3

Resolution in Support of the Texas Day of Civility

In conjunction with the Supreme Court of Texas and the Court of Criminal Appeals of Texas, we, the State Bar of Texas, support the designation of April 20, 2018, as the Texas Day of Civility in the Law.

On that day, *we join our state's highest courts in urging all lawyers to participate in programs at bar associations around the State of Texas that will commemorate and focus upon the spirit and aspirations set forth in the Texas Lawyer's Creed.*

Further, *we urge all lawyers always to conduct themselves with the utmost courtesy and professionalism toward judges, adversaries, peers, workplace colleagues, and in performing their duties to their clients, and with the highest degree of civility toward other counsel and their clients.*

The Supreme Court and the Court of Criminal Appeals adopted the Texas Lawyer's Creed by order of November 7, 1989, reaffirmed it on March 26, 2013, and added amendments through February 1, 2016. The order adopting the creed reminded lawyers of the importance of performing their duties in an ethical, professional, and civil manner when it said in part:

> *The conduct of a lawyer should be characterized at all times by honesty, candor, and fairness. In fulfilling his or her primary duty to a client, a lawyer must be ever mindful of the profession's broader duty to the legal system.*

Civility is at the heart of the Texas Lawyer's Creed and is the hallmark of a professional. U.S. Supreme Court Justice Anthony Kennedy adroitly described civility in these words:

> *[Civility] . . . is not some bumper-sticker slogan, "Have you hugged your adversary today?" Civility is the mark of an accomplished and superb professional, but it is even more than this. It is an end in itself. Civility has deep roots in the idea of respect for the individual.*
>
> *— Justice Anthony Kennedy, 1997 Speech, ABA Annual Meeting*

We urge all lawyers to act with civility to preserve our system of justice and to embrace the principles espoused by the Texas Lawyer's Creed as they vigorously represent their clients.

Signed *this 26th day of January 2018.*

G. Thomas Vick, Jr., President
State Bar of Texas

Joe K. Longley, President-Elect
State Bar of Texas

Rehan Alimohammad, Chair of the Board
State Bar of Texas

witnessed by

Trey Apffel, Executive Director
State Bar of Texas

ENOCH KEVER

December 11, 2017

Michael S. Truesdale
Direct: (512) 615-1232
mtruesdale@enochkever.com

Mr. John Sirman
Legal Counsel
State Bar of Texas
P.O. Box 12487
Austin 78711-2487

Dear Mr. Sirman:

Enclosed please find for review and approval of the State Bar Board of Directors, an amicus curaie brief to be filed in the Supreme Court of Texas by the State Bar Appellate Section. A majority of the Council of the Section voted on December 8, 2017 (without dissent) in favor of requesting permission from the State Bar to file an amicus brief with the Court. Our amicus committee sought assistance from a Section member, attorney Elizabeth G. Bloch, to write the brief.

The brief falls within the purposes of the State Bar, does not violate any federal or state law or guiding case law, does not carry the potential of a deep philosophical or emotional division among a substantial segment of the State Bar, and does not conflict with any State Bar policy. The brief focuses solely on a procedural appellate issue, without taking a position on the facts or the law, and simply encourages the Supreme Court to accept the case pending before it so as to answer the procedural question posed therein. The topic of the brief – finality of judgments -- falls within the primary or special expertise, concern, and purpose of the Appellate Section. This is a matter of procedural law that is a major issue of importance to the practice of law and the administration of justice. No member of the Appellate Section's Council represents a party in the case. We are not aware that any Voting Board Member of the State Bar represents a party in the case.

Please let us hear from you that our Request has been approved, at your earliest convenience. The case is fully briefed in the Texas Supreme Court. In order for this amicus brief to have effect, we aim to file it as soon as possible.

Thank you for your courtesies.

/s/ Michael S. Truesdale
Michael S. Truesdale
Chair, State Bar of Texas Appellate Section

No. 17-0197

IN THE SUPREME COURT OF TEXAS

IN RE PAUL & CYNTHIA ELIZONDO AND
EAGLE FABRICATORS, INC.,
Relators

On Petition for Writ of Mandamus

AMICUS CURIAE BRIEF OF THE STATE BAR OF TEXAS APPELLATE SECTION

THE STATE BAR OF TEXAS
APPELLATE SECTION
Elizabeth G. Bloch
State Bar No. 02495500
Heidi.Bloch@huschblackwell.com
HUSCH BLACKWELL, LLP
111 Congress Avenue, Suite 1400
Austin, Texas 78701
(512)703-5780
(512) 479-1101 (facsimile)
Attorney for State Bar of Texas
Appellate Section

TABLE OF CONTENTS

Page

TABLE OF AUTHORITIES

Cases **Page**

Rules and Regulations

Additional Authorities

IDENTIFICATION AND INTEREST OF AMICUS CURIAE[1]

The State Bar of Texas Appellate Section (the "Section") is a non-profit, nonpartisan professional organization with more than 2,100 members, who are all licensed attorneys in Texas. The Section has developed a procedure for vetting cases before this Court that may be worthy of an amicus brief on behalf of the Section, and has identified this as such a case. The Section believes that this proceeding presents an issue that is important to the jurisprudence of this State and to the appellate bar, and that the Section's special knowledge, training, or experience would provide a significant contribution to the Court's consideration of the legal issues. The Section's interest in this case is purely academic; it has no interest in the ultimate resolution of the merits of this case, but has a keen interest in having this Court clarify the rules regarding finality of judgments—an issue that continues to arise too frequently—so that the rules may be applied uniformly and fairly.

The Section has obtained permission from the State Bar of Texas to file this amicus brief pursuant to § 8.01.10 of the State Bar Board Policy Manual.

[1] No legal fees were paid for the preparation of this brief. *See* TEX. R. APP. P. 11(c).

SUMMARY

The appellate bar, litigants, and courts all desire certainty in, and uniform application of, the rules governing when an order or judgment is final for purposes of an appeal when there has not been a conventional trial on the merits. This Court previously rejected the old "Mother Hubbard" clause and suggested, in *Lehmann v. Har-Con Corp.*, 39 S.W.3d 191 (Tex. 2001), that language such as "this judgment finally disposes of all parties and all claims and is appealable" would leave no doubt about the trial court's intentions. Now the question is whether that or similar language controls when other portions of the order raise doubts about the trial court's intentions.

In *Lehmann*, this Court held that a judgment issued without a conventional trial is final if it either: 1) actually disposes of all claims and parties, regardless of the language; or 2) states with unmistakable clarity that it is a final judgment as to all claims and parties. This case squarely presents the inevitable and important question: what happens when the judgment on its face does *not* dispose of all claims and parties, but nonetheless contains clear language incorrectly stating that it does so?

The Section urges this Court to clarify whether the language of the order or judgment should be considered as a whole, or whether operative adjudicative language in a judgment should control over a recital that the judgment adjudicates more than, in fact, it does. This interlocutory order includes language very similar to that suggested in *Lehmann*—"This judgment is final, disposes of all claims and all parties, and is

appealable."[2] But the title of the order ("Order on Defendants' Summary Motion to Remove Invalid Lien") and the ordering paragraphs themselves adjudicate only a motion to remove a lien and a request for attorneys' fees.

As this Court held in *Lehmann*, "The record may help illumine whether an order is made final by its own language, so that … an order that some party should not reasonably have regarded as final may not be final despite language that might indicate otherwise." *Id.*, 39 S.W.3d at 206. Having not reviewed the record in this case, the Section will not weigh in on whether the record or the context in which the order was entered demonstrates whether the order is final.

ARGUMENT AND AUTHORITIES

I. The desire for certainty vis-à-vis fairness and common sense.

The Section understands and embraces the principals behind the need for finality of judgments. Much mischief can arise when finality is allowed to be attacked long after the parties and the trial court believed a judgment to be final. Should a bright-line rule of finality come at the expense of rational and fair application of the rules?

The clear finality language suggested in *Lehmann*, it was hoped, would be inserted thoughtfully and purposefully into what were truly final judgments so as to leave no doubt or ambiguity. It is certainly a more clear indication of finality than the Mother

[2] The order also contains a "Mother Hubbard" clause, but this Court has rejected the notion that this clause, by itself, could make an otherwise interlocutory order final.

Hubbard language that had become ubiquitous. This case raises the question of whether that new language is so powerful that its mere presence will inexorably make an order final regardless of the rest of the language of the order, the context, and the record. In other words, does language reciting what an order adjudicates control even when inserted into an order that does not, in fact, make those adjudications? The Section urges this Court to answer this question.

II. Operative adjudicative language versus recitals in an order.

There is a meaningful difference between operative language in the ordering paragraphs of an order by which a court GRANTS or DENIES claims, i.e., actually disposes of them, and recital language that attempts to describe what claims the court has disposed of.[3]

In *Lehmann*, this Court noted:

- "the language of an order or judgment can make it final, even though it should have been interlocutory, if that language expressly disposes of all claims and all parties." *Lehmann*, 39 S.W.3d at 200.
- "for example, if a defendant moves for summary judgment on only one of four claims asserted by the plaintiff, but the trial court renders judgment that the plaintiff take nothing on all claims asserted, the judgment is final—erroneous, but final." *Id.*
- "an express adjudication of all parties and claims in a case is not interlocutory merely because the record does not afford a legal basis for the adjudication." *Id.* at 206.

[3] As a practical matter, parties and their attorneys generally pay more attention to the ordering paragraphs than the recitals at the end of an order, and tend to be more careful with that language.

So when a trial court erroneously grants more relief than was requested in a motion for partial summary judgment, for example, that actual adjudication (though in error) may make the order final for purposes of appeal. But a mere recital that the trial court disposed of all claims is not an actual adjudication.

An inconsistency between the ordering paragraphs and a recital of what was ordered raises doubt about an order's finality; resolution may require a review of the record and the context. *See MJR Fin., Inc. v. Marshall*, 840 S.W.2d 5, 9 (Tex. App.—Dallas 1992, no writ) (the presumption that recitals in a judgment are true is rebuttable when there is a conflict between the judgment and the record).

III. Can magic language in an order clearly and unmistakably indicate finality when it is inconsistent, on its face, with the rest of the order?

The recital in this case—"This judgment is final, disposes of all claims and all parties, and is appealable"—is unmistakably clear by itself. But the order is titled "Order on Defendants' Summary Motion to Remove Invalid Lien," adjudicates only two matters, and says nothing about the plaintiff's claims. A sentence that is unmistakably clear and unequivocal by itself can become unclear and equivocal when read in conjunction with the rest of the document in which it appears. This Court has held that language in a judgment or order should not be read in isolation. *See, e.g., Shanks v. Treadway*, 110 S.W.3d 444, 447 (2003) (when interpreting a divorce decree, the decree should be construed as a whole).

This Court has relied on general rules of construction when construing court orders in contexts other than determining finality. *Id.* (courts apply the general rules regarding construction of judgments in construing a divorce decree). In construing a bankruptcy court order to see if a party had violated the automatic stay, this Court noted:

> Just as with an unambiguous contract, we enforce unambiguous orders literally. *Reiss v. Reiss*, 118 S.W.3d 439, 441-42 (Tex. 2003). Only where an order's terms are ambiguous—that is, susceptible of more than one reasonable interpretation—do we look to the surrounding circumstances to discern their meaning. *Lone Star Cement Corp. v. Fair*, 467 S.W.2d 402, 404-05 (Tex. 1971).

Hemyari v. Stephens, 355 S.W.3d 623, 626 (Tex. 2011). While principals governing the desire for finality of judgments rightfully shift the analysis away from imagining any possible ambiguity—the *Lehmann* language was designed to do just that—the fact remains that *some* orders will be insufficiently clear when read as a whole despite one clear and unmistakable sentence that would otherwise, by itself, signal finality.

This case presents an example of such an unclear order. In contrast, the judgment this Court analyzed in *In re Daredia*, 317 S.W.3d 247, 249 (Tex. 2010), and found to be "clear enough" and "unequivocal" is very different from the order at issue, as compared in the table below:

Elizondo Order	Daredia Judgment[4]
Title: "Order on Defendants' Summary Motion to Remove Invalid Lien"	Title: "Default Judgment"
"After considering The Motion to Remove Invalid Lien …"	"came on to be heard the above numbered and entitled cause …"
Does not award post-judgment interest or allow for execution.	Awards post-judgment interest and allows for execution to issue.
The order indicates the court had before it only the summary motion.	"all matters in controversy, of fact as well as of law, were submitted to the Court."

Lehmann instructs that a judgment issued without a conventional trial is not final unless it either: 1) "actually disposes of every pending claim and party;" or 2) "clearly and unequivocally states that it finally disposes of all claims and all parties." *Lehmann*, 39 S.W.3d at 205. But even when "clear and unmistakable" language indicating finality appears in a judgment, if the rest of the judgment reveals an ambiguity or incongruity, then the language of the judgment *as a whole* is no longer clear and unequivocal and thus doesn't pass the second prong of the test under *Lehmann*.

The Section asks this Court to decide whether magic language should be read in isolation as a stand-alone and absolute indicator of finality without regard to the remaining language of the order or judgment, or whether the judgment should be construed as a whole and read in context. *Shanks*, 110 S.W.3d at 447; *Lehmann*, 39 S.W.3d at 195, 200, 205 ("[a]n order does not dispose of all claims and all parties merely

[4] This document can be found on page 42 of the 68-page PDF at *http://www.search.txcourts.gov/SearchMedia.aspx?MediaVersionID=99032431-d0fe-40e5-b867-fda5a1ef1e67&coa=cossup&DT=BRIEFS&MediaID=3348b02b-72e3-4c4b-a4cc-4419cede2fec*

because ... the word 'final' appears ... in the order;" "whether a judicial decree is a final judgment must be determined from its language and the record in the case."); *see, e.g., Tooke v. City of Mexia*, 197 S.W.3d 325, 329 (Tex. 2006) (the meaning of the otherwise unambiguous words "sue and be sued" "cannot be ascertained apart from the context in which they occur"); *see also, e.g., Myers v. Gulf Coast Minerals Mgmt Corp.*, 361 S.W.2d 193, 197 (Tex. 1962) (recitals in a contract should be reconciled, if possible, with the operative clauses in the contract).

For these reasons, the Appellate Section of the State Bar of Texas, amicus curaie, encourages the Court to grant the petition for writ of mandamus in this cause and render a decision in this once-again-unsettled area regarding finality of judgments.

Respectfully submitted,

HUSCH BLACKWELL LLP

By: */s/ Elizabeth G. Bloch*
ELIZABETH G. BLOCH
Texas Bar No. 02495500
Heidi.bloch@huschblackwell.com
111 Congress Avenue, Suite 1400
Austin, Texas 78701
(512) 472-5456
(512) 479-1101 (facsimile)

Attorney, State Bar of Texas Appellate Section

CERTIFICATE OF COMPLIANCE

I hereby certify that the foregoing document contains 1,902 words, according to the word count of the computer program used to prepare it, in compliance with TEX. R. APP. P. 9.4(i)(2).

/s/ Elizabeth G. Bloch
ELIZABETH G. BLOCH

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing instrument has been served upon counsel of record for the parties via the Court's electronic filing system on the ____ day of _____, 2017:

/s/ Elizabeth G. Bloch
ELIZABETH G. BLOCH

8.02. Amicus Curiae Briefs

8.02.01 Definitions

(A) The "Ad Hoc Submission Committee" consists of the President, the President-Elect, the Chair, the chair of the Board Legislative Policy Subcommittee, and the Executive Director.

(B) "Court means any state or federal court.

(C) References to the "Executive Director" includes any person to whom the Executive Director delegates any duty required of the Executive Director by this §8.02.

(D) "Position" means any position or positions proposed to be advocated in an amicus curiae brief.

(E) "Request" means a request for approval for the State Bar to file an amicus curiae brief in its own name, or a request for approval for a State Bar section to file an amicus curiae brief in the section's name.

(F) "State Bar sections" includes State Bar divisions
(G) "Subcommittee" means the Board Legislative Policy Subcommittee.

8.02.02 Restrictions.

A) No request may be approved unless the position:

(1) falls within the purposes, expressed or implied, of the State Bar as provided in the State Bar Act;

(2) cannot be construed as violating any state or federal law or any applicable case law;

(3) does not carry the potential of deep philosophical or emotional division among a substantial segment of the membership of the State Bar;

(4) cannot be construed as conflicting with any existing State Bar policy; and

(5) in the case of State Bar sections, falls within the primary or special expertise, purpose, or concern of the section, and has been approved by the section council or board.

(B) The State Bar or any State Bar section may not file an amicus curiae brief in any court unless it is approved pursuant to this §8.02.

(C) Amicus curiae briefs may only be filed in matters involving substantive or procedural law on major issues of importance to the practice of law or the administration of justice.

(D) The State Bar may not file an amicus curiae brief in a case if any Voting Board Member represents any party in that case.

(E) No State Bar section may file an amicus curiae brief in a case if any member of the section's council represents any party in that case.

(F) Neither the State Bar nor any State Bar section may file an amicus curiae brief which purports to resolve or take a position with regard to factual disputes in a case.

8.02.03 Requests. Requests may only be submitted by an Officer, a Director, or a section of the State Bar, and must include:

(A) the name and contact information of the person or entity making the request;

(B) the name of the case in which the amicus curiae brief is proposed to be filed;

(C) the court in which the amicus curiae brief is proposed to be filed;
(D) the date by which the amicus curiae brief must be filed;

(E) a description of the facts of the case and the questions presented to the court;

(F) the issue or issues proposed to be addressed by the amicus curiae brief;

(G) a statement of the position and in what way such position satisfies the restrictions provided in §8.02.02(A) above;

(H) a draft of the proposed amicus curiae brief, if available at the time of filing the request; and

(I) a disclosure of any personal or professional conflict of interest that any member of the Board or the section's council may have in the case.

8.02.04 Procedures for Approval.

(A) *Procedure for Obtaining Approval of the Board.*

(1) All requests must be received by the Executive Director no later than 30 business days prior to the next regular meeting of the Board. The Executive Director shall deliver the request to the Ad Hoc Submission Committee and to the members of the Subcommittee within 3 business days following receipt.

(2) If a request is received by the Executive Director less than 30 business days prior to the next regular meeting of the Board, a majority of the Ad Hoc Submission Committee may, in its discretion, waive the 30 business day requirement and establish a revised procedural timeline, provided:

(a) such majority determines that it was not reasonably possible for the request to have been received by the Executive Director no later than 30 business days prior to the next meeting of the Board, and

(b) such majority determines that sufficient time remains for the request to proceed for consideration pursuant to this section.

(3) The Ad Hoc Submission Committee or the Subcommittee may direct the Executive Director to distribute the request to such State Bar sections as it deems prudent. If a request is distributed to any or all State Bar sections, the sections must be advised that any objections to the request are to be received by the Executive Director by a specific date and time set by the Ad Hoc Submission Committee or the Subcommittee, who may then submit a response to the objection to the Executive Director. Upon the receipt of any objection, the Executive Director will notify the person or entity making the request, who may then submit a response to the objection to the Executive Director. Upon the expiration of the date and time set by the Ad Hoc Submission Committee or the Subcommittee, the Executive Director will compile and distribute the objections and responses, if any, to the Ad Hoc Submission Committee and to the Subcommittee.

(4) Within 5 business days of receipt, the Executive Director will distribute the request to all members of the Board.

(5) The Subcommittee will convene in person or by teleconference to review and take action on the request no later than 20 business days prior to the next Board meeting. In considering the request, the Subcommittee may allow any interested person to appear before the Subcommittee in support of, or in opposition to the request, subject to reasonable limitations on available time.

(6) At the next meeting of the Board, the Subcommittee will deliver its recommendations for or against approval of the request to the Board for action.

(7) In the event the Board approves the request, it may delegate to the President or to the Executive Committee the authority to approve the retention of outside counsel should the President or the Executive Committee, as the case may be, deem such retention prudent, to oversee the review and, if necessary, the revision of the amicus curiae brief, and to assure that the brief is timely filed.

(B) Expedited Action by the Executive Committee.

(1) To be considered for expedited action by the Executive Committee,

(a) the request must be received by the Executive Director no later than 15 business days prior to the date of the next regular meeting of the Executive Committee, and

(b) the deadline for filing the amicus curiae brief is set for a date prior to the date of the next meeting of the Board; and

(c) a majority of the Ad Hoc Submission Committee determines that the request could not reasonably have been submitted to the Executive Director pursuant to 8.02.04(A) above.

(2) The Ad Hoc Submission Committee or the Subcommittee may direct the Executive Director to distribute the request to such State Bar sections as it deems prudent. If a request is distributed to any or all State Bar sections, the sections must be advised that any objections to the request are to be received by the Executive Director by a specific date and time set by the Ad Hoc Submission Committee or the Subcommittee. Upon receipt of any objection, the Executive Director will notify the person or entity making the request, who may then submit a response to the objection to the Executive Director. Upon the expiration of the date and time set by the Ad Hoc Submission Committee or the Subcommittee, the Executive Director will compile and distribute the

objections and responses, if any, to the Ad Hoc Submission Committee and to the Subcommittee.

(3) The Executive Director will deliver the request to the Ad Hoc Submission Committee, to the Subcommittee, and to all members of the Board within 3 business days of such receipt.

(4) If such a request is received by the Executive Director less than 15 business days prior to the next meeting of the Executive Committee, a majority of the Ad Hoc Submission Committee may, in its discretion, waive the 15 business day submission requirement and establish a revised procedural timeline, provided:

(a) such majority determines that it was not reasonably possible for the request to have been received by the Executive Director no later than 15 business days prior to the next meeting of the Executive Committee, and

(b) such majority determines that sufficient time remains for the request to proceed for consideration pursuant to this section.

(5) The Subcommittee will convene in person or by teleconference to review and take action on the request no later than 10 business days prior to the next Executive Committee meeting. In considering the request, the Subcommittee may allow any interested person to appear before the Subcommittee in support of, or in opposition to the request, subject to reasonable limitations on available time.

(6) At the next meeting of the Executive Committee, the Subcommittee will deliver its recommendations for or against approval of the request to the Executive Committee for action

(7) If the Executive Committee approves the request, it may delegate to the President the authority to approve the retention of outside counsel if the President deems such retention prudent, to oversee the review and, if necessary, the revision of the amicus curiae brief, and to assure that the brief is timely filed.

(8) The President will report the action of the Executive Committee and any resulting activities to the Board at its next meeting for ratification.

(C) *Emergency Action*

(1) To be considered for emergency action:

(a) the request must be submitted by an Officer or Director;

(b) the request must be received by the Executive Director no later than 10 business days prior to the deadline for filing the amicus curiae brief; and

(c) the deadline for filing the amicus curiae brief is set for a date prior to the date of the next regular meeting of the Executive Committee.

(2) If a request is received by the Executive Director less than 10 business days prior to the deadline for filing the amicus curiae brief, a majority of the Ad Hoc Submission Committee may waive the 10 business day requirement, provided:

(a) such majority determines that it was not reasonably possible for the request to be received by the Executive Director no later than 10 business days prior to the deadline for filing the amicus curiae brief, and

(b) such majority determines that sufficient time remains for the request to proceed for consideration pursuant to this section.

(3) The Executive Director will distribute the request to all members of the Board as soon as practicable after receipt.

(4) If a request meets the above conditions, the Ad Hoc Submission Committee will consider and take action on the request as soon as practicable. If the request is approved, the President may approve the retention of outside counsel if the President deems such retention prudent, will oversee the review and, if necessary, the revision and filing of the amicus curiae brief, and will assure that the brief is timely filed.

(5) The President will report the action of the Ad Hoc Submission Committee and any resulting activities to the Executive Committee at its next meeting for ratification and, on behalf of the Executive Committee, to the Board at its next meeting for ratification.

8.02.05 Section Statement.

(A) Any action taken by a section pursuant to this provision will be clearly identified as the position of the section and not that of the State Bar. A position statement of the section must provide the following disclaimer in capital letters at a conspicuous location within the document.

THIS AMICUS BRIEF IS BEING PRESENTED ONLY ON BEHALF OF THE (_____) SECTION OF THE STATE BAR. THE SECTION'S POSITION SHOULD NOT BE CONSTRUED AS REPRESENTING THE POSITION OF THE BOARD OF DIRECTORS, THE EXECUTIVE COMMITTEE, OR THE GENERAL MEMBERSHIP OF THE STATE BAR. THE (_____) SECTION IS A VOLUNTARY SECTION OF (___) MEMBERS COMPOSED OF LAWYERS PRACTICING IN A

SPECIFIED AREA OF LAW.

THIS AMICUS BRIEF IS SUBMITTED AS A RESULT OF A VOTE OF (___) TO (___) OF THE COUNCIL OF THE (_____) SECTION, WHICH IS THE GOVERNING BODY OF THE SECTION. NO APPROVAL OR DISAPPROVAL OF THE GENERAL MEMBERSHIP OF THE SECTION HAS BEEN OBTAINED.

This disclaimer should state the appropriate votes recorded. For a position statement other than an amicus brief, the disclaimer should use an appropriate term in place of "amicus brief."

(B) If the general membership of the section has approved the section's position, paragraph 2 of the disclaimer may be omitted.

8.02.06 Other Requests. From time to time, the State Bar or a State Bar section may be requested to express support or opposition to any position, action or resolution taken or proposed to be taken by any entity outside of the State Bar. In that event, such request will be treated in a similar manner as a request for approval to file an amicus brief, and will be subject to the requirements, restrictions and procedures established in this §8.02.