

# ATLANTIC LEGAL FOUNDATION 2020 ANNUAL REPORT



## THE YEAR IN REVIEW

*The Atlantic Legal Foundation (“ALF”) progresses into its 44th year in 2021 in pursuit of its mission to foster sound science in judicial and regulatory proceedings; promote parental school choice and the effective education of our next generation of Americans; assure enlightened corporate governance; and uphold the rule of law under our Constitution by advocating limited and efficient government, individual liberty and free enterprise. In pursuing its Mission as fully stated at page 47 following, Atlantic Legal is well established as the leading organization in America for fostering justice through sound science in judicial and regulatory proceedings. While diligent in pursuing all of its Mission objectives, ALF especially recognizes today’s crying need for promoting and assuring the historically sound education of our youth. This need has become compelling in light of failing schools with educational deficiencies attributable to coronavirus constraints and the controversy surrounding the 1619 Project’s indoctrination of our youth followed by the recent abolishment of the 1776 Commission formed to promote American Founding Values.*

*The President's Advisory 1776 Commission Report was released in January of 2021 and is posted on the Atlantic Legal Foundation's website. These concerns are paramount for patriotic Americans. See the sections on Effective Education and Charter School Advocacy at pages 17 and 23 following.*

*2020 was a trying time for us all. Atlantic Legal was challenged in 2020 by the coronavirus constraints preventing its annual fundraising Awards Dinner for 2019 in the spring of 2020 and again this spring of 2021 for 2020, as well as by the year-end retirement of its long time Executive Vice President -- General Counsel, **Martin S. Kaufman**, after 33+ years of devoted, exemplary service. We managed to survive and thrive, notwithstanding. See pages 7-9 for a fitting tribute to Marty Kaufman and pages 10-13 for the introduction of his successor, **Lawrence S. Ebner**. Larry joined us in August of 2020 and has maintained ALF's tradition of productive excellence in appellate work going forward with the help of **Nishani D. Naidoo** who joined our staff as Vice President - Associate General Counsel late in 2019 as reported at pages 38 & 39 of ALF's 2019 Annual Report, accessible on ALF's website, or upon request. With Larry Ebner's joining Atlantic Legal's leadership team in 2020, ALF now has a Washington D.C. office at 1701 Pennsylvania Ave., NW, Suite 200, Washington D.C. 20006, in addition to ALF's office at 500 Mamaroneck Ave., Suite 320 in Harrison, NY 10528 and the Chairman's office at StoneBridge in Bel Air, 1527 Stone Canyon Road, Los Angeles, CA 90077.*

*Atlantic Legal Foundation's advocacy in 2020 included the submission of persuasive professional briefs and other filings in furtherance of sound science, free enterprise and civil justice. See **In the Courts** at page 14 and ALF's website, [AtlanticLegal.org](http://AtlanticLegal.org), for more detail respecting ALF's 2020 filings, its current filings and its filings over many years before the US Supreme Court, federal courts of appeal, and state appellate courts.*

*In 2020, we initiated a major project to overhaul and update the Foundation's website. This project is ongoing and continuing into 2021. It is expected to be completed by June. Among other improvements, ALF's substantial library of briefs filed over many years is being archived for easy access on the website.*

*We have continued our work to promote the effective education of our young students on behalf of charter schools with distribution of our "**Leveling the Playing Field**" series of*



*state specific guides for charter school leaders. Uncertainty in the law pending possible federal preemption of state regulation caused Atlantic Legal to temporarily postpone the updating and publication of new editions of state specific guides. These uncertainties were resolved in early 2020 as reported extensively at pages 9 through 12 in Atlantic Legal's 2019 Annual Report, which is easily accessible on ALF's website and reprinted at pages 23-26 following for your convenience, preceded by a current preamble on "Effective Education of our Next Generation(s) of Americans" at pages 17-22. The latest edition of ALF's Leveling the Playing Field Guide for charter school leaders in New York is in process and expected to be published and distributed later in 2021. The 3rd edition of ALF's guide for charter school leaders in California was printed and distributed in June of 2017 with high praise from the California Charter Schools Association.*

*Unfortunately, government restrictions imposed to mitigate further coronavirus contagion has prevented Atlantic Legal from holding an Awards Dinner to recognize another great American early in 2021 for 2020. See pages 40-41 for Atlantic Legal Foundation's distinguished list of annual Honorees over the past 30 plus years. We are hopeful conditions will allow a deferred Awards Dinner late in 2021 or early 2022. In the meantime, we are republishing the remarks of our Foundation's 2017 Award Honoree -- philanthropist, entrepreneur, global merchant banker and servant leader, Richard J Stephenson, the founder and Chairman of Cancer Treatment Centers of America® -- on "Entrepreneurship . . . " at a time when this subject is so critical for those enterprising Americans emerging from the constraints of the coronavirus and facing the challenges of rebuilding their lives and businesses. See page 27 for his introduction and timely, inspiring remarks following.*

*In late 2018, as reported and pictured in our Annual Reports for 2018 and 2019, we elected or appointed 9 distinguished professionals to our leadership team including 5 Directors and 4 Advisory Council Members. In January of 2020, we appointed **John M. Kalas**, Partner of Hollingsworth LLP to our Advisory Council. John's photo and more complete bio are set forth at page 42 following.*

*For the past six years, **Cheri Mazza**, PhD, CPA, ABV, CVA, CFF, MAFF, Partner of PKF O'Connor Davies, LLP has diligently and dependably served the Atlantic Legal Foundation with distinction as ALF's Accounting Manager. In 2020, she was especially*

*helpful in successfully processing a PPP application providing \$28,000 in much needed financial relief for ALF for which our leadership team is especially grateful. Cheri's photo and bio are presented with our thanks at page 43 following.*

*Atlantic Legal's distinguished Board of Directors and Advisory Council (introduced at pages 44-45 following and presented on ALF's website) remain convinced that our legal system continues to need the effective, responsible, objective, and vigorous advocacy the Foundation has provided for over 43 years. The need has been exacerbated by ongoing challenges to the rule of law and our Constitution, and by the disruption and compromises thrust upon our Republic by the pandemic and related governmental actions. We are especially grateful for the loyal support of our contributors, leadership and staff, enabling the Foundation to continue its important work during these critical times. Because of you and your continuing support, we will continue to make a difference for the betterment of America. Thank you so very much . . .*



A black ink signature of Dan Fisk, written in a cursive style.

**Dan Fisk**  
**Chairman & President**



A black ink signature of Larry Ebner, written in a cursive style.

**Larry Ebner**  
**Executive Vice President & General Counsel**

# Contents

<b>The Year in Review .....</b>	<b>Page 1</b>	<b>Introduction by Timothy E. Flanigan .....</b>	<b>Page 30</b>
<b>Executive Summary .....</b>	<b>Page 5</b>	<b>Remarks By Richard J Stephenson .....</b>	<b>Page 32</b>
<b>Martin S. Kaufman Tribute .....</b>	<b>Page 7</b>	<b>Annual Award Recipients 1988-2020 .....</b>	<b>Page 40</b>
<b>Lawrence S. Ebner Introduction .....</b>	<b>Page 10</b>	<b>New Advisory Council Member in Early 2020</b>	
<b>In The Courts .....</b>	<b>Page 14</b>	<b>John M. Kalas .....</b>	<b>Page 42</b>
<b>Effective Education .....</b>	<b>Page 17</b>	<b>Bio of Cheri R. Mazza .....</b>	<b>Page 43</b>
<b>Charter School Advocacy.....</b>	<b>Page 23</b>	<b>Board of Directors .....</b>	<b>Page 44</b>
<b>Annual Award Dinner .....</b>	<b>Page 27</b>	<b>Advisory Council .....</b>	<b>Page 45</b>
<b>Bio of Richard J Stephenson</b>		<b>Atlantic Legal Foundation 2019/2020 Supporters...</b>	<b>Page 46</b>
<b>2017 Annual Award Honoree .....</b>	<b>Page 28</b>	<b>Atlantic Legal Foundation</b>	
<b>Bio of Timothy E. Flanigan, ESQ .....</b>	<b>Page 29</b>	<b>Mission and Programs .....</b>	<b>Page 47</b>

## EXECUTIVE SUMMARY

### About Atlantic Legal Foundation

- Atlantic Legal Foundation has been defending liberty for over 43 years, since its establishment in 1977.
- Atlantic Legal Foundation is a nonprofit, nonpartisan public interest law firm with a storied history of advocating for individual liberty, free enterprise, property rights, limited and efficient government, sound science in the courtroom, and school choice.
- With the benefit of guidance from the legal scholars, corporate legal officers, private practitioners, business executives, and prominent scientists who serve on its Board of Directors and Advisory Council, the Foundation pursues its mission primarily by participating as amicus curiae in carefully selected appeals in the Supreme Court of the United States, federal courts of appeals, and state appellate courts. The Foundation also has provided pro bono legal representation, without fee, to business organizations, scientists, parents, educators and other individuals, in cases that align with its mission areas.

### Constitutional Issues

Through its renowned amicus program, Atlantic Legal Foundation advocates for the rule of law and strict adherence to the Constitution's Bill of Rights, separation of powers, and principles of limited government and federalism, as well as for judicial conservatism, impartiality, and civil justice.

### Sound Science

Atlantic Legal is the nation's preeminent public interest law firm advocating for the admissibility of sound medical and expert testimony in toxic tort, product liability and other litigation. Atlantic Legal fights the admissibility of "junk" science, and fosters the use of sound science principles in judicial and regulatory proceedings. Our amicus briefs



on behalf of several Nobel Laureates and numerous other prominent scientists were cited and relied on by the majority in the landmark Daubert trilogy of U. S. Supreme Court cases.

## Corporate Issues

Atlantic Legal advocates for responsible corporate governance and against intrusive regulation of business. The Foundation was an early and vigorous proponent of preservation of the attorney-client privilege against compulsory waiver of that essential protection where corporate misconduct has been asserted. It has challenged abuse of class action procedures and has strongly advocated for the enforcement of arbitration agreements.

## School Choice

Atlantic Legal supports parental school choice. Its work in this area is focused on supporting charter schools. A major part of this effort is publishing a series of state law guides, written by nationally known labor law attorneys, to educate charter school leaders about what they need to know to deal with efforts by public employee unions to burden charter schools with intrusive union work rules that stifle innovation.

The Foundation also provides legal counsel for charter schools and charter school advocates at no cost.

## Position Papers and Conferences

Atlantic Legal publishes papers on legal issues of public concern, such as: inadequate judicial compensation and its impact on the New York economy, the need for a restructuring of New York's court system, correcting weaknesses in law school curricula, and the need for and benefits of parental choice in K through 12 education. Of note, we have published a series of state-specific guides for charter school leaders entitled "*Leveling the Playing Field: What Charter School Leaders Need to Know About Union Organizing.*"

The Foundation sponsors conferences on topics of importance to the business and legal communities, such as: Science and Public Policy Implications of the Health Effects of Electromagnetic Fields; the Attorney-Client Privilege – Erosion, Ethics, Problems and Solutions; Corporate Litigation – How to Reduce Corporate Litigation Costs and Still Win Your Case.



## Thirty-Three Years Veteran General Counsel Martin S. Kaufman Retires As Executive Vice President Atlantic Legal Foundation On December 31, 2020



Martin S. Kaufman was born in the Bronx, New York, and grew up in a low-income, labor union-sponsored housing project. He attended New York City public schools, including the highly selective Bronx High School of Science, from which he graduated in three years at the age of 16.

He then went to Columbia College in New York City on scholarship where he majored in history, with a concentration in Russian and East European history, and minored in chemistry, graduating in three years. He also worked part-time in laboratories, developing heat-resistant electronic components for the U.S. Space Program.

Kaufman completed his undergraduate studies and, at age 19, matriculated at Columbia Law School on a full scholarship. He developed an interest in international law and was Articles Editor of The Columbia Journal of Transnational Law. He was one of two members of the law school's championship Jessup International Law Moot Court Competition team. He was awarded a Ford Foundation grant to study international law at The Hague Academy of International Law during the summer between his second and third years. Kaufman was a Harlan Fiske Stone Scholar at Columbia Law School. He, together with other editors of the Journal of Transnational Law, also wrote the first ever section on international law for the "Blue Book."

Upon graduation from law school, Kaufman returned to The Hague Academy to sit for the diploma exam, having not been permitted to sit the first time because he had not yet earned his law degree. He was one of only five candidates who were awarded the diploma that year. He also became a research associate at the law school, assisting three professors in writing a new casebook on international law. Earlier, he earned a masters degree in International Relations, which enhanced his perspective in contributing to the casebook.

Kaufman started his professional career as an associate at Cahill, Gordon, Sonett, Reindel and Ohl, a “Wall Street” firm noted for its litigation practice. During that time he worked on antitrust, securities, and other cases, including The New York Times “Pentagon Papers” case.

Kaufman then moved on to Lovejoy, Wasson and Ashton, which had a significant international law practice in addition to the usual panoply of commercial litigation. Among his cases he handled several for the government of Switzerland and the Swiss Judiciary. In 1977 Kaufman took a leave of absence from the firm to become Deputy Assistant General Counsel of the newly-created U.S. Department of Energy. In that position he represented the United States in numerous bilateral and multilateral meetings and negotiations with other oil-consuming nations and oil-exporting nations. He then returned to become a partner in the firm.

Kaufman joined the Atlantic Legal Foundation as General Counsel in 1987, attracted by the important public policy issues the Foundation’s cases address. He has handled cases involving antitrust law, discrimination, securities law, separation of powers, the Supremacy Clause, and arbitration. ALF Director and retired President, Bill Slattery, who served Atlantic Legal with distinction, and worked closely with Marty Kaufman, said: “Marty was an absolutely wonderful colleague for the 15 years I was at Atlantic Legal. He was a superb lawyer, singularly focused on the Foundation’s mission. As important, he was an individual of great integrity, a skilled mentor for our legal interns, and thoroughly devoted to his fine family. It was my great good fortune to have known and worked with him for so many years.”

Longtime Chairman and current President, Dan Fisk, echoed Bill’s kind words for Marty and added four more which capture the essence of Marty’s thirty-three years of service to ALF and its mission, and reflect the Board & Council’s characterization of the man: “brilliant...dedicated...productive...articulate!”

Among the most gratifying cases Kaufman has briefed during his time at the Foundation are the “Daubert Trilogy” which established the criteria for admissibility of expert testimony in federal court. The “Daubert Trilogy” has also influenced the approach to expert evidence in the more than 30 state courts which model their rules of evidence on the federal code. Thanks to



Kaufman working closely with the late Richard Wilson, Mallinkrodt Professor of Physics at Harvard University, and a cadre of prominent scientists, including two dozen Nobel Laureates, the Foundation's amicus briefs in the U.S. Supreme Court, federal appellate courts, and state supreme courts have had significant impact, aligning courts' analyses more closely with scientific principles.

Kaufman and his wife of almost 53 years, Millicent, have three children: David, a physician, currently Director of the Medical Intensive Care Unit at NYU-Langone Medical Center and Assistant Professor, Department of Medicine at NYU Grossman School of Medicine; Andrew, a surgeon, currently Vice Chairman of Mount Sinai's Department of Thoracic Surgery and Associate Professor at Icahn School of Medicine at Mount Sinai; and Kristina, until recently, Assistant Director of Exhibitions and Public Programs at Parsons School of Design at The New School. Marty is also proud of his five terrific grandchildren.

The Leadership team of the Atlantic Legal Foundation including past and current directors, officers, council members and staff (and most especially long retired President Doug Foster who recruited Marty) extends its most sincere best wishes to Martin & Millicent for many wonderful years of well earned retirement and pleasant times with their fine family!

*Marty & Millie Kaufman can be reached at their home:*

*322 Heathcote Road*

*Scarsdale, NY 10583*

*(914) 472-2356*

*Millicent.Kaufman@gmail.com*





## Accomplished Appellate Advocate Lawrence S. Ebner Now Serving As Atlantic Legal Foundation's Executive Vice President and General Counsel

*Midway through 2020, after more than 33 years of exemplary service to the Atlantic Legal Foundation, Marty Kaufman retired as General Counsel. Chairman and President Dan Fisk, with the enthusiastic support of the Board of Directors, recruited distinguished Washington, D.C.-based appellate specialist Larry Ebner to succeed Marty in this crucial role. When announcing Larry's election by the Board, Dan commented that Atlantic Legal "is delighted that a skilled and experienced appellate advocate of Larry's caliber will be leading the Foundation's amicus program, including serving as the primary author of its amicus briefs." At our request, Larry has written the following biographical sketch for this Annual Report:*

I am thrilled that the Atlantic Legal Foundation has selected me to serve as its new Executive Vice President and General Counsel, and to open its first Washington, D.C. office. In this important role I am able to use my half-century of litigation knowledge, experience, and skills to help carry out the Foundation's mission, particularly by leading its renowned nationwide amicus curiae program. Atlantic Legal's steadfast advocacy of the rule of law through strict adherence to the Constitution's Bill of Rights, separation of powers, and principles of limited government and federalism, and its advocacy of judicial conservatism, impartiality, and civil justice, parallels my own long-held beliefs.

While an undergraduate at Dartmouth College during the politically turbulent 1960s, I served as chair of the New England College Republican Federation and volunteered for congressional candidates in my home state of New Jersey. Soon after entering Harvard Law School in the Fall of 1969, however, I realized that the legal profession, at least for me, is much more intellectually satisfying than the rough and tumble of partisan politics.

Following graduation from law school in 1972 (Executive Committee member Jay Stephens is one of my Harvard Law School classmates!), and newly married, I moved to Washington, D.C., where I had been selected to serve as an Honors Program attorney in the Civil Division of the U.S. Department of Justice. That career-launching position taught me how the Executive Branch is organized and operates, and also, how to research and write effective legal briefs.

Two years later, I joined a small, Washington, D.C. law firm that specialized in government contracts and the then-fledgling area of environmental law. During the next 42 years I practiced law at that firm, which through mergers and acquisitions somehow evolved into the world's largest. During my career's early years, when I advised and represented numerous pesticide producers whose heavily regulated products continually were attacked (and still are attacked) by environmental activists, I began to appreciate the critical need for sound science in regulatory and judicial proceedings. My overarching professional passion, however, long has been appellate advocacy, which enables me to do what I enjoy most as an attorney: analyzing complex legal issues, strategizing and authoring persuasive legal briefs, and whenever possible, presenting oral arguments before appellate courts. I am proud to say that I have specialized in appellate litigation on behalf of businesses and industries for more than 30



years, and established and led my former firm's appellate practice group for almost two decades.

In 2016 I decided that I could better serve clients, and more readily commit substantial time to professional writing and speaking, by departing "Big Law" and launching my own, nationwide, appellate litigation boutique firm, Capital Appellate Advocacy PLLC. Shortly after taking the leap into solo practice, I was honored to be inducted as a Fellow of the highly selective American Academy of Appellate Lawyers. For many years I also have devoted much pro bono time to DRI—The Voice of the Defense Bar, whose 18,000 members are civil litigation attorneys who represent businesses and industries. I currently serve DRI as Vice Chair of its much-lauded Center for Law and Public Policy, Immediate Past Chair of the DRI Amicus Committee, and Immediate Past Publications Chair of DRI's Appellate Advocacy Committee. Thomson Reuters also has honored me through inclusion on its appellate "Super Lawyers" list for the past three years—one of only several Washington, D.C.-based solo practitioners to receive that sought-after professional designation.

When I have free time, I enjoy traveling with my wife Barbara, and visiting our two daughters, their husbands, and our four grandchildren.

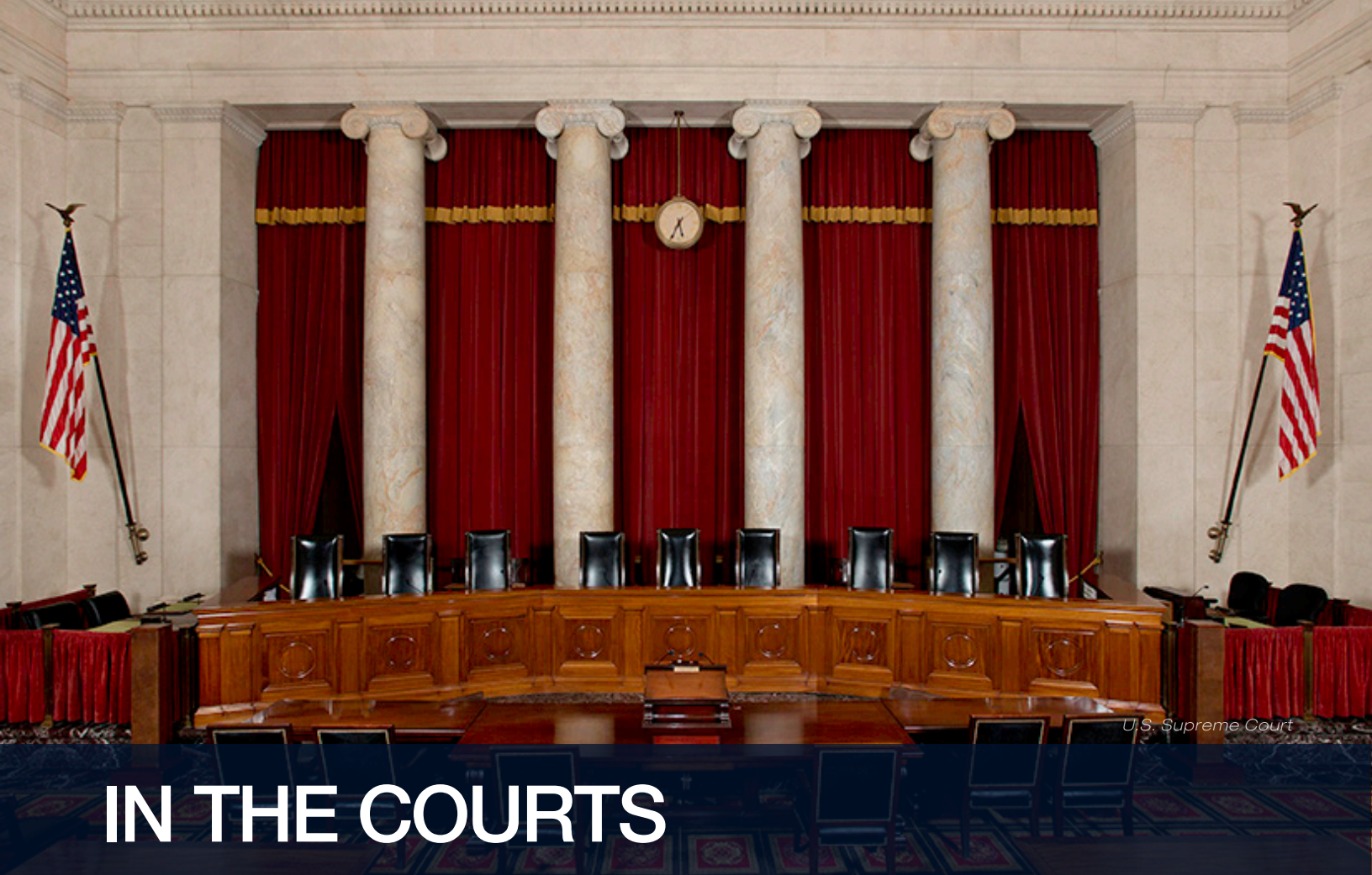
In July 2020, when I was contacted by Atlantic Legal Foundation Executive Committee member Joe Hollingsworth—whom I have known and admired since we were associates at the same small law firm more than 45 years ago—I jumped at the opportunity to succeed the venerable Marty Kaufman as the attorney responsible for steering and implementing the Foundation's amicus program. Needless to say, this has been an extraordinary professional opportunity, indeed, a true capstone for my legal career.

I have thoroughly enjoyed, and benefitted from, interacting with Dan Fisk on a daily basis. Dan's appreciation for the rule of law and the principles on which the Foundation stands, his expansive knowledge of so many legal subjects and of the Foundation's institutional history, his savvy practical advice, his interest in working with me to upgrade the Foundation's website as an informational resource for attorneys, policy makers, and the public, and his engaging personality, not only make Dan a terrific colleague, but also an attorney and friend whom I wish I had met decades sooner. I also have greatly appreciated

the warm welcome and helpful support that I have received from so many distinguished Board of Directors and Advisory Council members, as well as Associate General Counsel Nishani Naidoo, Administrative Assistant Tee Cirillo, and Cheri Mazza, Atlantic Legal's CPA Accounting Manager.

I look forward to representing the Atlantic Legal Foundation in the Supreme Court, federal courts of appeals, and state appellate courts, and working with its supporters, for many years to come.





U.S. Supreme Court

## IN THE COURTS

The Atlantic Legal Foundation is one of the nation’s most respected and prolific filers of amicus curiae (“friend of the court”) briefs in the Supreme Court, federal courts of appeals, and state appellate courts. Because of the high quality of our legal briefs, appellate counsel throughout the United States frequently seek Atlantic Legal Foundation amicus support. We also continuously monitor judicial developments to identify amicus brief candidate cases that implicate civil justice and the rule of law in one or more of our mission areas—individual liberty, free enterprise, property rights, limited government, sound science, and school choice.

As discussed elsewhere in this Annual Report (p. 2), during 2020 Atlantic Legal transitioned the position of Executive Vice President and General Counsel from Marty Kaufman to Larry Ebner, both highly knowledgeable, experienced, and skilled appellate attorneys. Larry now has assumed primary responsibility for all aspects of Atlantic Legal’s amicus curiae program, including the drafting of our amicus briefs. He is ably assisted by Associate General Counsel Nish Naidoo, and closely coordinates his amicus activities with Chairman and President Dan Fisk, who engages ALF’s distinguished Board of Directors and Advisory Council, or the Board’s Executive Committee, as appropriate.



Our amicus filings during 2020 covered many of Atlantic Legal Foundation’s mission areas:

## Sound Science

We continued Atlantic Legal’s long tradition of advocating for civil justice through sound science in the courtroom and regulatory proceedings. In a case that the Supreme Court agreed to hear, we filed an amicus brief arguing that federal courts, not state courts, are the appropriate forum for determining whether climate change damages suits brought by state or local governments against fossil fuel energy companies are justiciable, and if so, supplanted by federal law. We filed a certiorari petition-stage amicus brief in a case arguing that the “precautionary principle” is not a substitute for expert scientific testimony in a constitutional challenge to onerous land-use regulations purporting to protect Puget Sound’s shoreline ecology.

As amicus curiae at the state-court level, we urged the California Supreme Court to review an adverse decision holding that federal law does not preempt personal injury litigation alleging that the manufacturer of Roundup® failed to warn of a link between that widely used herbicide and cancer even though the U.S. Environmental Protection Agency unequivocally determined that any such warning would be false and misleading. We also requested the California Supreme Court to “depublish” a lower court ruling which—contrary to the findings of California’s own panel of independent scientific experts—upheld a state-agency’s listing of bisphenol A (“BPA”), a chemical used in food and beverage packaging, as a reproductive toxicant under California’s Proposition 65 warn-the-public-about-almost-every-chemical law.

## Free Enterprise and Civil Justice

In the federal class-action arena, Atlantic Legal filed an amicus brief supporting a certiorari petition requesting the Supreme Court to hold that out-of-state members of a putative class are subject to the principles of “specific personal jurisdiction” applied by the Court in *Bristol-Myers Squibb v. Superior Court of California* (2017), a landmark consumer “mass-action” case in which we participated as amicus curiae. We also filed a petition-stage amicus brief urging the Supreme Court to hold that judicial review of constitutional challenges to the structure of Securities and Exchange Commission (SEC) administrative enforcement proceedings cannot be meaningful if a corporate or individual

respondent is required to endure the crippling litigation costs, disruptive burdens, and reputational harms, and suffer the financial penalties and professional sanctions, imposed by such tilted, SEC-friendly proceedings before having the right to go to court. Also, we are preparing to file a Ninth Circuit amicus brief on a similar issue involving the FTC.

## The Mission Continues

Atlantic Legal Foundation's pipeline of amicus support requests and filings remains strong, including, as usual, during the first quarter.

For example, early in 2020 we filed a Supreme Court petition-stage amicus brief in a case challenging, on First Amendment grounds, mandatory bar association dues used in part to fund political advocacy. In another early-2020 petition-stage amicus brief, ALF urged the Court to reinforce the Federal Arbitration Act's supremacy over state law that purports to invalidate contractual agreements to arbitrate business and employment disputes.

Similarly, despite the pandemic, ALF's 2021 amicus brief activity is off to a robust start. We filed a petition-stage amicus brief in a case involving the right of an individual to protect his personal likeness from misappropriation and exploitation by a video game company that claims First Amendment entitlement to use cutting-edge digital technology for the purpose of engaging in such commercial activity. We also decided to file an amicus brief urging the Supreme Court to review the fairness of a widely publicized, multi-billion dollar judgment rendered against Johnson & Johnson in talcum powder-related ovarian cancer product liability litigation that was brought jointly by numerous, disparate, out-of-state plaintiffs in a notoriously plaintiff-friendly St. Louis state trial court. And having represented the National Association of Manufacturers in a 2019 amicus brief supporting a successful certiorari petition seeking Supreme Court review of a First Amendment challenge to a California nonprofit organization donor disclosure law, we decided early in 2021 to join that Association as co-amicus in a merits-stage amicus brief in the same case.

## Amicus Brief News & Archive

To learn more about these and other Atlantic Legal Foundation amicus filings, please visit our newly refreshed website—[atlanticlegal.org](https://atlanticlegal.org). The website's Amicus Briefs page links to detailed summaries of our most recent amicus cases, as well as to the briefs themselves. We also are in the process of archiving Atlantic Legal's many prior amicus briefs, going back at least 25 years.



# Effective Education of Our Next Generation(s) of Americans

To say that 2020 marked a challenging year for the education of our students is a profound understatement. Public schools were shuttered month after month by state and local governments due to Covid-19. Virtual instruction over the Internet was difficult, with some students lacking suitable computer equipment, Internet access, or family or environmental conditions conducive to learning. Charter schools generally came closer to meeting this ongoing challenge, but it has not been optimal for them either, especially for those under the public umbrella forced in some states to close their school premises.

On top of pandemic-related problems, teachers and students were subjected to the controversy surrounding the 1619 Project's impending indoctrination of the impressionable minds of school children, followed by the recent abolishment of the President's 1776 Advisory Commission established by President Trump to promote American Founding values. The 1776 Report issued by the Commission was released just before the transition in January of 2021, and is posted on the Atlantic Legal Foundation's website for your consideration. We commend that Report for those of our dear readers and supporters who as patriotic Americans, care, as we do, about the effective and unbiased education of our school children. We believe that education should reflect realistically on American history balanced by the "national renewal" of education to teach our students, and also legal



immigrants who apply for U.S. citizenship, the principles enshrined in the Declaration of Independence and the Constitution upon which this Republic is founded and, however flawed, has become a paragon of greatness for the world.

As the 1776 Report reflects: **“Neither America nor any other nation has perfectly lived up to the universal truths of equality, liberty, justice and government by consent. But no nation before America ever dared state those truths as the formal basis for its politics, and none has strived harder, or done more, to achieve them.”** The Report warns that our colleges and universities have become “hot beds of anti-Americanism, libel, and censorship,” with intent to “manipulate opinions more than educate minds.”

Our students should not be prevented from seeing the humanity, goodness, and benevolence in America’s historical figures.\* According to the Report, young readers are instead being presented with a distorted version of U.S. history. **“Historical revisionism that tramples honest scholarship and historical truth, shames Americans by highlighting only the sins of their ancestors, and teaches claims of systemic racism that can only be eliminated by more discrimination, is an ideology intended to manipulate opinions more than educate minds.”**

---

\* Atlantic Legal Foundation’s 2015 Honoree, the Honorable Frank Keating, Governor of Oklahoma (1995 - 2003), Associate Attorney General of the United States, Deputy Secretary of Housing and Urban Development, and former President and CEO of the American Council of Life Insurers and later the American Bankers Association among many other positions of distinction and significant achievement, is an acclaimed author of numerous ALF endorsed patriotic children’s books, including, among others:



*These books and others written by Frank Keating are available for purchase at Amazon.com with the proceeds going to related museums.*

Also, for more mature readers consider: ***America’s Best Presidents*** (c) 2020 by Bruce Myers Gilbert via Liberty Hill Press (407) 339-4217 or libertyhillpublishing.com. Many other excellent publications can be recommended, including the recent publication -- ***9 Ways that SOCIALISM Will Morally Bankrupt America*** -- by the Heritage Foundation in Washington, D.C., (202) 546-4400 or heritage.org

The 1776 Report was abruptly and unjustifiably removed from the White House website following the presidential transition. As noted above, it can still be found on the Atlantic Legal Foundation’s website, [atlanticlegal.org](http://atlanticlegal.org).

For years—and now moving forward from pandemic-related challenges—education reformers have championed charter schools as a way to close education gaps for those with promising potential, challenged by race or income related constraints. With bipartisan support under the Obama Administration and an abundance of research pointing to their success, the case for expanded charter school education is compelling. After Obama’s term ended, unfortunately, the Democrat party soured on charter schools. Senators Warren and Sanders disparaged charter schools and school choice during the 2020 Democrat primaries. Even then-candidate Biden, who directly observed the success of charter schools under President Obama’s watch, stated on the campaign trail that charter schools “siphon off money for our public schools, which are already in enough trouble.” This does not compute. Hopefully, President Biden will change his mind now that he’s in office. New U.S. Secretary of Education Miguel Cardona is reported to be a moderate on charter schools. As the Connecticut Commissioner of Education, he served as a charter school authorizer, typical of many local and state education leaders. Publicly, Cardona has not expressed pro or anti charter positions. This may be an indication that Biden will at least not dismantle, if not promote, charter schools while in office.

An apathetic approach to charter schools, tragically however, would blindly overlook a clear-cut and evidence-based solution to advancing the stated bipartisan goals of ensuring more effective education of our young students. With strong support for charter schools, the new Administration has the opportunity to overcome the worst failures of an education system that systematically disadvantages some of the most vulnerable, yet capable, members of our society. To break through the cycle of generational poverty and increase wealth for racial minorities and low-income families, charter schools are a proven move in the right direction.

The pandemic has wreaked havoc on American families, especially low-income families, including some racial minorities. For those children losing advancement in education, enrollment in a successful charter school would help reverse this loss. A 2015 Center for Research on Education Outcomes study found that urban charter schools provide their students with the equivalent of 40 additional

school days of learning in math and 28 additional days of learning in reading per year. A Princeton/Brookings study found that attending some high-performing urban charter schools for only three years can produce test score gains “equivalent to the size of the US black-white achievement gap.”

The economic cost of America’s race and income-based achievement gaps is staggering, both as to private income and Gross Domestic Product (GDP). A 2009 McKinsey report estimates that if the U.S. racial achievement gap had been closed by 1998, the U.S. GDP a decade later would have been \$525 billion higher and aggregate earnings would have been \$160 billion higher. The same report estimates that if the achievement gap between low and high income students had been closed by 1998, the 2008 U.S. GDP would have been \$670 billion higher. Compare student achievement levels in other leading economies in our competitive global world and ask: How will America bode if remedial action through fostering the charter school movement falters ?

The new Administration’s website states: “There’s no greater economic engine in the world than the hard work and ingenuity of the American people.” Charter schools are a proven way to build the economy through a more educated workforce while closing the devastating achievement gaps that have widened even more during the pandemic.

To accomplish its lofty goals, the Administration should consider allocating a larger portion of its budget to the federal **Charter Schools Program**, which **currently receives less than 1% of all federal K-12 spending, even though 6.5% of children attend public charter schools**. The Administration can also push cities to lift caps restricting charter enrollment and use grants and incentive programs to encourage charter school openings and growth across the country. This would help the more than 5 million American children currently on waiting lists for charter schools.

This is not the time to adopt a neutral approach to charter schools. The Atlantic Legal Foundation supports this extraordinary education solution, one that would help achieve some of the Biden Administration’s most important bipartisan goals, elevate educational achievements and reduce race and income-related education gaps. By investing in America’s charter schools, we can boost our economy and enhance the future for all Americans, while assuring greater adherence to accurate, albeit candid, teaching of American history and values.



In a related subject ... according to the *Trending News* published on February 10, 2021 by the *We the People Daily*:

*Democrat President Joe Biden has reportedly canceled a plan put in place by the Trump administration that would track the rising influence of the Chinese Communist Party (CCP) in the U.S. education system.*

*“Around 500 K-12 schools and 65 colleges in the U.S. have partnerships with the Confucius Institute U.S. Center, a U.S.-based affiliate of the Beijing-based Confucius Institute Headquarters. The institute, also known as Hanban, is affiliated with the Chinese Ministry of Education,” the Daily Caller News Foundation reported. “Many of Hanban’s directors are members of the Chinese Communist Party or have close ties to the organization.”...*

*“A report from the Senate’s Permanent Select Committee on Investigations found that nearly 70% of schools receiving more than \$250,000 from organizations related to the Chinese government did not report the funding as legally required.” [Source: Daily Wire]*

*Numerous American public schools are partnered with the Confucius Institute, a group run by the Chinese Ministry of Education. That means the communist Chinese government has a say in what American children are learning.*

*As scary as that sounds, it is even more alarming when you realize just how common communist Chinese influence is in American institutions. They have their fingers in Hollywood, the mainstream media, colleges and universities, think tanks, and corporations... and, as stated, our education system.*

*Chinese communists have tremendous sway over American companies, teachers, leaders, and scientists. All because they dump billions into their organizations.*

*Trump wanted public schools to disclose just how much money they are receiving from China. Even though it was illegal not to, few actually complied.*

*With ongoing enforcement, the rule would have kept these schools accountable and would have allowed the federal government and the public insights into just how much influence the CCP has over what our children are learning.*

*President Biden killed that rule. Many may ask...should we not know how much an apparently or perceived evil and corrupt adversarial nation is influencing our future generations?*

*Or, should we simply suit our students up with red jumpsuits and require them to learn Mandarin?*

*Is it not ironic that, just as many of our schools propagate curricula that slander our nation's history and heritage, we turn a blind eye to apparent Chinese propaganda filling our children's heads.*

*Coincidence? Obviously not.*





# CHARTER SCHOOL ADVOCACY



Thomas V. Walsh

## CHARTER SCHOOL DEVELOPMENTS: THE NLRB (FINALLY) TAKES AN HONORABLE COURSE

[Reprinted from 2019 Annual Report]

*Thomas V. Walsh*  
*Principal, Jackson Lewis PC*  
*Advisory Council Member*  
*Atlantic Legal Foundation*



Roger S. Kaplan

The Atlantic Legal Foundation has long supported charter schools' laudable goals of reforming public education. The Foundation has supported the charter school community by providing unique labor law guidance to school leadership through a series of books entitled *Leveling the Playing Field*, addressing the difficult area of union organizing, collective bargaining, and related employee rights at charter schools.\* These issues have historically been determined by the individual states' charter school legislation and public sector labor law, since all charter schools are *public* schools, as defined by the various state statutes.

The *Leveling* series raised the question of whether the National Labor Relations Act (NLRA), and not state law, should have jurisdiction over charter schools, despite their states'



characterization as “public schools.” Although there is variation from state to state, in most instances, charter schools are created by and administered by private entities, although funded publicly and subject to state regulation. A few years after these publications, the National Labor Relations Board (NLRB) began to assert federal labor law jurisdiction over charter schools in various states.

There are myriad differences between the labor laws of the individual states and that of the NLRA. Some states have no collective bargaining rights for teachers. Some have limited rights. Some allow employees to vote on unionization through secret ballot elections. Others do not. It is amply clear that no state labor law provides protections and rights to *employees* as broadly as the NLRA.

The laws of some states tilt toward the benefit of the employers, others, toward the unions. As a result, charter school employers around the country have their own preferences. In some cases unions sought NLRB jurisdiction. In others, employers sought it. As the NLRB has added more states to its jurisdiction, interested parties on both sides have raised their concerns.

Because the NLRB issues decisions on a case by case basis, its extension of jurisdiction over charter schools has been limited to those schools in which a union, employees, or an employer has brought a case. The legal analysis utilized by the Board determines whether the school is a “political subdivision” of the state. If the charter school is initiated by a government entity, or if the government has management control, the school is a political subdivision and is exempt from the National Labor Relations Act.

To date, either the NLRB itself, its regional offices, or its administrative law judges have exercised jurisdiction over charter schools in Arizona, California, Connecticut, District of Columbia, Illinois, Louisiana, Maine, Michigan, Minnesota, New York, Ohio, Oregon, Pennsylvania, Rhode Island, and Tennessee. In every case brought to the NLRB, the Board has determined the school is not a political subdivision with one lone exception. In one case arising in Texas, the Board did decline jurisdiction due to a greater level of authority over the charter school retained by the state.

Although NLRB cases in most states have yet to be litigated, it is clear that the weight of Board law (except in Texas) supports federal jurisdiction.

The rise of charter schools has been highly politicized. The NLRB, somewhat surprisingly, began granting NLRA jurisdiction to charter schools in 2012, during the years of the Obama Board when Democrats held a majority of seats on the Board. In those years, the Republican minority were vocal dissenters on this subject – generally asserting a “states’ rights” view

supporting a state legislature's prerogative to define whether its charter schools were legally equivalent to public schools. Under the Trump Administration, the Board obtained a Republican majority. The NLRB soon began hinting that – when the right case came before it – it would take the radical step of withdrawing federal jurisdiction from all charter schools nationally.

Section 14(c)(1) of the NLRA provides the Board with the extraordinary discretion to decline jurisdiction of the law over all employers within a particular industry, as a class. It is almost never utilized, and certainly never over workplaces as widespread as charter schools have become.

The case the Board appeared to be waiting for finally arrived. A New York City charter school – one of the very first charters in the state – had been (due to the peculiarities of state law) unionized since its inception in 1999. Its employees never voted for unionization, nor in any way expressed a desire to be union represented. Under local law, the powerhouse United Federation of Teachers (UFT) represented the school staff as part of the single bargaining unit covering over 70,000 city public school teachers.

The UFT collective bargaining agreement contains terms and working conditions that are anathema to charter school philosophy. Curiously, the UFT has never enforced its contract regarding the school's educational operations. However, the teachers chafed under union rules, including mandatory payment of significant union dues. Years later, the teachers petitioned to “decertify” the UFT – meaning to remove them as their bargaining representative. At the time, state law applied, and after three years of litigating, the state labor agency ruled that one school's employees could not “decertify” the union as to their single school; only the entire school system could do so. Their petition was dismissed.

After 2012, charter schools in New York began considering their options under the emerging new NLRB cases extending jurisdiction. Atlantic Legal Foundation Advisory Council member Tom Walsh counseled several schools, resulting in a landmark 2016 NLRB decision interpreting New York state law to require federal jurisdiction. It should be noted that a key element of NY labor law is that union organizing is achieved by “card check” which denies employees a secret ballot election. The NLRA is premised on the principle of a democratic vote.

For several years, unions seeking to organize New York charter schools continued to contest the NLRB's “political subdivision” test, to no avail. Absent the advantage of “card check,” unions were often unsuccessful in organizing schools.

In 2017 the employees whose petition to decertify was rejected by the state labor board filed a new decertification petition, this time with the NLRB. Atlantic Legal's Advisory Council labor law specialist Tom Walsh represented the charter school employer in this matter. Eighteen months

later, the Board's New York regional director issued a decision granting the employees a decertification election. The UFT appealed to the full Board in Washington, D.C. The newly seated Board GOP majority took the opportunity to consider whether the NLRB might withdraw jurisdiction from *all* charter schools, as it had threatened to do – despite the fact that no party in the case requested that result.

The NLRB issued a call for amici to file briefs. The Atlantic Legal Foundation was interested in being heard on this subject. The Foundation consulted with state and national charter school groups. Ultimately, the ALF declined to file an amicus brief because schools and charter school associations the Foundation supports are on both sides of the matter, often depending upon where they are located.

The school and its employees argued that although the Board has the statutory authority to withdraw jurisdiction, there was no evidence supporting such an unprecedented abandonment of employee rights. Illustrated by a partial list of the scores of cases in which the NLRB, its regional offices, its administrative law judges, and its General Counsel processed charges and petitions, the school asked the Board how it could now reverse course and advise thousands of employees that they no longer enjoyed the protections of the NLRA.

On March 25, 2020, the NLRB issued its decision, determining “not to exercise its discretion to decline jurisdiction over charter schools as a class.” *KIPP Academy Charter School*, 368 NLRB No. 48.

In the final analysis, the Board appears satisfied to allow the status quo to remain. It seems likely that Board jurisdiction will continue to be extended. But, there are still many states' laws which have not been subject to the Board's analysis. Charter school operators in those states in which the Board has affirmatively found jurisdiction should be aware of employers' rights and responsibilities under the law – which may significantly differ from state law. Employers in states not yet reviewed by the NLRB should be aware of the possibility that the state law they have operated under may change without notice – federal law generally provides a greater degree of protections to employees than states' public sector labor laws.

The Atlantic Legal Foundation will continue to monitor the legal landscape for charter schools, and where appropriate, will extend support.

---

\*The Foundation published separate editions of *Leveling the Playing Field* focusing on charter schools in New York, New Jersey, California, Michigan, and Massachusetts. Encouraged by the California Charter Schools Association, the ALF published an updated California edition in 2017. *Leveling* was authored in the main by Atlantic Legal's Advisory Council member Tom Walsh and Advisory Council member emeritus Roger Kaplan. An updated New York Edition is currently in process for publication later in 2021.



## Annual Award Dinner

In the wake of 2020 with Covid constraints, carnage in our cities, the election turmoil and the shift of American political power and policy to the left, it's a struggle for many of us to retain a positive perspective. Many businesses, large and small in America and globally with long term track records of success have been forced into bankruptcy or otherwise have had to shut down operations. Some of these closures will be permanent,\* but others will give rise to new enterprises and entrepreneurs who can take heart and energy from the inspiring positive words of the Atlantic Legal Foundation's 2017 Honoree, **Richard J Stephenson**, in his seminal remarks -- ***Stand-up Nation: Entrepreneurship from America's Founding to Today*** -- before a capacity attendance of over 220 in the elegant Harvard Hall of the Harvard Club in NYC on February 1, 2018. His remarks are especially poignant, timely and inspiring today when so many facing the challenges of rebuilding their businesses and their lives need the inspiration and positive messages Dick Stephenson so eloquently and enthusiastically presents in his timeless, experience-based remarks. We are pleased to share them with you, along with the introduction of Mr. Stephenson by his Cancer Treatment Centers of America® Chief Legal Officer and Atlantic Legal Foundation Director, Timothy E. Flanigan, following . . . Let us stand-up with Richard J Stephenson and in tune with the principles of free enterprise that have made America a paragon for the world, take inspiration and energy from his words and example, building from scratch to spectacular success. Let us rebuild America's businesses and our lives to be better than before the pandemic . . .

---

\*One of the oldest pubs in England, The Lamb and Flag, a historic place in the center of Oxford, first opened in 1566, has served students, scientists and writers for over 450 years and has survived, among other things, the bubonic plague in Europe. It closed the end of January due to government imposed restrictions to mitigate the impact of the COVID-19 pandemic. The pub was frequented by the author of *Lord of the Rings*, J.R.R. Tolkien, and his friend C.S. Lewis, who wrote *The Chronicles of Narnia*, and like so many other businesses across America and throughout the world, it suffered disastrous revenue losses from the beginning of the pandemic. Named after symbols traditionally associated with St. John the Baptist, "The Lamb and Flag" is said to have been also frequented by the great writer Thomas Hardy. Since 1997, St John's College has used the profits generated by the bar to fund scholarships for students.

# 2017 ANNUAL AWARD HONOREE



## RICHARD J STEPHENSON

Philanthropist, entrepreneur, global merchant banker and servant leader, Richard J Stephenson is the founder and chairman of Cancer Treatment Centers of America® (CTCA). He has been Chairman of the Board since the company's inception in 1988.

*Taught by his parents to live a life in accordance with the moral code – When you see someone who is less well off than yourself, and you are in a unique position to do something about their plight, without harm to self, family or Lord, you simply step into the opportunity and do it...no fuss, no muss, no*

*conversation* – Mr. Stephenson is a 33° Scottish Rite Freemason, Shriner, Knights Templar, Distinguished Eagle Scout in America, and recipient of the prestigious 2017 Horatio Alger Award, which since 1947 has honored the achievements of admirable leaders who have succeeded despite facing adversity, and who are committed to higher education and charitable efforts in their local and global communities.

Following his mother's death from cancer, and the painfully dreadful reality of her lack of "hope fulfilling" options, treatment and care, Mr. Stephenson made a promise to change the face of cancer care..."I never wanted to see another cancer patient suffer the agony of living without hope." Thus, he and his family founded CTCA® in 1988 to fulfill that promise and introduced to the world what he aptly coined the Mother Standard® of care, the kind of care you would want for your loved one. During Mr. Stephenson's tenure as Chairman, CTCA has pioneered and proven the importance of a new paradigm in cancer care that empowers patients and their caregivers by providing them with services and programs they desire, where and when they desire them, in one seamless and comprehensive setting. In this setting, they are offered more innovative, integrated and hopeful options with which to better manage their cancer and enjoy a greatly enhanced quality of life.

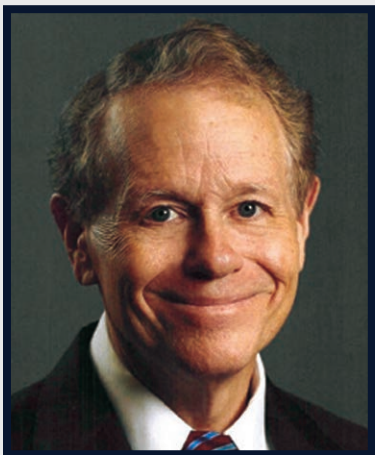
Today, through its national network of hospitals specializing in the treatment of adult patients with cancer, CTCA offers an integrative approach to care that combines advancements in precision cancer treatment, surgery, radiation, chemotherapy and immunotherapy, with supportive therapies designed to manage side effects and enhance quality of life both during and after treatment. CTCA also offers a range of clinical trials to reveal new treatment options supported by scientific and investigational research, and is rated one of the most admired hospital systems in the U.S. in national consumer surveys.

Prior to founding CTCA, Mr. Stephenson developed a career as a highly successful international merchant banker. He graduated in 1963 from Wabash College and, while earning his J.D. degree from Northwestern, he established International Capital Investment Company (ICIC), where he still serves as Chairman.

In 1991, Mr. Stephenson founded, chairs and supports Gateway for Cancer Research, which to date has raised more than \$75 million to fund more than 140 cutting edge clinical trials around the world.

This nonprofit organization spends 99 cents of every dollar received from public contributions to fund these trials, which trials have changed the course of life and hope for thousands of cancer patients. Today, the Stephenson family, including his wife, Dr. Stacie Stephenson, and his five children, are all actively and passionately devoted to his mission. Richard J Stephenson is an outspoken advocate for private property, individual freedom, small and unobtrusive government, and the rule of law. He is a student of the famed Scottish philosopher and economist, Adam Smith, who argued that markets are ultimately moved by consumer decisions and that, therefore, in all things having to do with markets, it's always and only about the customer. As a servant leader, Mr. Stephenson intently practices this belief in customer-centrism in his merchant banking business, and even more deliberately and assiduously at CTCA, where he reminds everyone that "it is always and only about the patient!"

## Introducing Mr. Stephenson



### **TIMOTHY E. FLANIGAN, ESQ.**

Timothy E. Flanigan is the Chief Legal Officer for Cancer Treatment Centers of America® (CTCA). With a rich background as a leader and senior legal advisor, he has more than 35 years of experience in public companies, the private practice of law, and in senior levels of government service.

Prior to joining CTCA, Flanigan served as Senior Vice President and Principal Deputy General Counsel at BlackBerry, Limited where he was responsible for the legal, business affairs and corporate security functions, as well as the company's global government relations efforts. Previously, he was a senior partner with the international law firm McGuire Woods, LLC, and Senior Vice President and General Counsel at Tyco International, where he helped successfully revitalize that \$40 billion enterprise.

Flanigan served the United States in multiple roles throughout his career, including Senior Law Clerk to the Honorable Warren E. Burger, Chief Justice of the United States. He also served as Deputy Counsel to President George W. Bush, where he coordinated legal strategy throughout the executive branch on anti-terrorism and other issues. He was nominated by President George H.W. Bush and confirmed by the Senate as Assistant Attorney General for the Office of Legal Counsel. Flanigan earned his law degree and his MBA from the University of Virginia, and a bachelor's degree in history from Brigham Young University.



# Introduction of Richard J Stephenson

## by

### Timothy E. Flanigan

Good evening, Ladies and Gentlemen. It is a privilege to be here this evening to introduce our honoree.

Richard J Stephenson is, as you are about to experience, a truly memorable person. Everyone who knows Dick has a story about him. Permit me to relate one of mine.

In July 2015, Katie and I were in Cheyenne, Wyoming to enjoy the annual Frontier Days rodeo and celebration of the Great American West, a week-long party its promoters call the “Daddy of ‘em all” meaning that it is the biggest and best of all rodeos anywhere. People come from all over the world to attend. If you are like me and never quite outgrew the dream of being a cowboy, Frontier Days is where you want to be.

The real point of Frontier Days, however, is not simply nostalgia for a bygone era. It is a celebration of the free and independent, the striving and sometimes brash spirit that is the heritage and I hope future of America. It is about broad vistas of land, sky and human potential. It is about daring to go where few have gone before, breaking trails, clearing obstacles and seeing grand possibilities. It is also about Americans living up to their ideals to be kind, welcoming of new arrivals and ever willing to reach out to help those in need.

So there I was, in the middle of this noisy and bustling western extravaganza when Dick Stephenson called my cell phone to size me up as a possible general counsel for CTCA and his other family businesses. I had been told that Dick was a merchant banker. I would not want to offend any among us this evening, but bankers are stereotypically a staid lot. Stuffy. So I expected a polite and restrained first conversation with Dick, followed at some point by breakfast at his club, interviews with “his people,” etc.

But from the first words Dick spoke it was clear that he is not a staid or stuffy man. This man is passionate of heart and exuberant of spirit. He spoke excitedly of the fun he is having of founding and growing CTCA and of building new businesses throughout the world. He mentioned limitless possibilities and the need to take risks to reap rewards. And he said he was looking for a general counsel who would join him in breaking trails, clearing obstacles as we, to use his words, “move on down the road in the celebration of life!”

He spoke with deepest conviction of his family’s commitment to do the right thing and their mission to help cancer patients find the very best information, medical treatment and support they need to combat that dread disease.

Well that was one harmonic moment for me! It was as if the spirit of Frontier Days had taken over an app on my cell phone and was speaking directly into my ear, encouraging me to become a pioneer and throw my lot in with Dick Stephenson, to take risks and build new enterprises, to chase dreams, all the while doing good to those most in need of care.

His commitment to doing good for what he described as the Moral Code with roots in his Masonic tradition, resonated deeply with my own Mormon religious convictions and echoed the Apostle Paul's injunction to lift up the hands that hang down and strengthen the feeble knees.

I was hooked. Though it took another six months to seal the deal, I was certain from that first conversation that I wanted to ride with Dick Stephenson. Those original impressions of Dick have been strengthened over time. I have also come to know other important things about him. That his heart's treasure is not in his businesses or his other worldly accomplishments but rather lies squarely with his family, his dear wife, Dr. Stacie J. Stephenson, and his children, Dr. Chris Stephenson, Annie Stephenson-Hostetler, Shawn Stephenson, Jenny Keller and Shelby Stephenson — all with us this evening — and their families. That he is an accomplished horseman and coach driver. He loves to ride his Harley. That he is a connoisseur of many things including the best music and beautiful sculpture. That he is a fellow pilot who has achieved the difficult and coveted instrument rating. Dick is a libertarian — albeit perhaps with an asterisk or two. One might find it incongruous that a libertarian would choose to build his flagship business in such a benightedly over-regulated sector as healthcare. Why would he do this?

The answer can be found in the fact that Dick and his leadership team at CTCA, including our CEO & President, Dr. Rajesh Garg, look at the total picture of market and regulatory forces and see, in the folds and creases of that picture, opportunities to drive innovation and serve the needs of an ever-widening circle of cancer patients.

To be sure, Dick has his detractors. Some have caviled at the for-profit status of CTCA. They misperceive greed where they should recognize an honest and deeply held conviction that the free market and competition are the best engines to drive efficiency, quality service and great outcomes for patients. They also fail to understand the philanthropic spirit that so deeply motivates Dick and his family. Wherever the family does business, from Switzerland to Singapore, they are as engaged in building opportunities for people as they are in building profit.

Like a true libertarian, Dick puts his heart and soul into efforts to rein in the regulatory deep state and to protect individual rights, including property rights. He is thus a fitting honoree for the Atlantic Legal Foundation, an organization I am proud to be associated with and that so vigorously pursues those same ends. Tonight Dick Stephenson joins a long list of distinguished recipients of the Foundation's annual award.

Ladies and gentlemen, I am delighted to introduce to you the Chairman and Founder of Cancer Treatment Centers of America®, Richard J Stephenson — the Daddy of 'em all!

## Remarks of Richard J Stephenson 2017 Annual Award Honoree

Thank you, Dan and esteemed members of your board, for this wonderful invitation to be with you this evening. And thank you, Tim for that very nice introduction. Thanks also to the Atlantic Legal Foundation for doing the hard, but critical and widely heralded, work of advancing liberty, limited government, free enterprise, property rights, school choice and sound science.

Those of you less familiar with our wonderful host organization may be unaware that the Atlantic Legal Foundation has been singled out by the U.S. Supreme Court for its contribution to the use of “sound science” in regulatory and judicial proceedings. No other advocacy group has been so influential in this critical area, and Atlantic Legal Foundation’s clients – among them more than 20 Nobel Laureates and scores of other renowned scientists – are grateful for the Foundation’s steadfast insistence that our courts use and depend upon only scientifically sound evidence and expert opinions in their deliberations. Moreover, the Foundation’s advocacy in support of limiting overreaching and burdensome regulation is simply outstanding.

At the end of 2017, the Foundation filed an amicus brief in the United States Court of Appeals for the Ninth Circuit, the most reflexively liberal – and most frequently overruled – federal court in the nation, challenging the pernicious agency practice of attempting to influence the outcome in pending cases by issuing regulatory interpretations, without affording a citizen’s basic due process of notice and comment.

Ladies and Gentlemen of the Foundation, I offer you my, and all of our citizens, heartfelt applause and gratitude for fighting – and winning – the good fight that has made such a difference for the public good. There are few things more important than that work, so keep doing what you’re doing, with the knowledge that our Founding Fathers would be pleased and vigorously supportive, and our family is also! **Given Atlantic Legal Foundation’s unyielding commitment to advancing the rule of law and the original principles underpinning the U.S. Constitution, tonight I’d like to explore one inherently implied and critically-important dimension of America’s founding: our entrepreneurial roots.**

**While the concept of entrepreneurship is fundamental to human existence, the word “entrepreneur” did not appear until it showed up in a French dictionary published in 1723, 53 years before Adam Smith’s Wealth of Nations and our Declaration of Independence. It’s a painful irony that France, the country that gave us the word “entrepreneur,” fell in love with high taxes and punitive regulation, stifling its entrepreneurs and forcing many of them to seek their fortunes elsewhere.<sup>1</sup>**

**Webster tells us that “an entrepreneur is one who creates, organizes, manages and assumes the risks of a business or enterprise.” However, in the “real world,” as my family knows, an**

---

1. [www.independent.co.uk/news/world/europe/french-say-au-revoir-to-france-over-two-million-french-people-now-live-abroad-and-most-are-crossing-9788348.html](http://www.independent.co.uk/news/world/europe/french-say-au-revoir-to-france-over-two-million-french-people-now-live-abroad-and-most-are-crossing-9788348.html)



**entrepreneur is typically someone whose credit cards are maxed out and whose family's home is 100% mortgaged – often to predatory lenders – to finance his or her fledgling business, and whose home (the family nest) is often lost to foreclosure when the business fails. Entrepreneurs – the primary creators, organizers and risk takers in business – continue today to be as important to the well-being of our citizens, our economy, and our nation, as they were at our founding, 242 years ago.**

I have some insights, and will share some thoughts, about the state of entrepreneurship today, as well as the entrepreneurial mindset. My thoughts and insights are derived from many decades of launching businesses and creating thousands of employment opportunities. Then I'll close by telling you about the entrepreneurial enterprise that's more important to me and my family than every other initiative I've undertaken during my professional career. And, I'll also tell you about today's "good news" originating therefrom. But first, I'd like to take you on a short journey, which begins in a small town about 30 miles north of Indianapolis.

I was born in Sheridan, Indiana – population 1,200 people – where my dad was the town's only "druggist" (two syllables), and not the "pharmacist" (three syllables), which was too hard to pronounce for our town's folk. He was also our little town's "doctor" when our only real doctor was away! My mother was from Brazil – not the large country in South America – but the small town in Indiana where they mined coal and clay.

During Prohibition, she started going to speak-easies in nearby Terra Haute, at an Al Capone hangout, and was smoking at 14.<sup>2</sup> Before the old Virginia Slims cigarette commercial said, "You've come a long way, baby," my mother was already there – pursuing a pernicious habit that came back to haunt her, as I'll mention later. She was the perfect match for the man she would marry – my father – who liked to "kick the tires, light the fires, and get on down the road" in the "Celebration of Life" ... and so do I!

My parents provided warmth, nurturing and love in our home. They never once said a derogatory thing to me or to my brother. They were simply our loving Mom and Dad, but not everything was smooth, and perhaps not as it appeared.

We moved nine times before I was 12, renting homes wherever we could find them, and uprooted once because the bank foreclosed on the only home my parents ever owned. Three of the homes I lived in had no indoor plumbing. I wasn't born into any material wealth, as you can see, but we had the rich blessings and profound treasure of my parents' character. They bestowed upon us the view that the Moral Code governs honest and credible men and women, and that it should always govern their sons and daughters.

When I was a child, I delivered papers – Grit on Saturdays and the Indianapolis Star on Sundays, mowed lawns, delivered fresh milk from a nearby dairy farm, and many other things. These experiences taught me the value of hard work and of customer-centric thinking. A few other notables got their start

---

2. <https://www.thebalance.com/warren-buffett-timeline-356439>

in business by delivering papers, including Warren Buffett. Buffett delivered the Washington Post, and the money he earned helped him buy 40 acres of land when he was just 14. Decades later, he was on the board of the Washington Post.

I wasn't as successful in parlaying my paper route into anything, but I did go on to attend and graduate from Wabash College, a small and dynamic liberal arts college about 50 miles northwest of Indianapolis, and from Northwestern University's School of Law thereafter.

Other associations also left an indelible imprint on my character. When I was 13 years old, I became an Eagle Scout. Later as an adult I became a 33° Scottish Rite Freemason, the 6th generation Scottish Freemason in my family (my sons and son-in-law are now the 7th generation). One Freemason who shaped my thinking was Dr. Norman Vincent Peale, who is best known for teaching the power of positive thinking and co-founding the Horatio Alger Association of Distinguished Americans. I've read everything he ever wrote and think of him in many ways as my first mentor, after my parents. The Moral Code and the Power of Positive Thinking have always underpinned my approach to business and to life.

Like many Americans, I saw – and still see – a vast opportunity in everything ahead of me. That optimism propelled me to become a serial entrepreneur. The businesses I've built have been entirely focused upon the customers we serve. Discovering what the consumer values and serving only those values, better than others, is all I do. Whether its shopping centers in England, healthcare interests in Singapore, dental implants and household implements in Brazil and Chile, or veterinary pharmacies in the United States, everything we've built, and the thousands of folks who've helped build it, has been based upon the discovered values of the folks we've served.

One example of discovering customer values, and serving only those values customers hold dear, is the story of Cancer Treatment Centers of America, which I'll talk about in more detail shortly.

My philosophic foundation, professional and business practices as a libertarian, are based on a school of thought known as praxeology, which can be best summed up as the study of human action. That's also the title of Ludwig von Mises' magnum opus, Human Action, published in 1949. More specifically, it's based on the a priori observation that individuals continually make conscious decisions always to improve their prior condition as they see it.

**If you've ever heard of praxeology, you probably know that it's often associated with the Austrian School of Economics, of which von Mises was a leading protagonist. My provocative, philosophic professors and mentors in this discipline included von Mises, Ayn Rand, Murray Rothbard, Leonard Read at the Foundation for Economic Education, Milton Friedman, and many more.**

And I'm sure you know that the Austrian School of Economics is also associated with Friederich August von Hayek, another of my professors, who won the Nobel Prize in 1974. In short, I've been spoiled by my freedom-loving, libertarian professors, such that the logic that underpins the Austrian School is also what underpins my libertarian outlook.

**It's my operating postulate that we weren't born with a pre-existing mortgage on our existence in bondage to anyone or anything, be it church, state or whatever. No one has the right to make decisions for any of us that are alien to our liberty and any natural, peaceful instincts. Men and women have always been in search of liberty. A fundamental prerequisite to liberty is the protection of private property and free enterprise – the right of individuals to keep and protect the fruits of their labors, and to freely exchange goods and services with each other.**

**Liberty is the freedom to choose. Risk is inherent in choice. Our Constitutional liberties both guarantee and are nourished by the choices of risk-taking citizens deciding to offer their goods and services in the marketplace. Those individuals are engaged in entrepreneurship more often than not, and that's the theme I will cover in the remainder of my remarks.**

**When we think about entrepreneurs today, what names come to mind? Maybe Elon Musk, revolutionary in his Tesla automobiles and space ships, or Mark Zuckerberg with Facebook, Jeff Bezos with Amazon, or Bill Gates at Microsoft. Or maybe we think of Mark Cuban's "Shark Tank." But there's another group of American entrepreneurs who shouldn't be forgotten because they're central to the history of this great nation. We know them as the Founding Fathers. They pursued what was then a radical and unthinkable idea – to break free from their colonial overlords in England and create an entirely new order...indeed a new country...based on principles such as the rule of law and the right of citizens to pursue life, liberty, and happiness.**

**In today's terms, we can think of the Declaration of Independence as the mission statement and the Constitution as the business plan...the business plan for the world's first start-up nation. That business plan spelled out that "we the people of the United States," in search of a "more perfect Union" would "establish Justice, insure domestic Tranquility, provide for the common defense, promote the general welfare, and secure the Blessings of Liberty to ourselves and our Posterity." Entrepreneurship has helped the people of this great nation stay true to those principles, while also advancing them.**

**It's no coincidence that many of this nation's founders possessed considerable experience in business. In fact, many of them were entrepreneurs.** Ben Franklin was the founder of a newspaper, the Pennsylvania Gazette, which featured the first accounts of his electric kite experiment. No fake news there. Alexander Hamilton was the founder of the Bank of New York – not the star of a Broadway musical – and that bank still exists today, with headquarters just five miles away from where we dine this evening.

Before serving as President, George Washington, was a successful farmer and fishing operator. He also cultivated hemp on his farm at Mount Vernon, but not the strain that's recently been legalized in a few states. It's probably good that his hemp was used for things like rope and clothing. Had he been smoking the hemp, who knows what America's founding might have looked like.

**With founders like Franklin, Hamilton, and Washington, it's no surprise that our Constitution embodies fundamental principles of liberty, including economic liberty. Those principles**



enabled us to grow rich...not because we had more resources with which to create products and widgets. No, it's because we had the freedom to create goods and services, first, for ourselves, and for the benefit of others, and no one could steal our goods and services...the fruits of our labors...because we had the right of private property, protected, again, by the rule of law.

The Founders were determined to ensure that we would be a people governed by laws, not by the arbitrary and capricious whims of the nation's leaders. And, given the Founders' focus on the rule of law, coupled with their business backgrounds, is it any wonder that the most ambitious people from Europe and other parts of the world began to flock to our shores...and still do? And so, among other things, the spirit of opportunity and entrepreneurship is what distinguished this country from every other, from our earliest days.

It was entrepreneurs, possessed with the spirit of enterprise, who built the businesses that helped to make this country the richest in the world, and a model for others to emulate. I could recite that history, which is important, but I'd prefer to focus on the state of entrepreneurship today, since there are some worrying signs.

Last year, a professor and friend of mine at George Mason University, Tyler Cowen, wrote a book that described what was ailing the United States. His deliberately depressing title was, *The Complacent Class*. He pointed out that the share of jobs accounted for by start-up companies, relative to all jobs, is about 50 percent lower than it was in the mid-1980s. He also highlighted a decline in what's often called "dynamism."

For example, the frequency with which workers switch jobs has declined 50 percent over the past 15 years. You may ask: Why has the U.S. economy become less dynamic and less entrepreneurial? I'm not sure there's a short answer to that question, but it might not surprise you to hear that one of the factors is the heavy hand of the state. Occupational licensing is a growing burden in many states, where it takes 12 times as long to become licensed to cut someone's hair as it does to become licensed as an Emergency Medical Technician. Most of these regulations and licensing requirements are simply designed to protect existing incumbents.

Another example of regulation killing entrepreneurship is the 2010 passage of Dodd-Frank. A dramatic decline in new bank formation ensued. In 2005 there were 237 approvals of new bank charters, last year there were none, and only five were created from 2011 to 2016. Whether the intervention is at the state or federal level, it curtails economic activity, by unnecessarily interfering with consumer choice with a natural economic effect of raising the cost of banking services to businesses and consumers.

While I'm smart enough not to try to predict whether government officials will come to their senses, I'm nonetheless optimistic about the future. Technology has driven down the cost of launching a new business. Technology is also unlocking new opportunities. Just consider the gains that will be realized from self-driving cars: greater productivity and a dramatic decline in deaths and injuries from traffic accidents are foretold. If the forecasters are wrong, of course, insurance companies and personal injury lawyers will prosper! Everyone wins, regardless!

Similarly, drones will remake the shipment of goods, and it's possible we'll see single-passenger flying devices as well. These developments, and others like them, will be ripe for entrepreneurs, men and women who will identify new opportunities to better serve customers and create wealth. The creativity and ingenuity that made America a prosperous nation has not gone away. It just needs a jumpstart – having government get out of the way will be a critical step.

If you've had much exposure to entrepreneurs – whether successful or unsuccessful – you might have noticed something about them: they're driven, restless, often pretty ornery, and sometimes quite rebellious. Indeed, studies show this to be true.<sup>3</sup> And my wife and family would testify to the accuracy of these studies! They might have been troublemakers in school, and not excelled academically. Far from dampening this rebellious streak, we need to encourage it.

Listen to what the Irish playwright George Bernard Shaw once wrote: “The reasonable man adapts himself to the world; the unreasonable one persists in trying to adapt the world to him. Therefore, all progress depends upon the unreasonable man.” Thank you, George – or Bernard, as he preferred to be called. I'm feeling better now!

Indeed, while we celebrate entrepreneurship, and encourage it, we must remember how difficult it is. Many more start-up businesses fail than succeed, and whether you succeed or fail, the process of building a business can be extraordinarily demanding. The response of the regulatory state, or “Nanny State,” might be to step in and provide a larger and stronger safety net to protect entrepreneurs from failure. But that would be a huge mistake. No one is born with the “right” to succeed in his or her entrepreneurial endeavors. Competition among entrepreneurs helps to create higher-quality and less costly goods and services, which benefits consumers, while helping to advance the American Dream.

We typically think of entrepreneurs as providing the marketplace with new goods or services, with profits needed to keep the business sustainable. But another form of entrepreneurship involves starting organizations focused on some form of human betterment. Such business must, of course, be self-sustaining and identify and serve the consumer in exactly the same manner as other ventures. But they frequently provide their founders with rewards that may be less monetary and more psychic or “feel good”, including the sublime satisfaction of knowing that the organization is having a positive impact on the human condition. I launched such an organization in 1988. It was (and is) Cancer Treatment Centers of America® (CTCA).

I founded CTCA six years after my mother died of cancer. She'd continued smoking during her adult years, but she kept it hidden from me and other members of our family. While her stoicism served her well throughout her life, it did not serve her well once she was diagnosed with transitional cell bladder cancer. She kept the diagnosis to herself for more than a year – she even swore her doctors to secrecy – and tried to take care of it herself, saying that no one in her family had been burdened with cancer and she knew she'd be OK, and she told her friends, “I don't want to bother my busy merchant banking son.”

---

3. [www.newsroom.haas.berkeley.edu/study-finds-successful-entrepreneurs-share-common-history-getting-trouble-teenagers/](http://www.newsroom.haas.berkeley.edu/study-finds-successful-entrepreneurs-share-common-history-getting-trouble-teenagers/)

By the time I learned of her condition, it had metastasized to her already-weakened lungs, as well as other parts of her body. I battled to save her life...but lost. Her death galvanized me to change the face of cancer, and to change it NOW.

Applying a fundamental entrepreneurial insight, I founded CTCA on the bedrock principal that it would constantly discover and rediscover what cancer patients and their families most need when faced with this awful disease. One such need is for care that matches clinical excellence with love and compassion. That led us to develop what I came to call the Mother Standard® of care. Visitors to our hospitals are almost universally impressed with the high level of compassion and empathy we bring to our clinical labors. We treat our patients – and each other – with the same dignity, love, and care that we received from our mothers and fathers.

Cancer patients also desperately need credible and actionable information regarding their particular disease. I used to wear a button on my lapel that read, “Cancer has a new enemy.” When people asked me what that meant, I’d explain that “Cancer’s most dreaded enemy is an empowered patient.” A fundamental commitment of CTCA® is to provide and empower patients with world-class information; information that is specific to their unique cancer and provides late-breaking innovations and meaningful options for them.

Our website, cancercenter.com, is reported to be the most visited and trusted cancer-focused site in the world. More than 3 million unique visitors come to the website every month in search of answers to their cancer and in search of hope.

Cancer patients, particularly those for whom first line therapies may not have produced a remission, deeply desire access to the most advanced therapies. To serve that need, we have examined more patients to uncover specific genetic mutations in tumors and provided more actionable treatment options than any other. These options have saved lives.

Cancer patients and their families want information regarding treatment results to help them choose among cancer care providers. To that end, we publish the most comprehensive compendium of cancer treatment results of any of the 1,500 cancer care providers in the U.S. This compendium helps prospective patients make more informed choices about their care.

**This focus on the needs of the patients and families has helped CTCA become one of the most respected brands in the world. According to the just announced 2017 YouGov brand health ratings, a closely watched index of brand power, CTCA reigns as the most positively perceived national hospital system among 42 pre-eminent hospital brands tracked in the survey, topping such names as Mayo Clinic, Memorial Sloan Kettering, Johns Hopkins Medicine, Cleveland Clinic and MD Anderson Cancer Center.**

**And we’re entirely patient focused. We don’t honor and hold dear the pharmaceutical companies, the insurance companies or the government. In brief, we honor and are “always and only about the patient!” And this is what draws like-minded physicians to CTCA. Physicians who are driven, with a compassionate and selfless patient-centric focus, to change the face of cancer. Other players in the healthcare arena have learned to take a back seat to what we discovered: the Mother Standard of care and Patient Empowerment works.**



**Patients want to be...and have a right to be...in charge of their decision-making and their destiny! The biggest fight you have in your life if you're a cancer patient is to find someone who'll give you hope – a reason to believe. And today, when there's so much positive and encouraging data in support of reasons to be hopeful, providing this hope is both easy and empowering...and it's priceless to receive when you're an otherwise fearful, forlorn and hopeless cancer patient.**

**This evening, I'm happy to report, in many cases cancer is no longer an acute and certain killer. In some of its forms, it has become more of a chronic disease that folks can learn to manage, no differently than they manage diabetes, arthritis and other potentially debilitating maladies.**

**Now, to be clear, CTCA is not our business...we're a global merchant banking family. CTCA is our family's calling, in my mother's memory. In fact, unlike other of our entrepreneurial enterprises, our goal at CTCA is to put ourselves out of business! We'll do that once our citizens have defeated cancer.**

**There remains a lot of work ahead – both for CTCA and for all of you at the Atlantic Legal Foundation.** But for tonight, at least, my work is mostly finished. I want to thank the Foundation again for honoring me and giving me this opportunity to be with you tonight.

As I stand here, I'm reminded that I'm really standing on the shoulders of those who have made my achievements possible. Those individuals include my professional colleagues, spanning many years... many of whom are here this evening...my intellectual, professional and business mentors, and most of all, my family.

**There is no greater honor or blessing than a loving and supportive family,**

and I've been repeatedly honored and blessed in that regard, from my childhood to today. I wouldn't be where I am without them. Thank you again and best wishes for the year ahead, and beyond. And now it's time to "kick the tires, light the fires and get on down the road" in the "Celebration of Life!"



Richard J & Dr. Stacie J. Stephenson



Piper, Shawn, Morgan & Shelby Stephenson, Jennie Keller,  
Dr. Chris Stephenson, Annie Stephenson-Hostetler & Bill Hostetler

# Annual Award Recipients 1988-2020

2019 & 2020

**TBD**

*Delayed due to Coronavirus*

2018



**Thomas N. Kendris**

*US Country President, Global Head  
Litigation and President  
Novartis Corporation*

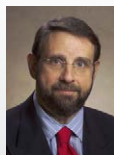
2017



**Richard J Stephenson**

*Founder and Chairman of the Board  
Cancer Treatment Centers of  
America®*

2016



**Hon. Harvey L. Pitt**

*Chief Executive Officer  
Kalorama Partners, LLC  
Chairman of the United States  
Securities and Exchange  
Commission (2001-2003)*

2015



**Hon. Frank Keating**

*President and CEO (Ret.)  
American Bankers Association  
Governor of Oklahoma (1995-2003)*

2014



**H. Lawrence Culp, Jr.**

*President and CEO (Ret.)  
DanaHER Corporation*

2013



**Bill Nuti**

*Chairman, CEO and President  
NCR Corporation*

2012



**William H. Swanson**

*Chairman and CEO  
Raytheon Company*

2011



**Edward J. Ludwig**

*Chairman of the Board  
BD*

2010



**W. James McNerney, Jr.**

*Chairman, President and CEO  
The Boeing Company*

2009



**Chad Holliday**

*Chairman of the Board  
DuPont*

2008



**William C. Weldon**

*Chairman of the Board and CEO  
Johnson & Johnson*

2007



**Hon. Fred F. Fielding**

*Counsel to  
President George W. Bush  
Former Counsel to  
President Ronald Reagan*

2006



**Thomas J. Donohue**

*President and CEO (Ret.)  
U.S. Chamber of Commerce*

2005



**Edward D. Breen**

*Chairman and CEO  
Tyco International Ltd.*

2004



**Hon. George J. Mitchell**

*Former United States Senator  
Chairman, The Walt Disney Company  
Partner, Piper Rudnick LLP*

# Annual Award Recipients 1988-2020

2003



**Maurice R. Greenberg**  
*Chairman and CEO*  
*American International Group, Inc.*

2002



**Henry A. McKinnell, Jr., Ph.D.**  
*Chairman and CEO*  
*Pfizer Inc*

2001



**Hon. William S. Cohen**  
*Former Secretary of Defense*  
*and United States Senator*

2000



**Norman R. Augustine**  
*Retired Chairman and CEO*  
*Lockheed Martin Corporation*

1999



**General P. X. Kelley**  
*Former Commandant of*  
*the Marine Corps*

1998



**Hon. Rudolph Giuliani**  
*Mayor of New York City*

1997



**Hon. Donald Rumsfeld**  
*Former Secretary of Defense*

1996



**Bruce Atwater**  
*Retired Chairman and CEO*  
*General Mills, Inc.*

1995



**Alfred C. DeCrane, Jr.**  
*Chairman and CEO*  
*Texaco Inc.*

1994



**Malcolm S. Forbes, Jr.**  
*President and CEO*  
*Forbes, Inc.*

1993



**Amb. Carla Anderson Hills**  
*United States Trade Representative*

1992



**Paul H. Henson**  
*Retired Chairman and CEO*  
*Sprint Corporation*

1991



**Walter B. Wriston**  
*Retired Chairman and CEO*  
*Citicorp*

1990



**Irving S. Shapiro**  
*Retired Chairman and CEO*  
*DuPont*

1989



**Edmund T. Pratt, Jr.**  
*Chairman and CEO*  
*Pfizer Inc*

1988



**Hon. William E. Simon**  
*Former Secretary of Treasury*

# New Advisory Council Member Appointed Early in 2020



John M. Kalas

John M. Kalas practices in the Hollingsworth LLP's Complex Litigation, Environmental, Pharmaceutical Products, and Toxic Torts & Products Liability groups. His practice is focused on deconstructing the opposition's core corporate liability and scientific theories. To that end, he has taken and defended dozens of successful depositions of expert and fact witnesses. He has participated in several multi-day Daubert hearings and has significant trial experience as a member of multiple trial teams in jurisdictions nationwide.

Mr. Kalas has litigated personal injury and property damage claims following alleged exposure to perchlorate and other volatile organic compounds ("VOCs") from groundwater contamination, and defended wrongful death claims associated with alleged exposure to airborne toxins in international litigation spanning three continents. He has litigated birth defect claims allegedly associated with occupational and residential chemical exposure, and has represented employers seeking to enforce choice-of-law and arbitration agreements contained within employees' employment contracts. He played a substantial role in the defense of Novartis Pharmaceuticals Corporation in bisphosphonate litigation centralized in Tennessee and New Jersey. He contributed significantly to motions practice in that litigation, researching and drafting scores of successful dispositive and *Daubert* motions.

Currently, Mr. Kalas is part of the defense team representing an agricultural company in litigation involving claims of cancer from exposure to pesticides, centralized before the United States District Court for the Northern District of California, and in California, Delaware, and Missouri state courts. As part of that litigation, he has led a team focused on developing experts to evaluate exposure and dose issues and on deconstructing the theories of plaintiffs' exposure, dose, and toxicology experts.

Before joining Hollingsworth LLP, Mr. Kalas interned in the General Counsel's office at General Electric Capital Solutions in London and for U.S. Congressman Roscoe Bartlett (MD-6).

Mr. Kalas graduated from Elon University with a B.A. in 2007 and from Georgetown University Law Center with a J.D. in 2010.

Mr. Kalas is a member of the Firm's Recruitment Committee, and his pro bono practice has included representing clients in administrative court disputes and tutoring students at The SEED School and Garrison Elementary School in Washington, D.C.. At Georgetown Law, he wrote for *The Tax Lawyer* and competed on the mock trial team. He is a member of the Defense Research Institute.



# Biography of Cheri R. Mazza ALF's Accounting Manager



Cheri R. Mazza

Cheri Mazza and her firm, have provided accounting and tax services to ALF for the past six years. Cheri Mazza is a partner in the Forensic, Valuation and Litigation (FVL) Support Group at PKF O'Connor Davies LLP and works from the Stamford, CT and Harrison, NY offices of the firm. PKF O'Connor Davies is one of the nation's most rapidly growing accounting and advisory firms with 14 offices in six states on the East Coast. The firm was named to "America's Best Tax and Accounting Firms List 2021" by Forbes. Additionally, it was ranked 27 of "2020's Top 100 Firms" and 7 of the "Top Firms in the Mid-Atlantic" by Accounting Today.

Cheri is a CPA, ABV (Accredited in Business Valuation), CVA (Certified Valuation Analyst), CFF (Certified in Financial Forensics) and a MAFF (Master Analyst in Financial Forensics). She holds a PhD in Accounting from the University of North Texas, a MS in Accounting from Illinois State University and a BS in Business Education from Indiana University of Pennsylvania.

Cheri works with attorneys in engagements involving estates and trusts, shareholder disputes, working capital disputes, matrimonial litigation, corporate forensics, income tax litigation, damages and lost profits analysis. In addition to providing specialized services in the FVL area, Cheri provides income tax and outsourced accounting services to a select group of clients. She also supports the quality assurance area of the firm by assisting with the interpretation and application of generally accepted accounting principles (GAAP) and developing and teaching courses on emerging accounting issues and updates to accounting standards (ASUs). Additionally, she supports the audit area by performing and reviewing purchase price allocations and assessing impairment analyses related to goodwill and other intangible assets.

Cheri spent the early part of her career in public accounting for a regional firm in Wichita Falls, Texas. In 1988 she began teaching accounting at the university level and shortly thereafter earned her PhD in Accounting. In 1994 she moved to Connecticut where she was employed as a project manager for the Financial Accounting Standards Board. In 2000 Cheri returned to academics, first as a professor at Fordham University in New York and then Sacred Heart University in Connecticut. During that time, she also served on the Board of Directors and was Audit Chair of a publicly traded bank. In 2014, Cheri returned to the practice side of accounting by starting CRM Accounting and Consulting, LLC. In 2018 she merged her practice with PKF O'Connor Davies.

# Board of Directors

**Hayward D. Fisk\***

*Chairman & President,  
Atlantic Legal Foundation  
Senior Vice President,  
General Counsel and Secretary (Ret.)  
Computer Sciences Corporation*

**Augustus I. duPont\***

*Vice Chairman, Atlantic Legal Foundation  
Vice President, General Counsel and  
Secretary (Ret.)  
Crane Co.*

**David E. Wood\***

*Treasurer, Atlantic Legal Foundation  
Partner  
Barnes & Thornburg LLP*

**Scot Elder\***

*Secretary, Atlantic Legal Foundation  
Vice President and Chief Counsel  
Restorative Therapies Group  
Medtronic*

**Tracy A. Bacigalupo**

*Partner  
Morrison & Foerster LLP*

**Thomas E. Birsic**

*Partner  
K&L Gates LLP*

**John L. Brownlee**

*Partner  
Holland & Knight LLP*

**Lee C.H. Cheng**

*Chief Legal Officer  
Eforcity.com  
Shareholder  
Maschoff - Brennan*

**Timothy E. Flanigan\***

*Chief Legal Officer, Chief Ethics &  
Compliance Officer & Corporate Secretary  
Cancer Treatment Centers of America®  
Global, Inc.*

**Mary L. Garceau**

*Senior Vice President  
General Counsel and Secretary,  
The Sherwin-Williams Company*

**Jonathan P. Graham\***

*Senior Vice President,  
General Counsel and Secretary  
Amgen Inc.*

**Robert L. Haig**

*Partner  
Kelley Drye & Warren LLP*

**Stephen J. Harmelin\***

*Co-Chairman  
Dilworth Paxson LLP*

**Joe G. Hollingsworth\***

*Partner  
Hollingsworth LLP*

**Frank R. Jimenez**

*Vice President, General Counsel and  
Corporate Secretary  
Raytheon Company*

**Robert E. Juceam**

*Of Counsel  
Fried, Frank, Harris, Shriver & Jacobson  
LLP*

**John J. Kenney**

*Partner  
Hoguet Newman Regal & Kenney, LLP*

**Maryanne R. Lavan**

*Senior Vice President,  
General Counsel and Corporate Secretary  
Lockheed Martin Corporation*

**Alinne Majarian**

*Senior Vice President  
Citibank*

**Gregory J. Morrow**

*Founder and Principal  
The Morrow Group*

**William G. Primps**

*Of Counsel  
Cullen and Dykman LLP*

**Nevin Sanli**

*President and Founder  
Sanli Pastore & Hill, Inc.*

**Philip R. Sellinger**

*Co-Chair, Global Litigation Practice  
Co-Managing Shareholder - NJ  
Greenberg Traurig, LLP*

**William H. Slattery\***

*President (ret.)  
Atlantic Legal Foundation*

**Jay B. Stephens\***

*Senior Vice President, General Counsel and  
Secretary  
Raytheon Company (Ret.)  
of Counsel, Kirkland & Ellis*

**Clifford B. Storms\***

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

**Charles R. Work\***

*Senior Counsel  
McDermott Will & Emery LLP*

Other Officers**Lawrence S. Ebner**

*Executive Vice President  
and General Counsel  
Atlantic Legal Foundation*

**Nishani D. Naidoo**

*Vice President and  
Associate General Counsel*

Executive Assistant**Tee Cirillo**Accounting Manager**Cheri R. Mazza, PhD, CPA, ABV,  
CVA, CFF, MAFF**

*Partner  
PKF O'Connor Davies, LLP*

Outside Auditor**John L. Corcoran, CPA**

*Owen J. Flanagan & Company*

**\* Members of the Board's  
Executive Committee**

# Advisory Council

**Henry N. Butler, PhD**

*Dean and Professor of Law*  
Antonin Scalia Law School  
George Mason University

**Kristin Calve**

*Publisher*  
Metropolitan Corporate Counsel  
Law Business Media

**John H. Carley**

*Senior Vice President*  
*Legal and Regulatory Affairs (Ret.)*  
Cendant Corporation

**Sean Casey**

*Partner*  
Buchalter

**Hung K. Cheung, M.D., M.P.H.**

*President*  
Cogency Environmental LLC

**Frederick T. Elder, PhD, P.E.**

Frederick T. Elder & Associates

**Professor Charles M. Elson**

*Chair*  
Center for Corporate Governance  
University of Delaware

**Gregory V. Jolivette, Jr.**

*Senior Counsel*  
Sherwin-Williams Company

**John M. Kalas**

*Partner*  
Hollingsworth LLP

**Roger S. Kaplan**

*Partner (Ret.)*  
Jackson Lewis P.C.

**Mark Kokes, PhD**

*Chief IP Officer*  
Nantworks & Affiliates

**Steve A. Matthews**

*Shareholder*  
Haynsworth Sinkler Boyd B.A.

**Michael X. McBride**

*Managing Partner*  
Connell Foley LLP

**Lawrence G. McMichael**

*Chair Professional Practice*  
Dilworth Paxon LLP

**Susan L. Meade**

*Principal*  
Phillips Oppenheim

**Dr. A. Alan Moghissi**

*President*  
Institute for Regulatory Science

**Charles W. Mooney, Jr.**

*Professor of Law*  
University of Pennsylvania Law School

**Michael S. Nadel**

*Partner*  
McDermott Will & Emery LLP

**Ozgun I. Ozkan, M.D.****Alan Charles Raul**

*Partner*  
Sidley Austin LLP

**Paul C. Rooney, Jr.**

*Partner (Ret.)*  
White & Case LLP

**Marco Q. Rossi**

*Founder & Principal*  
Marco Q. Rossi & Associati, PLLC

**Briscoe R. Smith**

*Senior Vice President – Counsel (Ret.)*  
Atlantic Legal Foundation

**Ana Tagvoryan, Partner**

*Vice Chair Litigation and Co-Chair*  
*Class Action Defense*  
Blank Rome, LLP

**Thomas V. Walsh**

*Principal*  
Jackson Lewis P.C.

**Stephen T. Whelan**

*Partner*  
Blank Rome, LLP

**Lance H. Wilson**

*A Managing Director*  
Newark Knight Frank  
(subsidiary of Cantor Fitzgerald)

# Atlantic Legal Foundation: 2019 & 2020 Supporters

## Foundations

Anonymous  
F.M. Kirby Foundation  
Rumsfield Family Fund

Sarah Scaife Foundation  
Stephenson Family Foundation  
Catherine L. and Edward A. Lozick Foundation

## Corporations

Amgen, Inc.  
Brunswick Group LLC  
Cancer Treatment Centers of America®

Lockheed Martin Corporation  
Novartis Corporation  
Raytheon Company

## Law Firms

Barnes & Thornburg LLP  
Blank Rome LLP  
Butler Snow LLP  
Connell Foley LLP  
Cravath, Swaine & Moore LLP  
Dilworth Paxon LLP  
Greenberg Traurig, LLP  
Hollingsworth LLP  
Jackson Lewis P.C.

K & L Gates LLP  
Marco Rossi & Associates  
McCarter & English LLP  
McCusker, Anselmi Rosen & Carvelli, PC  
Morrison Foerster LLP  
O'Melveny & Myers LLP  
Parker, Milliken, Clark Ohara & Samuelian, APC  
Rivkin Radler LLP  
Shook, Hardy & Bacon LLP

## Board and Advisory Council

Ana Tagvoryan  
Augustus duPont  
Charles R. Work  
Clifford B. Storms  
David E. Wood  
Frank R. Jimenez  
Gregory J. Morrow  
Hayward D. Fisk  
Henry N. Butler  
Jay B. Stephens  
John M. Kalas  
John J. Kenney

Jonathan P. Graham  
Joseph G. Hollingsworth  
Lance H. Wilson  
Lawrence G. McMichael  
Lee C. H. Cheng  
Marco Q. Rossi  
Mark Kokes  
Maryanne R. Lavan  
Michael McBride  
Paul Rooney  
Phillip R. Sellinger  
Roger S. Kaplan

Scot M. Elder  
Sean Casey  
Stephen T. Whelan  
Steve Matthews  
Stephen J. Harmelin  
Taylor Heininger  
Thomas V. Walsh  
Thomas E. Birsic  
Timothy E. Flanigan  
Tracy A. Bacigalupo  
William Primps

## Individuals

Frank Broidy  
Frank Kearny  
Fred Fielding  
Geoffrey Tanner  
Jason Litt  
John (Jack) Vales

Josh Wolf  
Kendris Family  
Linda Svitak  
Malcolm McNeil  
Mark Calloway  
Patrick Blosser

Ron Beard  
Vincent Delisi  
Vincent Nagler  
William Dotson

## Thank You.

With your help, the Atlantic Legal Foundation has been able to successfully pursue its mission to advocate for the rule of law, limited effective government, free enterprise, individual liberty, school choice and sound science.

The Board of Directors, Advisory Council and Staff of the Foundation thank you for your continued support.



# Atlantic Legal Foundation: Mission and Programs

The Atlantic Legal Foundation is a nonprofit, nonpartisan public interest law firm with a demonstrable four-decade record of advancing the rule of law by advocating limited and efficient government, free enterprise, individual liberty, school choice and sound science. To accomplish its goals, Atlantic Legal provides legal representation and counsel, without fee, to parents, scientists, educators, and other individuals, corporations, trade associations and other groups. The Foundation also undertakes educational efforts in the form of handbooks, reports and conferences on pertinent legal matters.

Atlantic Legal's Board of Directors and Advisory Council include the active and retired chief legal officers of some of America's most respected corporations, distinguished scientists and academicians and members of national and international law firms.

The Foundation currently concentrates primarily on five areas: representing prominent scientists and academicians in advocating the admissibility in judicial and regulatory proceedings of sound expert opinion evidence; parental choice in education; corporate governance; the application of constitutional guarantees to individuals and corporations; and enforcing arbitration agreements, combating abusive class actions and addressing other threats to free enterprise.

Atlantic Legal's cases and initiatives have resulted in the protection of the rights of thousands of school children, employees, independent businessmen, and entrepreneurs. In case after case, Atlantic Legal brings about favorable resolutions for individuals and corporations who continue to be challenged by those who use the legal process to deny fundamental rights and liberties. Please visit [www.atlanticlegal.org](http://www.atlanticlegal.org) and [www.defendcharterschools.org](http://www.defendcharterschools.org) where the Foundation's most recent activities are detailed.

**Financial and other information about Atlantic Legal Foundation's purpose, programs and activities can be obtained by contacting the President at 500 Mamaroneck Avenue, Suite 320, Harrison, New York 10528, (914) 834-3322, <https://atlanticlegal.org/>, or for residents of the following states, as stated below. Florida: CH No. 60982 A COPY OF THE OFFICIAL REGISTRATION AND FINANCIAL INFORMATION MAY BE OBTAINED FROM THE DIVISION OF CONSUMER SERVICES BY CALLING TOLL-FREE, WITHIN THE STATE, 1-800-HELP-FLA OR AT [www.FloridaConsumerHelp.com](http://www.FloridaConsumerHelp.com). REGISTRATION DOES NOT IMPLY ENDORSEMENT, APPROVAL, OR RECOMMENDATION BY THE STATE. Maryland: For the cost of postage and copying, from the Secretary of State. New Jersey: INFORMATION FILED WITH THE ATTORNEY GENERAL CONCERNING THIS CHARITABLE SOLICITATION AND THE PERCENTAGE OF CONTRIBUTIONS RECEIVED BY THE CHARITY DURING THE LAST REPORTING PERIOD THAT WERE DEDICATED TO THE CHARITABLE PURPOSE MAY BE OBTAINED FROM THE ATTORNEY GENERAL OF THE STATE OF NEW JERSEY BY CALLING (973) 504-6215 AND IS AVAILABLE ON THE INTERNET AT <http://www.state.nj.us/lps/ca/charfrm.htm>. New York: A copy of our most recently filed financial report is available from the Charities Registry on the New York State Attorney General's website at [www.charitiesnys.com](http://www.charitiesnys.com) or, upon request, by contacting the New York State Attorney General, Charities Bureau, 28 Liberty Street, New York, NY 10005, or us at 500 Mamaroneck Avenue, Suite 320, Harrison, New York 10528. You may obtain information on charitable organizations from the New York State Office of the Attorney General at [www.charitiesnys.com](http://www.charitiesnys.com) or (212) 416-8401. Pennsylvania: The official registration and financial information of Atlantic Legal Foundation may be obtained from the Pennsylvania Department of State by calling toll-free, within Pennsylvania, 1-800-732-0999. Virginia: From the State Office of Consumer Affairs in the Department of Agriculture and Consumer Services, P.O. Box 1163, Richmond, VA 23218. West Virginia: West Virginia residents may obtain a summary of the registration and financial documents from the Secretary of State, State Capitol, Charleston, WV 25305. CONTRIBUTIONS ARE DEDUCTIBLE FOR FEDERAL INCOME TAX PURPOSES IN ACCORDANCE WITH APPLICABLE LAW. REGISTRATION IN A STATE DOES NOT IMPLY ENDORSEMENT, APPROVAL, OR RECOMMENDATION OF ATLANTIC LEGAL FOUNDATION BY THE STATE**



## **Atlantic Legal Foundation**

**500 Mamaroneck Avenue, Suite 320  
Harrison, New York 10528**

**1701 Pennsylvania Ave., NW, Suite 200  
Washington D.C. 20006**

**1527 Stone Canyon Road  
Los Angeles, CA 90077**

**(914) 834-3322  
[www.atlanticlegal.org](http://www.atlanticlegal.org)  
[www.defendcharterschools.org](http://www.defendcharterschools.org)**