

THE ROLE OF THE AMICUS CURIAE (FRIEND OF THE COURT) INSTITUTE IN THE FIELD OF LAW

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ANNOTATION

Although the Amicus curiae (friend of the court) Institute seems to be a new field in the field of law today, however, it goes back a long history. The application of this area will make several engagements for judges during the judicial process. It is also one of the guarantees that the judicial process will be open and fair.

Keywords: Amicus curiae, a friend of the court, non-profit, fair.

INTRODUCTION

Amicus curiae, or "friend of the court", is a legal institution, the evolutionary development of which dates back to the times of Roman law and was continued in the legal systems of the family of Anglo-American law, is widely used today in international public and international private law.

Thus, in the late republican period (367-27 BC), the activity of Roman jurists in expressing their opinion (consilia) on controversial issues of law was of great importance, for several centuries the practice of compulsory consideration of their opinions.

"Friends of the court" (Amicus Curiae), derived from Latin, means a friend of the court. The "friends of the court" in the US litigation are not the de facto parties in the case, but based on their strong interest or significant interest in the case, they submit a legal opinion (Brief) to the court as a third party and even participate in oral arguments to express the law involved in the case. The point of view of the problem. The legal opinion submitted by the "Friends of the Court" supports a party's claims on legal issues, clarifies the facts, applicable laws and arguments, and maintains that the judgment should be consistent with the interests of the person submitting the legal opinion. The purpose of "friends of the court" is to draw the court's attention to some important issues related to the case that the parties have not explained to the court or have not yet attracted the attention of the court.

The organizations that submit the "Friends of Court" opinions are diverse, such as non-profit organizations, large companies, governments, and other parties to cases that have similar legal issues to this case. Statistics show that more than half of the "Friends of the Court" opinions submitted to the U.S. Supreme Court are submitted by commercial organizations, labor unions, and large companies, and a small portion are submitted by public interest groups, consumer groups, and religious groups. submitted. Therefore, "friends of the court" may be legal professional organizations or law professors or lawyers, or they may be groups or individuals that have nothing to do with the law. Except for the "friends of the court" who appear in the status, it is always carried out by a practicing lawyer. In addition, in some cases, there may be

more than one "friend of the court", and some opinions of the "friend of the court" may be jointly put forward by several agencies.

"Friends of the court" provide the court with valuable information about legal debates, or explain how the case affected people other than the parties. The amicus curiae should not repeat the reasons already stated by the parties, otherwise it will only increase the burden of the court and become unpopular. "Friends of the court" opinions are generally raised during the appeal process, and may be applied for the filing order at the beginning of the appeal, or may be at the substantive trial stage of the appeal case. Since the opinions of "friends of the court" have nothing to do with the determination of facts, the opinions submitted during the first instance and the second instance are all about the application of law.

It should be noted that the submission of opinions by "friends of the court" is not a right. There are only three situations in which the opinions of "friends of the court" can be submitted to the court. One is at the request of the court. When the court hears a case, it may ask the government or relevant professional organizations to put forward their own views on the professional or legal issues encountered in the case. The other is that some non-profit organizations, large companies, law professors, etc. are interested in cases that are under litigation and voluntarily ask the court to allow them to submit opinions. The third is that the parties take the initiative to contact the relevant agencies, requesting them to submit "friends of the court" opinions to the court to support their position. No matter which method is used to participate in litigation activities as "friends of the court", neither party or the party who wants to become "friends of the court" can submit arbitrarily. There are two prerequisites for "friends of the court" to submit an opinion to the court: one is to submit it with the permission of both parties; the other is to submit an application to the court with the permission of the court if the other party disagrees. The opinions submitted by the "Friends of the Court" have specific procedural requirements and should be served to the parties in the case in accordance with regulations and conform to the prescribed format. An opinion of "friends of the court" should generally include the following: 1. A brief introduction to the basic situation. On the cover of the opinion letter, it is necessary to indicate the amicus-of-court opinion submitted to which court and which institution or individual in which case supports which party, including the case number of the case, the name of the court of the original trial, the amicus The name and address of the friend's lawyer, which party does the friend of the court support, or which party does not support it. 2. Directory. 3. Brief introduction of the case. 4. The nature of the "friends of the court", the interests or issues they are concerned about, the reasons for submitting the opinions of the "friends of the court", and whether the "friends of the court" has accepted the financial support of the parties or any individual or organization, the "court of courts" Whether the "Friends of Court" opinion was written with the help of others includes the lawyers of the litigants and any other persons or organizations other than the "Friends of Court" or their members or their lawyers. 5. The legal basis for the opinions of "Friends of the Court", including statutory laws and precedents. 6. Debate opinions and demonstrate or explain each point of view. 7. Conclusion. 8. A statement that this opinion conforms to the requirements of the procedural rules, stating that the opinion has been written in the required form, and when it was delivered to the lawyers and other friends of the court of both parties in the prescribed manner, and

stated these at the same time The lawyer's name, address, and telephone number. 9. Signed by the lawyer of "Friends of the Court".

In conclusion, the friend of the court will perform the above duties and will be of great help in the execution of cases in court. It is also a means of ensuring that judicial proceedings are still open and fair.

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