to provide *amicus* assistance in both state and federal courts in cases that present issues of importance to criminal defendants, criminal defense lawyers, and the criminal justice system as a whole, in a manner consistent with TCDLA's fundamental purpose of protecting and ensuring the individual rights guaranteed by the Texas and Federal Constitutions in criminal cases. It is the Committee's goal to maintain and enhance the positive impact of TCDLA on the criminal justice system at both the State and national level.

In light of TCDLA's limited resources, in terms both of budget constraints and the finite time that can be devoted to *pro bono* efforts, the Committee cannot respond favorably to every request. Nevertheless, the Committee aims to submit *amicus* briefs, whenever possible, in appellate cases that meet one or more of the following criteria:

- The case presents an appropriate vehicle for promoting TCDLA's policies and positions;
- The case presents an issue of widespread applicability and significant importance for the fair adjudication of criminal cases on either a state-wide or nationwide basis;
- The case is one which will particularly benefit from *amicus* participation—e.g., where the assisted party, for reasons of strategy, page limitations, limited informational resources, or otherwise cannot raise in the opening brief a particular issue that can and should be addressed in an *amicus* brief;
- The case involves clearly presented legal issues which are ripe for resolution and are not unduly reliant on facts specific to that case;
- The case is presented to the Committee within sufficient time for adequate assistance to be provided consistent with the high standards of representation for which TCDLA should be known.

TCDLA policy is not to provide *amicus* assistance at the trial court level except in exceptional cases presenting issues of first impression or those that have overwhelming importance for the rights of criminal defendants or the criminal defense community.

TCDLA membership is not a prerequisite either for *amicus* assistance from the Committee, or for authorship of an amicus brief. The Executive Committee must approve of any person wanting to appear on behalf of TCDLA to give oral arguments on behalf of TCDLA

The Committee encourages members to submit their submission form to the chair Kyle Therrian at kyle@texasdefensefirm.com and Melissa Schank at mschank@tcdla.com forward all requests or proposals for *amicus* assistance to the committee for discussion and a provisional decision. The chair will then forward the committee's decision to TCDLA's Executive Committee. The Executive Committee will make the final decision on whether to provide *amicus* assistance. Only a person authorized by the Executive committee shall be allowed to present oral argument before a court hearing a case where the Association appears as amicus. This restriction applies whether the person desiring to present oral argument has assisted in the preparation of the Amicus Brief in the case.

In the event of a significant dispute about whether TCDLA should or should not act as *amicus curiae* in a particular case—especially where the issue is a controversial one, where TCDLA's policy interests are unclear, where the case is likely to generate significant media attention, or in other exceptional cases—the matter will be decided by the full 52-member board.

The Amicus Committee is happy to consider joining with other organizations in submitting *amicus* briefs—a practice that not only conserves resources but also creates valuable alliances that increase TCDLA's influence on important legal issues in the courts and legislatures. Such a practice also furthers the ultimate goals of the Amicus Committee, which include not only contributing to the decision-making process on critical legal issues but also to enlarging the community that is exposed to TCDLA and its activities. To further that goal, the Amicus Committee will also seek to liaise and work with large firms contributing their services pro bono and with law school professors and law school clinics.