



Atlantic Legal Foundation *Annual Report*

April 2003

From the Chairman

ALF's performance in 2002 was impressive on all fronts, despite the many challenges confronting our economy and the business community.

Responding to the requests for representation of an ever-widening circle of clients, the Foundation took on a record number of new cases involving important issues, many with broad, national implications. These projects are described in detail below.

The year saw several significant changes in ALF's leadership. We welcomed three new directors, Henry H. Hopkins, Jeffrey B. Kindler and Philip R. Sellinger; and Thor L. Halvorsen, John D. McMahon

expertise and prolific writing in the world of technology led ALF to concentrate on cases focusing on the appropriate interplay between science and the law. We are pleased that Lee will continue with ALF in an *emeritus* capacity.

Although the year was not without some disappointments, our financial base actually improved. Three private foundations gave their first-time support as did seven law firms. Some corporate and foundation grants declined slightly, reflecting Wall Street's disappointing performance; however, our annual dinner honoring Pfizer C.E.O. Hank McKinnell was the most successful ever. Individual contributions increased in a most healthy way.

In sum, ALF completed its twenty-sixth year with a full docket of significant cases and projects, a distinguished board of directors and



ALF Chairman Dan Fisk

advisory council and a roster of loyal contributors all of which evidences the importance of our mission and work. We are grateful for your continuing support. ■

Hayward D. Fisk

**"ALF's performance
in 2002 was impressive
on all fronts ..."**

and William G. Primps joined the Advisory Council. This is a particularly talented group and their areas of specialization will bring fresh perspectives to the Foundation's work. Unhappily, one of our most prominent advisors, Lee Loevinger, elected to retire after thirteen years of enthusiastic participation. Lee's brilliant career as a practitioner, jurist (Minnesota Supreme Court justice) and public official (FCC Commissioner and U.S. Assistant Attorney General - for the Antitrust Division) is unparalleled; his special

Table of Contents

From the Chairman.....	1
President's Review	2
Kaufman Connects Sound Science and Law	3
New Cases, Controversies and Projects	4
Developments in Ongoing Cases	5
Also Worth Noting	5
Annual Award Dinner	6
Professor John Coffee and Richard Wiley Discuss Developments	6
ALF's Principal Supporters – 2002	7

President's Review

ALF's activity during 2002 reflects a remarkable array of issues and clients, unequaled in substance by any other national public interest legal foundation. A sampling of ALF's current docket provides ample evidence of the impact of the Foundation's efforts in diverse fields.

ALF represented an impressive group of prominent scientists in a Texas case involving expert testimony and the causation of multiple myeloma where the decision to exclude the expert's testimony essentially adopted the arguments made in our brief. ALF also represented distinguished members of the scientific community in the Ninth Circuit supporting the contention of Boeing North America and Rockwell International that the three judge panel's decision in a CERCLA case was misguided and a dangerous precedent. Our efforts to counter what has been called "mold hysteria" with sound medical analysis has continued, principally through our copious website. This new darling of the plaintiffs' bar, which has been given sensational treatment by the media, threatens to ensnare thousands of individual and corporate defendants who have been involved in real estate management, construction and remodeling activities.



ALF President Bill Slattery

"ALF's activity during 2002 reflects a remarkable array of issues and clients, unequaled in substance by any other public interest legal foundation."

Our brief in the *Barklee Realty* appeal was filed on behalf of associations representing almost 50,000 New York property owners, both large and small. At issue is the

constitutionality of a discriminatory publication requirement for limited liability companies designed solely for the benefit of newspaper publishers. Also in New York, ALF continued its work on behalf of the New York Charter School Association and the thousands of parents and youngsters it serves. In New Jersey ALF continued to fight reverse discrimination on behalf of would-be firefighters and a non-minority owned contractor eager to do government work. In one of the year's most closely watched cases, ALF represented the prestigious Reason Foundation in the University of Michigan preferences cases in the United States Supreme Court.

While the roster of cases and clients is diverse and robust, there is a common theme: responsible advocacy for the rule of law, limited constitutional government, individual rights and the application of legitimate science. We are proud of what we do and gratified by the results achieved. ■

William H. Slattery

Kaufman Connects Sound Science and Law

Over the past decade, ALF has become a respected advocate of the use of sound science in the courtroom, largely due to the message and stature of the scientists who have joined the Advisory Council and their professional colleagues. But the language – and method – of the laboratory is often very different from the language of legal advocacy. And so ALF has been fortunate that its long-time General Counsel, Martin S. Kaufman, is comfortable and effective in dealing with both disciplines.



**ALF Senior Vice President and General Counsel
Martin Kaufman**

Kaufman's training in science began at New York City's renowned Bronx High School of Science and continued at Columbia College where he minored in chemistry, with a history major. During college, which he managed to finish in three years, he spent his summers working on high temperature guidance components for rocket engines and did engineering assignments for a company working on the B-58 bomber. After law school, also at Columbia where he was a Stone Scholar, as an associate at Cahill Gordon he was assigned to a mammoth litigation involving technical aspects of oil and gas

exploration, representing a consortium of independent oil producers. He was appointed deputy assistant general counsel at the United States Department of Energy in 1977 where, among other projects, he successfully negotiated a research and development agreement between the United States and Italy.

Kaufman returned to private practice in 1981 where he became a general partner of Lovejoy Wasson. When that firm disbanded in 1984 he became of counsel to the large New York City firm of Bower & Gardner. He joined his former partner, retired ALF President Douglas Foster, as General Counsel of what was then called the Mid-Atlantic Legal Foundation in 1987.

ALF's first effort in the scientific arena involved the Shoreham nuclear plant. ALF represented taxpayers and scientists who sought to prevent the closing of that facility.

“...Kaufman has been ALF's principal draftsman and strategist in no less than twenty litigations involving the application of scientific evidence...”

In late 1989, Harvard Professor Richard Wilson and Lee Loewinger brought the *Daubert* appeal in the United States Supreme Court to the attention of the ALF board and Kaufman drafted an *amicus* brief in that seminal case on behalf of eighteen noted scientists, including five Nobel laureates. Justice Blackmun quoted the brief in his majority opinion. The *Daubert* brief was followed by briefs to the court in *Kumho* and *Joiner*, both of which came down on the side advocated by ALF's *amicus* briefs.

Following the *Daubert* trilogy, Kaufman has been ALF's principal draftsman and strategist in no less than twenty litigations involving the application of scientific evidence. He has frequently prepared comments regarding proposed federal and state

regulations as well. His work with Professor Wilson in analyzing electromagnetic field issues helped halt plaintiffs' efforts to base class action complaints on what essentially was “junk” science. Kaufman also serves as editor of ALF's *Science in the Courtroom Review*.

While Kaufman's legal presentations have put sound science in a proper legal perspective, there is no doubt that the professional stature of ALF's clients have commanded the attention of federal and state court judges throughout the country. For example, ALF's position prevailed in the *Canavan* case in the Supreme Judicial Court of Massachusetts where ALF's brief was filed on behalf of the co-discoverer of the structure of DNA and a Nobel Laureate in Medicine, the Sterling Professor of Medicine and Epidemiology at Yale University and the Director of the Clinical Epidemiology

Unit at Yale, the Director of the Environmental Medical Service at the Massachusetts Institute of Technology, a Nobel Laureate in Chemistry, the Editor in Chief of *The NewEngland Journal of Medicine*, a Clinical Professor of Environmental and Community Medicine at UMDNJ-Robert Wood Johnson Medical School, and the Mallinckrodt Research Professor of Physics at Harvard University. What court could not give serious attention to the views of experts with such outstanding qualifications?

ALF's current docket continues our solid commitment to the application of sound science in the courtroom, with ALF's briefs bringing points of view that courts otherwise would not hear. ■

New Cases, Controversies and Projects

ALF took on seven new cases and began work on a project designed to promote access to and efficiency in the courts of New York, during 2002.

ALF filed an *amicus* brief in a Texas appellate court on behalf of fourteen prominent scientists (including a Nobel laureate in Medicine, the Director *emeritus* of the National Center for Toxicological Research and former Vice President for Epidemiology and Surveillance Research of the American Cancer Society) in a successful appeal from a verdict awarding substantial damages based on flawed expert scientific evidence in a case involving exposure to diesel fumes. The court's opinion closely tracked the arguments in ALF's brief. (*Missouri Pacific Railroad Company v. Navarro*, **Texas Court of Appeals**)

Expanded use of criminal prosecution in areas formerly left to civil authorities is of increasing concern to the business community. ALF was privileged to represent the National Association of Criminal Defense Lawyers in a case involving the criminalization of violations of environmental laws. Randall Hansen was convicted and sentenced to forty-six months in prison for his company's violations of federal environmental statutes. Although Hansen was geographically and functionally removed from the site of the violations when they occurred, and had no decision making role, he was deemed a "responsible corporate officer" and thus liable for his failure to detect the violations. The case presented a striking erosion of the *mens rea* requirement in a criminal case by the expansion of the "public welfare offense" doctrine. ALF's brief argued that conflict between the Eleventh Circuit decision and prior Supreme Court rulings on *mens rea* and confusion in the Supreme Court's jurisprudence beg for more careful application of fundamental rules of law.

Hansen's petition for *certiorari* was denied. (*Hansen v. United States*, **U.S. Supreme Court**)

In the federal appellate court in New York, ALF is challenging the trial court's determination that "customary international humanitarian law," based on treaties and conventions to which the U.S. is not a party, or which have *not* been ratified, "overrides" a clear U.S. statute. (*Beharry v. United States*, **U.S. Court of Appeals, Second Circuit**)

The Foundation launched its Mold/Sound Science project which is designed to ensure that sound science is applied in the burgeoning number of claims alleging that indoor mold is causing illness, claims motivated by the plaintiff bar's belief that "mold is gold."

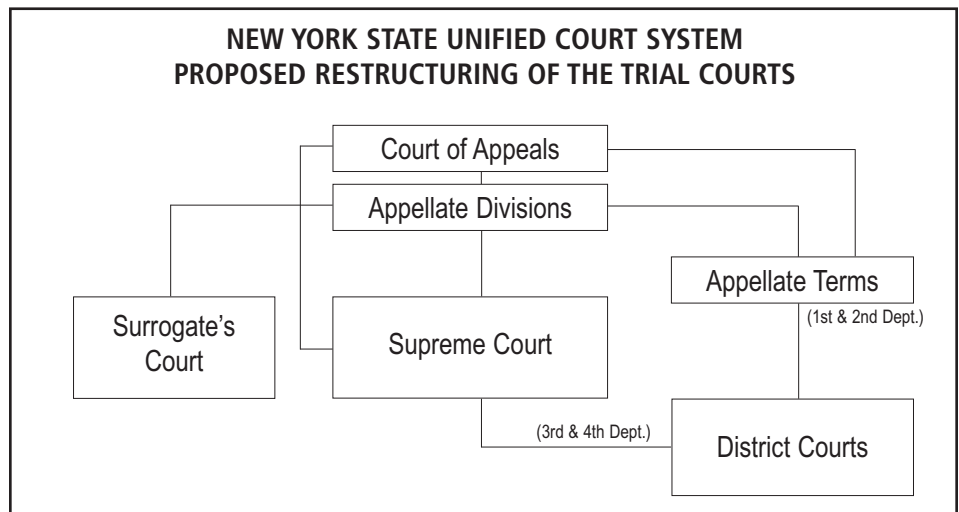
ALF is representing several large real estate trade associations comprised of approximately 50,000 property owners as *amici curiae* in New York's intermediate appellate court in a case challenging the constitutionality of the publication requirement of the New York Limited Liability Company Law. (*Barklee Realty Company LLC v. Pataki*, **Appellate Division, First Department**)

In the United States Supreme Court,

ALF is challenging a municipality's refusal to grant building permits unless a property owner pays an "impact fee," where the administrative law judge found there was no showing of any projected impact of a development. (*Rogers Machinery Company v. City of Tigard*, **U.S. Supreme Court**)

ALF has filed an *amicus* brief in support of plaintiffs, representing the Reason Foundation of Los Angeles, in the Michigan preferences cases in the United States Supreme Court. Our brief provided statistics and other data showing that minority students admitted pursuant to "diversity" preferences have a significantly lower graduation rate, and a significantly higher drop-out rate, than non-minority students, especially at public colleges and universities, and at Michigan itself, and that these unfortunate facts could reinforce negative racial stereotypes, a negative that was a concern of Justice Powell in *Bakke*. (*Grutter v. Bollinger*, **U.S. Supreme Court**)

Also in the Supreme Court, representing the American Association of Small Property Owners, ALF urged the Court to grant *certiorari* in a real property "takings" case. ALF argued that there was no taking, and that a



Court Restructuring plan as proposed by the Chief Judge

Developments in Ongoing Cases

New Cases, Controversies and Projects

California statute of limitations did not begin to run, until a government "option" (secured in connection with a building permit many years before) was exercised. *Certiorari* was denied. (*Cole as Trustee v. County of Santa Barbara, U.S. Supreme Court*)

The Foundation is counseling a charter school in the Bedford-Stuyvesant inner city neighborhood of New York in an effort to improve its administrative and management functions, so as to prevent it from being closed for financial irregularities. We continue to offer counsel to other charter schools in New York and New Jersey to enable them to offer effective alternatives to failing public schools.

ALF has undertaken a critical examination of the proposal by the Chief Judge of the New York Court of Appeals to restructure and consolidate New York's byzantine trial courts. The Office of Court Administration and the Chief Judge urge that the proposal will reduce or eliminate procedural confusion -- for example, currently litigants must resort to different courts to obtain full relief in domestic relations matters arising from the same facts -- and that the proposal will result in significant savings. Reports, studies and speeches addressing New York's needlessly complicated trial court structure over the past twenty-five years have argued that New York's antiquated trial court structure needs to be altered in a major way. Legislation proposed by the Chief Judge has been endorsed by a host of bar associations and civic groups, but is opposed by the New York State Supreme Court Justices' Association. ■

On behalf of the National Federation of Independent Business, ALF is challenging the EPA's lead reporting rule in federal district court in Washington, D.C. Discovery is nearly complete and dispositive motions are anticipated.

ALF's two reverse discrimination cases in New Jersey will soon be ready for dispositive motions.

In the United States Court of Appeals for the Ninth Circuit, ALF successfully challenged, on behalf of twenty distinguished scientists (including Nobel Prize winners in Medicine, Physics and Chemistry), the adoption of a scientifically flawed standard for proving causation in radiation exposure cases. ALF's brief was cited by the court, and the unsuccessful plaintiffs attributed the appellate court's stunning reversal to our brief.

The intermediate appellate court rejected the pay-day lending industry's challenge to the Illinois Department of Financial Institution's regulations covering short-term lending. ALF's brief

on behalf of the Community Financial Services Association of America argued that the industry provided a much-needed service not otherwise available from traditional lenders. Plaintiffs are seeking review in the Illinois Supreme Court.

ALF represented the New York Charter Schools Association as *amicus curiae* in an appeal testing the application of certain provisions of the General Municipal Law and Labor Law to charter school construction. The court affirmed the dismissal of the complaint on narrow grounds, avoiding the substantive arguments ALF and the charter school advanced.

2002 saw the end of the *Adarand* (reverse discrimination in government contracting) saga, at least for now, as the Supreme Court dismissed, as improvidently granted, the petition for *certiorari* sought by plaintiff on appeal from the Tenth Circuit. ALF had filed a brief on the merits in the latest proceeding in the U.S. Supreme Court. ■

Also Worth Noting

ALF Chairman Dan Fisk received the *Pro Bono* and Community Service Corporate Counsel of the Year Award from the Southern California Chapter of the American Corporate Counsel Association. Mr. Fisk directed the \$10,000 award to ALF.

ALF Director Jeff Kindler received the Stephen E. Banner Award from the Lawyers Division of UJA - Federation of New York.

ALF salutes William Lytton in his new position as Executive Vice President and General Counsel of Tyco International Ltd. Mr. Lytton had been Senior Vice President and General Counsel of International Paper Company.

ALF's comprehensive website (www.atlanticlegal.org) is updated frequently. ALF's many appellate briefs are available on-line. The Mold/Sound Science page offers a thorough review of the current scientific and legal authorities dealing with the health effects of indoor exposure to mold.

Back issues of ALF's *Science in the Courtroom Review* are available by contacting the Foundation. Volume 2, Number 1 contains Henry Sorett's popular article "Junk Science in the States - The Battle Lines," a state-by-state survey of rules governing the admission of expert testimony. ■

Annual Award Dinner

On June 26, 2002, several hundred ALF supporters gathered to salute Dr. Henry A. "Hank" McKinnell, Jr., Chairman and CEO of Pfizer Inc, the fifteenth recipient of the Foundation's annual award. First awarded in 1988, the award has honored a person who exemplifies the ideals and principles of public service and private enterprise.

ALF Chairman Dan Fisk presented the award to Dr. McKinnell, who responded with an incisive analysis of



Left to right: ALF President Bill Slattery, Pfizer Chairman and CEO Hank McKinnell and Pfizer SVP and General Counsel Jeff Kindler

the pharmaceutical industry's place among government payers, patients' interests and the rule of law. In his remarks, Dr. McKinnell congratulated ALF for its work in tort reform, "particularly in fighting the menace of junk science in our nation's courtrooms," adding that "jackpot justice... affects the projects we choose to pursue, the medicines we can afford to research and the patients waiting for new cures."

Previous recipients of ALF's annual award are: the **Hon. William S. Cohen**, former Secretary of Defense (2001); **Norman R. Augustine**, retired Chairman and CEO, Lockheed Martin Corporation (2000); **General P. X. Kelley**, former Commandant of the Marine Corps (1999); the **Hon. Rudolph Giuliani**, Mayor of New York City (1998);

"jackpot justice... affects the projects we choose to pursue, the medicines we can afford to research and the patients waiting for new cures."

the **Hon. Donald Rumsfeld**, former (and current) Secretary of Defense (1997); **Bruce Atwater**, retired Chairman and CEO of General Mills, Inc. (1996); **Alfred C. DeCrane, Jr.**, Chairman and CEO of Texaco Inc. (1995); **Malcolm S. Forbes, Jr.**, President and CEO, Forbes, Inc. (1994); **Ambassador Carla Anderson Hills**, United States Trade Representative (1993); **Paul H. Henson**, retired Chairman and CEO of Sprint Corp. (1992); **Walter B. Wriston**, retired Chairman and CEO of Citicorp (1991); **Irving S. Shapiro**, retired Chairman and CEO of DuPont (1990); **Edmund T. Pratt, Jr.**, Chairman and CEO, Pfizer Inc (1989); and **William E. Simon**, former Secretary of the Treasury (1988). ■

Professor John Coffee and Richard Wiley Discuss Developments

ALF board members, advisors and their guests were privileged to hear two national authorities discuss

important developments in their fields at meetings in March and October, 2002.

Columbia Law School Professor John Coffee spoke to ALF's New York gathering in March, 2002 as the Enron and other corporate scandals erupted.

Professor Coffee has long been a respected commentator on the design and use of the securities laws. He discussed the need for new legislation to impose discipline and transparency on corporate governance and the securities markets.

Richard Wiley, former Chair of the Federal Communications Commission and founding partner of



Richard Wiley of Wiley, Rein & Fielding flanked by ALF Director and Treasurer Steve Harmelin and ALF Chairman Dan Fisk Washington, D.C., October 2002

the Washington, D.C. law firm Wiley, Rein & Fielding, spoke at ALF's October meeting in Washington on the future of telecommunications. ■



Columbia Law School Professor John C. Coffee, Jr. speaking to ALF's March dinner

ALF'S PRINCIPAL SUPPORTERS - 2002*

CORPORATIONS

Abbott Laboratories
Alcoa Inc.
Computer Sciences Corporation
Consolidated Edison Company of
New York
E. I. du Pont de Nemours and Company
Eastman Kodak Company
Exxon Mobil Corporation
General Motors Corporation
International Paper Company
Johnson & Johnson
Lockheed Martin Corporation
Morrow & Co., Inc
New Jersey Business & Industry
Association
Occidental Petroleum Corporation
Pfizer Inc
Public Service Electric and Gas Company
Rockwell Automation, Inc.
Spherion Deposition Services
Unilever United States, Inc.
Unocal Corporation
United States Steel Corporation
Wyeth

FOUNDATIONS

Anonymous (2)
Robert Wood Johnson Foundation
Kinder Foundation
F.M. Kirby Foundation, Inc.
Claude R. Lambe Charitable Foundation
Sarah Scaife Foundation, Inc.
The Pumpkin Foundation, at the request of
Joseph H. and Carol F. Reich
Vecellio Foundation

LAW FIRMS

Anderson Kill & Olick, P.C.
Arnold & Porter
Bressler Amery & Ross, P.C.

Cadwalader, Wickersham & Taft
Conley, Rose & Tayon
Cooper & Dunham LLP
Covington & Burling
Davis Polk & Wardwell
Dilworth Paxson LLP
Epstein Becker & Green, P.C.
Fitzpatrick, Cella, Harper & Scinto
Fried, Frank, Harris, Schriver & Jacobson
Gibson Dunn & Crutcher LLP
Griesinger, Walsh & Maffei LLP
Grotta Glassman & Hoffman, P.A.
Hale and Dorr LLP
Haynsworth Sinkler Boyd, P.A.
Jackson Lewis LLP
Kaye Scholer LLP
Latham & Watkins
McCarter & English
McDermott, Will & Emery
Mitchell Silberberg Knupp LLP
Nelson Mullins Riley & Scarborough, LLP
O'Donnell & Schaeffer LLP
Piper Rudnick LLP
Ross & Hardies
Rubin & Rubin, Chartered
Shook, Hardy & Bacon L.L.P.
Sidley Austin Brown & Wood
Sills Cummis Radin Tischman Epstein
& Gross, P.A.
Swidler Berlin Shereff Friedman, LLP
Thacher Proffitt & Wood
The Feinberg Group, LLP

INDIVIDUALS

Daniel Allred
W. Gordon Binns, Jr.
Francis B. Burch, Jr.
Henry N. Butler
William J. Calise, Jr.
Vincent DeLisi

Arthur Fergenson
Hayward D. Fisk
George Frazza
William Graham
Thor Halvorsen
Kenneth J. Hanau
Nat Handel
Stephen J. Harmelin
Robert Juceam
Roger Kaplan
Quentin Kennedy
Jeffrey B. Kindler
Alexandra D. Korry
Edwin Lewis
William Lytton
Susan L. Meade
Arden Melick
Sam Scott Miller
Michael Minter
Robert Nau
Rodney Nichols
Walter Olson
Hamilton Osborne, Jr.
Edmund T. Pratt, Jr.
William G. Primps
Paul Rooney
Frederick Seitz
Philip R. Sellinger
R. Edwin Selover
Barry H. Smith
Clifford Storms
S. Maynard Turk
Mr. and Mrs. Stephen Unfried
Mr. and Mrs. Charles Urstadt
Gary Van Graafeiland
Stephen T. Whelan
Richard Wilson
Charles R. Work
James I. Wyer
George M. Yeager

* Includes Annual Award Dinner supporters.

Atlantic Legal Foundation, Inc. is a nonprofit public interest legal foundation whose mission is to advance the rule of law by advocating limited, effective government, free enterprise, individual liberty and sound science. It is a Section 501 (c)(3) organization and contributions are tax deductible. The foundation charges no fees for the services it renders. Your contributions will be used to help support the Foundation's mission.

The Foundation is supported by grants from philanthropic foundations, contributions from corporations and donations from individuals.

Contributions may be mailed to: **Atlantic Legal Foundation,**
150 East 42nd Street
New York, NY 10017
(212) 573-1960
(212) 857-3653 (fax)



Board of Directors

Francis B. Burch, Jr., Esq.

Co-Chairman
Piper Rudnick LLP

William J. Calise, Jr., Esq.

*Senior Vice President,
General Counsel and Secretary*
Rockwell Automation

Hayward D. Fisk, Esq.

Chairman, ALF
Vice President, General Counsel and Secretary
Computer Sciences Corporation

Douglas Foster, Esq.

Vice Chairman
Atlantic Legal Foundation

George S. Frazza, Esq.

Of Counsel
Patterson, Belknap, Webb & Tyler LLP

William H. Graham, Esq.

*Senior Vice President,
General Counsel and Secretary*
Bethlehem Steel Corporation

Stephen J. Harmelin, Esq.

Treasurer, ALF
Managing Partner
Dilworth Paxson LLP

Henry H. Hopkins, Esq.

*Vice President and
Chief Legal Counsel*
T. Rowe Price Associates, Inc.

Ernest B. Hueter

President
National Legal Center
for the Public Interest

Quentin J. Kennedy, Esq.

Executive Vice President (Ret.)
Federal Paper Board Co., Inc.

Jeffrey B. Kindler, Esq.

Senior Vice President and General Counsel
Pfizer Inc

Edwin L. Lewis, Esq.

Vice President and General Counsel
American Science & Engineering, Inc.

William B. Lytton, Esq.

Executive Vice President and General Counsel
Tyco International Ltd.

Philip R. Sellinger, Esq.

Managing Shareholder
Greenberg Traurig, LLP

William H. Slattery, Esq.,

President
Atlantic Legal Foundation

Clifford B. Storms, Esq.

*Senior Vice President
and General Counsel (Ret.)*
CPC International

S. Maynard Turk, Esq.

Of Counsel
Stewart & Associates

Stephen T. Whelan, Esq.

Partner
Thacher Proffitt & Wood

Charles R. Work, Esq.

Secretary, ALF
Head, Litigation Department
McDermott, Will & Emery

James I. Wyer, Esq.

Of Counsel
St. John & Wayne, L.L.C.

Director Emeritus

Hon. Stanley H. Fuld

*Chief Judge of New York State
and of the Court of Appeals (Ret.)*

Advisory Council

Henry N. Butler, Esq., Ph.D.

*The Argyros School of Business
and Economics*
Chapman University

Arthur F. Ferguson, Esq.

Partner
Piper Rudnick LLP

Alfred L. Ferguson, Esq.

Of Counsel
McCarter & English

Ronald E. Gots, M.D., Ph.D.

Managing Principal
International Center for Toxicology
and Medicine

Thor L. Halvorsen

Executive Director
Foundation for Individual
Rights in Education, Inc.

Dr. Ronald Hart

Director Emeritus
National Center for
Toxicological Research

Robert E. Juceam, Esq.

Partner
Fried, Frank, Harris, Shriver & Jacobson

Roger S. Kaplan, Esq.

Partner
Jackson Lewis LLP

John D. McMahon, Esq.

*Senior Vice President
and General Counsel*
Consolidated Edison, Inc.

Susan L. Meade

Senior Vice President
Government Affairs
JPMorganChase & Co.

Arden Davis Melick

Vice President Public Affairs (Ret.)
KeySpan Energy

Dr. A. Alan Moghissi

President
Institute for Regulatory Science

Professor Charles W. Mooney, Jr.

University of Pennsylvania Law School

Mr. Rodney W. Nichols

Former President and Chief Executive Officer
New York Academy of Sciences

Mr. Walter K. Olson

Senior Fellow
Center for Legal Policy at the
Manhattan Institute

Hamilton Osborne, Jr., Esq.

Partner
Haynsworth Sinkler Boyd, P.A.

William G. Primps, Esq.

Partner
LeBoeuf, Lamb, Greene & MacRae LLP

Alan Charles Raul, Esq.

Partner
Sidley Austin Brown & Wood

Paul C. Rooney, Jr., Esq.

Partner (Ret.)
White & Case, LLP

Sally Satel, M.D.

American Enterprise Institute

Dr. Frederick Seitz

President Emeritus
The Rockefeller University

R. Edwin Selover, Esq.

Senior Vice President and General Counsel
Public Service Electric & Gas Co.

Barry H. Smith, M.D., Ph.D.

Senior Vice President
The Rogosin Institute

Dr. A. F. Spilhaus

Executive Director
American Geophysical Union

Professor Richard Wilson

Department of Physics
Harvard University

Advisor Emeritus

Lee Loevinger, Esq.

Of Counsel
Hogan & Hartson

Other Officers

Martin S. Kaufman, Esq.

Senior Vice President and General Counsel

Briscoe R. Smith, Esq.

Senior Vice President and Counsel

** Board and Council members are as of
December 31, 2002*