

## REQUEST FOR AMICUS BRIEF

Posted: 08-18-2011

Comment Period Ends: 10-18-2011

U.S. Department of Homeland Security  
U.S. Citizenship and Immigration Services  
Office of the Director (MS 2000)  
Washington, DC 20529-2000



U.S. Citizenship  
and Immigration  
Services

### USCIS Administrative Appeals Office: Request for Amicus Curiae Briefs

USCIS is committed to actively engaging our stakeholders as we develop policies and procedures. As a new initiative, USCIS will seek stakeholder input on specific legal issues through the submission of amicus curiae briefs. Going forward, the USCIS Administrative Appeals Office (AAO) may, with the prior consent of the petitioner or applicant in the case, request amicus briefs for consideration as it adjudicates cases with complex or novel issues.

An "amicus curiae brief" is a written statement of law or legal opinion from someone who is not a party to an appeal but may have a strong interest in the issue that is to be decided. USCIS may request amicus curiae briefs to allow interested stakeholders the opportunity to provide the AAO with a broader view of an issue, beyond the narrow facts of an individual case. Any amicus brief should contain a statement describing the amicus as well as the nature of its strong interest in the issue. This information may be used as one factor to evaluate the weight, if any, that should be given to the brief. The amicus briefs will inform the AAO's adjudication of the issue and may lead to the publication of a precedent decision. Invitations to submit amicus briefs, and a redacted copy of the AAO decision resulting from consideration of the amicus briefs, will also be posted on the [AAO webpage](#).

At this time, the AAO seeks amicus briefing on the following topic, relating to the appeal of a denied Form I-140, Immigrant Petition For Alien Worker:

In 2010, the U.S. Court of Appeals for the Ninth Circuit reviewed an AAO decision that dismissed the appeal of an extraordinary ability petition. *Kazarian v. USCIS*, 596 F.3d 1115 (9th Cir. 2010). The court concluded that while the AAO raised legitimate reservations about the significance of the submitted evidence, the AAO should have analyzed the concerns in a subsequent "final merits determination." *Id.* at 1121-22. The AAO seeks amicus curiae briefs on the nature of the "final merits determination" and how the AAO should apply this analysis to extraordinary ability visa petitions filed pursuant to section 203(b)(1)(A) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(1)(A).

#### **Format of the Briefs**

The AAO limits the appearance of amici curiae to the filing of briefs. Please include your full name and the name of the organization that you represent in your submitted brief. Briefs should be signed by the person who prepared the brief. In addition, please reference file number "SRC1003254992" to ensure that the AAO properly routes your submission. The AAO encourages interested stakeholders to limit the length of their briefs to no more than 25 pages.

#### **When to Submit Briefs**

Please submit your brief, in duplicate, within 30 calendar days of this announcement. The final date for submission is **September 19, 2011**; all amicus curiae briefs must be received by the AAO on or before this date.

**Where to Submit Briefs**

Please mail your brief, in duplicate, to the following address:

U.S. Department of Homeland Security  
U.S. Citizenship and Immigration Services  
Administrative Appeals Office (AAO)  
20 Massachusetts Ave., N.W., MS 2090  
Washington, DC 20529-2090