

# ATLANTIC LEGAL FOUNDATION 2023 ANNUAL REPORT

Individual  
Liberty



Free  
Enterprise



Property  
Rights



Limited  
Government



Sound  
Science



Effective  
Education



## ALF Advocacy Makes a Difference:

“ALF has become a hugely influential voice in the Supreme Court and the nation’s other appellate courts. ALF’s amicus briefs offer a unique and distinctive perspective on some of the most important issues in the American legal system.”

*Kannon K. Shanmugam*

*Chair, Supreme Court and Appellate Litigation Practice  
Paul, Weiss, Rifkind, Garrison, & Wharton LLP*

For other testimonials see pages 10-13

# THE YEAR IN REVIEW

Now in its 47th year following its incorporation in the Commonwealth of Pennsylvania in 1977, the Atlantic Legal Foundation (“ALF”) recounts its successes in serving the public interest in 2023. . .

- As the nation’s leading advocate for sound science in judicial and regulatory proceedings,
- As a champion for parents’ rights to choose the schools and types of educational instruction best suited for their children, and
- As a strong proponent for free enterprise, limited and responsible government, property rights, individual liberty, civil justice, and the rule of law under America’s Constitution.

While ALF made excellent progress in 2023 in pursuing its nationwide mission, the challenges brought by ever encroaching governmental and socialistic demands, have intensified the need for ALF’s continuing attention, active high level advocacy, and your support.

We are gratified to report recognition of ALF's excellence in its appellate advocacy in the testimonials received over the past year and the earlier legacy testimonials from leading practitioners and executives reported at pages 10-13 following.

In 2022 and 2023, Atlantic Legal Foundation rejuvenated its long-established tradition of Annual Awards Dinners after being constrained by the coronavirus pandemic, which prevented its annual fundraising Awards Dinners for 2019-2021. We were privileged to honor Michael D. Rich, the President Emeritus of the RAND Corporation, as ALF’s annual awardee for 2022 and as ALF’s Lifetime Achievement Honoree, Dr. Thomas Sowell, famous author, economist, teacher and celebrated independent wiseman widely respected throughout America and internationally.

In 2023, ALF honored renowned Mediator/Special Master Kenneth R. Feinberg, especially well known for managing pro bono, over 4,000 claims submitted following the tragic 9/11 Trade Center terrorist attack in NYC in 2001, among many other major disasters over the course of his professional career. Ken Feinberg was introduced by Charles T. Hagel - U.S. Senator from Nebraska (1997-2009) and U.S. Secretary of Defense (2013-2015). ALF Director Timothy E. Flanigan, served as the Dinner Chairman and Master of Ceremonies of the event held at the Metropolitan Club in Washington D.C. hosted by club member and ALF Director, Joe G. Hollingsworth.

Ken Feinberg's stirring remarks are reproduced at page 56 in this report.

See pages 70-72 for Atlantic Legal’s distinguished lists of Annual and Lifetime Achievement Honorees over the past 30 plus years.

Atlantic Legal Foundation’s advocacy in 2023 included the submission of persuasive *amicus curiae* briefs and other filings in furtherance of all six of its mission areas. See *In the Courts* at page 14 and ALF’s website [atlanticlegal.org](http://atlanticlegal.org) for more details respecting ALF’s 2023 filings, its current filings, and its archived filings over many years before the U.S. Supreme Court, federal courts of appeals, and state appellate courts.

In furtherance of its longstanding efforts as the leading advocate fostering sound science in judicial and regulatory proceedings, ALF has featured on its website seminal articles on science and the law and other mission-critical issues. ALF's Advisory Council members — Thom Golab, President of the American Council of Science and Health and Jacob Traverse, President & CEO of the Center for Truth in Science co-authored the timely article on “Science and Laws: A Search for the Truth” published at page 20 in ALF's 2022 Annual Report, easily accessible on ALF's website.

Current articles of special interest are included in this Annual Report for 2023:

- Insights on Evidence Rule 702, amended in December of 2023, by Hollingsworth LLP partners Eric G. Lasker, Elyse A. Shimada and Shannon N. Proctor at page 19
- Clamor before the California Supreme Court created by the oppressive impracticable lower court imposition of a novel new state-law duty to innovate and commercialize that innovation - addressed by the Center for Truth and Science / CEO Jacob Traverse at page 24
- Instructive insights by ALF's Executive Vice President - General Counsel Lawrence Ebner on "Three Big Amicus Brief Mistakes" to avoid at page 26

We have continued our work to promote the effective education of our young students on behalf of charter schools with extensive special focus on this subject in our 2021 Annual Report, which included a then-current report on Charter School legal developments, authored by ALF's Advisory Council member Thomas Walsh, a recently retired partner with Jackson Lewis. Presented at page 21 in our Annual Report for 2021 (posted on ALF's website) is a guest article on The Case for Education Freedom and Protecting Charter Schools by nationally renowned scholar and spokeswoman, Virginia (Ginny) Gentles, a senior fellow of the proactive Independent Women's Forum and the first Director of the newly founded Education Freedom Center. Note also, the testimonial at page 11 by Nicole Neily, President of Parents Defending Education, extolling ALF's work.

In 2022 we suspended the publication and distribution of ALF's *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 these state-specific guides. These uncertainties were protracted into 2022 as reported in a seminal article published on ALF's website and reproduced at page 14 in that Report. The article is authored by ALF's Advisory Council member Thomas Walsh, a nationally recognized expert on the subject.

In 2023, we elected, appointed or elevated 9 distinguished professionals to our leadership team, including 2 new Directors, 3 new Advisory Council Members, and 4 new Officers. See pages 73-74 for the photos and bios of our newest Directors, Dean Martinez, the CEO of DRI, and Nisus executive Gregory Baumann who has moved up from the Advisory Council, and pages 80-83 for the photos and bios of our newest Advisory Council members Herb Fenster, Donald J. Kochan and Dennis McBride. Our current Officers are presented on page 75, with the latest additions being Director Marco Q. Rossi, elevated to Treasurer from Assistant Treasurer, Director Mark D. Nielsen to Assistant Treasurer, Nick Klitzing to the new office of Vice President-External Affairs, and Assistant General Counsel Hannah S. Marclely additionally to the office of Assistant Secretary. See pages 76-79 for the photos and bios of Nick Klitzing, Marco Rossi, Mark Nielsen and Hannah Marclely.

We were saddened to learn of the passing on June 6, 2023 of ALF's 2016 Honoree, the Honorable Harvey L. Pitt, Chief Executive Officer of Kalorama Partners and a former General Counsel and later Chairman of the Securities and Exchange Commission (from 2001-2003). Earlier he was a long time partner of Fried, Frank, Harris, Shriver & Jacobson from 1978 to 2001. Our condolences to his wife, family and friends...



*Harvey L. Pitt*

In October of 2023, ALF's thirty-three years veteran General Counsel, Martin S. Kaufman, who retired just three years earlier as Executive Vice President and General Counsel, passed away. His extensive and impressive biography is featured with testimonials in ALF's 2020 Annual Report and is reproduced at page 7 following for easy reference. Justices of the U.S. Supreme Court were notified of his passing and a special memorial sent to the Westchester Philharmonic in White Plains, NY in his honor. He was revered and is missed by many who share in our loss.



*Martin S. Kaufman*

In November of 2023, Briscoe "Sandy" Smith, ALF's retired Senior Vice President and Counsel passed away at age 85. He served ALF with distinction for many years, was highly respected and is missed. See page 9 for his brief bio.



*Briscoe "Sandy" Smith*

Atlantic Legal's current distinguished Officers, Board of Directors and Advisory Council (listed at pages 86-87 following and presented on ALF's website) are steadfast in their conviction that our legal system continues to need the effective, responsible, objective, and vigorous advocacy the Foundation has provided for over 47 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, related governmental actions, and political pressures. We are especially grateful for our supporters, contributors, leadership, staff, and consultants who enable the Foundation to continue its important work during these challenging times. Because of you, we will continue to make a difference for the betterment of American Jurisprudence and America. Thank you so very much for your continuing support. . .



A handwritten signature in black ink that reads "Dan".

**Dan Fisk**  
Chairman & President

A handwritten signature in black ink that reads "Larry".

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

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## EXECUTIVE SUMMARY

### About Atlantic Legal Foundation

- Atlantic Legal Foundation has been defending liberty for over 47 years, since its establishment early in 1977.
- Atlantic Legal Foundation is a national, nonprofit, nonpartisan public interest law firm with a storied history of advocating for individual liberty, free enterprise, property rights, limited and responsible government, sound science in the courtroom, and effective education through school choice and parental rights.
- 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 before the Supreme Court, federal courts of appeals, and state supreme courts. The Foundation also has provided pro bono legal representation 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. ALF continues to be proactive in strengthening Federal Rule of Evidence 702 which codified the essence of the *Daubert Trilogy* of decisions.

## 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 and the limitation of personal jurisdiction over out of state corporate defendants.

## Effective Education / School Choice

Atlantic Legal promotes effective education by advocating for parental rights, including school choice. Its work in this area is primarily focused on supporting charter schools. A major part of this effort has been publishing a series of state law guides, written by nationally known labor law attorneys, serving on ALF's Advisory Council, 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, as well as scholarly articles on the latest legal and political uncertainties impacting the regulatory environment for charter schools, as well as the submission of briefs before the Supreme Court and Courts of Appeal involving issues impacting traditional American Values.

## Position Papers, Comments and Conferences

Atlantic Legal publishes papers and files comments on legal issues of public concern, such as: the need to strengthen federal judges' expert testimony gatekeeper role under Federal Rule of Evidence 702, eliminating counterproductive rules requiring party consent or Court permission to file an amicus brief, 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 and influence 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***, as well as professional articles on the current legal and political landscape impacting charter school leaders.

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; and Effective Advocacy and Brief Writing Before the U.S. Supreme Court. Articles and News Releases on legal issues of importance are regularly posted on the Foundation's redesigned website, [atlanticlegal.org](http://atlanticlegal.org).

*In October 2023, Martin S. Kaufman passed on. Following is the article announcing his retirement just 3 years earlier...*

## 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*





# Remembering Retired Senior Vice President and Counsel Briscoe "Sandy" Smith



Briscoe Ranson Smith ("Sandy"), passed away peacefully, surrounded by family, in his home in Bronxville, New York on November 6, 2023. He was 85 years old.

He was born and raised in Stamford CT and attended the Loomis Chafee School where he was President of the Student Council, a varsity football player and a recipient of the American Field Service scholarship. Upon graduating from Loomis he attended Williams College where he was a varsity football player and a member of the Overweight Eight, a men's acapella group. While at Williams he read the book "Gideons Trumpet" a story about a young attorney's first argument before the Supreme Court which solidified his professional ambition to become a lawyer. He attended Law School at the University of Virginia where he was editor

of the Law Review and a member of the Raven Honorary Society. During law school, Briscoe was introduced to and quickly smitten by Lee Sanders, a junior editor at Harpers Bazaar Magazine. His opening line was: "So where do you see yourself in five years?" They were married soon thereafter and settled in Bronxville New York, where they enjoyed raising their three children and had a lifelong marriage of more than 50 years.

Briscoe began his legal career by taking a judge clerkship for New York City's 9th district and went on to become a Partner at Milbank, Tweed, Hadley and McCoy. At Milbank he was a commercial litigation specialist and advised institutional clients all over the world on complex legal matters. He was frequently applauded by industry colleagues for his eloquent and cogent legal prose. While at Milbank he wrote a memorandum for junior associates aspiring to make Partner. The first bullet point of the memo read: "Treat your support staff like royalty" which epitomized his gracious and humble spirit. He went on to be General Counsel at US Trust and Lead Counsel at the Atlantic Legal Foundation, where he took on litigation to promote a more limited Federal Government and the enhancement of charter school systems in the United States.

Briscoe was a member of the Reformed Church of Bronxville for 50 years where he served on Consistory, the EMC Fund Raising Committee, the Pastoral Search Committee, the Confirmation Mentoring Program and the Midnight Run Homeless Ministry. He advised church members and staff on various legal matters and published an illustrated book on the Church's architectural history.

He was an avid golfer, a voracious reader of historical and political biographies and author of two books on his family's genealogy. He had deep and meaningful friendships throughout his school years, in his professional life, on Fishers Island and in Bronxville. He took the most joy in and is survived by his daughter Ranson, sons Radford and Brewster, son-in-law Ken, daughters-in-law Johanneke and Heather and seven grandchildren Lindsay, Hollin, Jack, Abigail, Annie, McAllister and Sadie.

Briscoe lived every day of his life with dignity, grace and character. He was a role model to so many and was deeply loved by his family and friends. In lieu of flowers, the family suggested a contribution to the Juvenile Diabetes Research Foundation. A memorial service was held at the Reformed Church of Bronxville on November 14th at 11am, followed by a reception at Siwanoy Country Club.

# Recent Testimonials

“ALF has become a hugely influential voice in the Supreme Court and the nation’s other appellate courts. ALF’s amicus briefs offer a unique and distinctive perspective on some of the most important issues in the American legal system.”

*Kannon K. Shanmugam  
Chair, Supreme Court and Appellate Litigation Practice  
Paul, Weiss, Rifkind, Garrison, & Wharton LLP*

“The Atlantic Legal Foundation provided invaluable support to our clients in seeking Supreme Court review. ALF’s brief brought home the real-world impact of the case, cogently explaining the consequences of the other side’s position for defendants nationwide. We can’t thank ALF enough for their support.”

*Lisa S. Blatt, Chair, Supreme Court & Appellate Practice  
Sarah M. Harris  
Partners, Williams & Connolly LLP*

“We are consistently impressed by the quality and impact of amicus briefs authored by the Atlantic Legal Foundation. As Supreme Court practitioners, we know that amicus briefs matter to the Supreme Court. Our clients are incredibly grateful for the amicus support from Atlantic Legal Foundation in crucial cases that matter in the real world.”

*Neal Katyal, former Acting Solicitor General of the United States  
Jessica L. Ellsworth  
Katie Wellington  
Partners, Supreme Court Practice, Hogan Lovells US LLP*

“Atlantic Legal wrote an outstanding and valuable amicus brief focusing on the importance of sound science in regulatory proceedings. The writing and advocacy were superb – providing a credible outside perspective on the agency’s intentional exclusion of diverse scientific perspectives from a regulatory proceeding. I have no doubt that the panel gave considerable weight to Atlantic Legal’s perspective on the importance of sound science.”

*Brett A. Shumate  
Partner, Jones Day*

# Recent Testimonials

"Our client is grateful for ALF's support in an en banc Eleventh Circuit case last year. The appeal concerned whether and how an express preemption provision should apply to state-law failure-to-warn claims, with significant implications for ongoing mass-tort litigation against our client. ALF's amicus brief helpfully explained the importance of construing Supreme Court precedent consistently with Congress's creation of a uniform regulatory system for product labeling. The en banc Eleventh Circuit ultimately remanded to the original panel on narrow grounds, but this important issue is likely to recur in future cases."

*David M. Zionts, Partner  
Emily A. Vernon, Associate  
Covington & Burling LLP*

"ALF recently filed a compelling Fourth Circuit amicus brief supporting our clients in an arbitration-related case that involved complex issues of state and federal law. We were on a tight timeline for securing amicus support. ALF quickly digested the complexities involved and presented a Federal Arbitration Act preemption argument that powerfully and lucidly illuminated that aspect of the appeal. Having ALF as amicus on the appeal, which is known for its prowess on preemption, significantly strengthened our appellate effort by demonstrating to the court the legal and practical implications of our position. It was truly a pleasure working with ALF, and particularly with Larry Ebner, who is highly responsive, efficient, and unmatched in his legal analysis."

*Grant Hollingsworth  
Partner, Hollingsworth LLP*

"ALF drafted a masterful amicus brief on forum shopping in support of our clients in the Supreme Court of the United States. We truly enjoyed working with Larry Ebner and appreciate his professionalism and deep experience before the Court."

*Serge Krimnus, Partner  
Bochner PLLC*

"We are deeply grateful for the Atlantic Legal Foundation's excellent amicus brief filed in our Eighth Circuit case against an Iowa school district. The thoughtful historical analysis of both common law and Supreme Court precedent undoubtedly played a key role in the court's favorable decision. American parents are fortunate to have such wise counsel in their corner."

*Nicole Neily  
President, Parents Defending Education*

# Recent Testimonials

"It's not often the U.S. Supreme Court issues a unanimous decision and even more rare that the FTC abandons an enforcement action without consent decree or condition.

But Axon did not achieve these remarkable results alone. I want to thank ALF for its unwavering support in filing not one, not two, but three amicus briefs supporting Axon's constitutional claims at both the 9th Circuit and SCOTUS. These non-party briefs are critically important in protecting broader rights and detailing potentially dire consequences of unchecked government action, and we are grateful for ALF's partnership in this endeavor."

*Pam Petersen*

*VP Litigation / National Appellate Counsel, Axon Enterprise, Inc*

"ALF's amicus briefs have provided pivotal support for the New Civil Liberties Alliance's increasingly successful efforts to rein in the administrative state. Larry Ebner's brief in support of NCLA client Michelle Cochran's unanimous victory at the Supreme Court was quite influential. ALF's current amicus support is helping to overturn the Chevron deference doctrine, support First Amendment challenges to government censorship, and press for a reversal of SEC's gag policy. ALF's advocacy has lasting effects—as a recent powerful dissent by SEC Commissioner Hester Peirce demonstrates. She cited at length an ALF brief filed years earlier in the Supreme Court in support of NCLA's client, providing a critical boost to a renewed challenge to the SEC's pernicious Gag Rule."

*Mark Chenoweth, President and CEO*

*Peggy Little, Sr. Litigation Counsel*

*New Civil Liberties Alliance*

"Your amicus brief and support as we prepared for the Supreme Court argument were invaluable. Your expertise and dedication significantly enriched the quality and depth of the legal arguments supporting our client. Please know that your efforts are greatly appreciated by our entire legal team, and we are fortunate to count you as key allies in this important matter. Your dedication to justice and your willingness to share your expertise have made a lasting impression on all of us. Thank you for your outstanding contribution. We are immensely grateful for your support."

*Christie Herbert*

*Attorney, Institute for Justice*

# Legacy Testimonials

“Thanks 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 ... ALF 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.”

*Richard J Stephenson*  
*Founder & Former Chairman*  
*Cancer Treatment Centers of America®*  
*Merchant Banker & Philanthropist*

“I admire very much the work of the Atlantic Legal Foundation, ... and commend its commitment to a civil justice system that respects free enterprise and economic liberty.”

*W. James McNerney, Jr. (Ret.)*  
*Chairman, President*  
*The Boeing Company*

“I congratulate the Atlantic Legal Foundation for its contributions to [our] future. Its support for charter schools will assure that we have institutions where students will get superior education in science... The mission of the Foundation has never been more pertinent.”

*Chad Holliday (Ret.)*  
*Chairman duPont and Bank of America*

“It is truly an honor. .. to be participating in another fine program of the Atlantic Legal Foundation, an organization that does so much important work in promoting limited government, free enterprise, individual liberty, common sense, and the orderly, rational development of law. I have been a friend of the Atlantic Legal Foundation for many, many years...”

*Theodore B. Olson*  
*former Solicitor General of The United States*

“I want to thank the Atlantic Legal Foundation for its contributions to the protection of free enterprise.”

*Thomas J. Donohue (Ret.)*  
*President, U.S. Chamber of Commerce*



*Howard M. Metzenbaum Courthouse  
Cleveland, Ohio*

## IN THE COURTS

ALF’s nationally renowned *amicus curiae* program was exceptionally prolific during 2023 and continuing into early 2024. We filed, either at the request of the nation’s leading law firms or on our own initiative, a total of 29 amicus briefs—23 in the Supreme Court, 5 in federal courts of appeals, and 1 in the California Supreme Court.

These briefs were filed in carefully selected cases vetted by ALF Chairman & President Dan Fisk, ALF Executive Vice President & General Counsel Larry Ebner, and the Board of Directors. Larry, who has been elected a Fellow of the prestigious American Academy of Appellate Lawyers, personally has authored most of ALF’s amicus briefs since September 2020. He also has recruited a growing cadre of skilled appellate specialists eager to assist ALF on a pro bono basis. During 2023, we successfully brought on board Assistant General Counsel Hannah Marcley, a previous ALF law clerk who now has rejoined us as an experienced attorney.

ALF’s amicus briefs repeatedly receive high praise (see Testimonials at pages 10-13) and with increasing frequency, the attention of national legal media. As always, our briefs address a broad variety of critical, cutting-edge legal issues encompassed by one or more of ALF’s six advocacy missions. Some highlights of our 2023 / early 2024 amicus filings, listed below, include:

- ▶ A Supreme Court brief in a “slippery slope” case arguing that Congress cannot constitutionally tax unrealized economic gains, *i.e.*, wealth, as income;
- ▶ A brief urging the Supreme Court to decide whether, as ALF contends, federal law preempts state and local governments around the country from filing suits against fossil-fuel energy

companies seeking billions of dollars in damages for the alleged local effects of the oil & gas industry’s alleged contributions to global climate change;

- ▶ A Supreme Court brief challenging SEC administrative enforcement proceedings on structural constitutional grounds;
- ▶ Supreme Court briefs—including in the student loan debt cancellation case—advocating for judicial enforcement of Congress’ exclusive constitutional duty to exercise the “power of the purse” under the Appropriations Clause;
- ▶ A Supreme Court brief supporting the petitioners in their challenge to the *Chevron* deference doctrine, which requires courts to accept federal agencies’ interpretations of the statutes that define the extent of their regulatory authority;
- ▶ Briefs advocating for sound science, including in a well-publicized Supreme Court case concerning social media’s government-induced suppression of scientific debate concerning COVID-19, and in a California Supreme Court case concerning a pharmaceutical company’s alleged liability for choosing whether and when to develop a particular prescription drug; and
- ▶ Three Supreme Court briefs supporting individuals whose property rights have been taken by the government without just compensation in violation of the Fifth Amendment.

**The specific issues that our *amicus briefs* addressed during 2023 / early 2024 are summarized below. Details of the cases in which we filed, and the briefs themselves, are readily accessible through ALF’s robust website, [atlanticlegal.org](https://atlanticlegal.org).**

## Fostering Sound Science

- Whether Executive Branch officials’ efforts to pressure social media companies into suppressing scientific debate about the efficacy and/or risks of COVID-19 mitigation measures conflict with sound science as well as the First Amendment right to freedom of speech (*Murthy v. Missouri*) (Supreme Court) (merits stage);
- Whether the federal pesticide statute preempts state-law damages claims based on a manufacturer’s failure to provide a health-related label warning that the U.S. EPA determined is scientifically unwarranted and would be false and misleading (*Carson v. Monsanto Co.*) (11th Circuit); and
- Whether the U.S. Environmental Protection Agency’s exclusion of all industry-affiliated scientists from the Clean Air Scientific Advisory Committee undermines sound science as well as violates the Federal Advisory Committee Act’s requirement that all federal advisory committees be “fairly balanced in terms of the points of view represented” (*Young v. EPA*) (D.C. Circuit).

## Promoting Free Enterprise & Civil Justice

- Whether federal law governs what qualifies as an arbitration provision under the Federal Arbitration Act, or whether state law governs (*Great American Ins. Co. v. Crystal Shores Owners Ass'n*) (Supreme Court) (petition stage);
- How federal district courts should interpret and apply the “internal affairs” and “home state” exceptions to the Class Action Fairness Act removal provisions (*Country Mutual Ins. Co. v. Sudholt*) (Supreme Court) (petition stage);
- Whether the federal Clean Air Act preempts climate change-related, state-law tort suits brought by state and local governments against fossil-fuel energy companies (*Sunoco & Shell v. City & County of Honolulu*) (Supreme Court) (petition stage);
- Whether the expert witness admissibility criteria established by Federal Rule of Evidence 702 should apply to expert testimony proffered to satisfy the elevated fraud-pleading standards in securities fraud litigation (*NVIDIA Corp. v. E. Ohman J:or Fonder AB*) (Supreme Court) (petition stage);
- Whether a pharmaceutical manufacturer that developed and commercialized an FDA-approved drug that is *not* alleged to be defective breaches a duty of care to a subset of consumers by halting development and commercialization of what the company allegedly knows is a safer, alternate drug (*Gilead Tenofovir Cases*) (California Supreme Court) (petition stage);
- Whether the attorney-client and work-product privileges protect from disclosure documents and other communications in connection with an outside counsel-conducted internal investigation requested by a corporation (*In re FirstEnergy Corp. Securities Fraud Litigation*) (6th Circuit);
- Whether the arbitration provisions in the Terms & Conditions accompanying the purchase of electronic tickets are enforceable against all persons who use the tickets to gain admission to sports, entertainment, or other types of events (*Naimoli v. Pro-Football, Inc.*) (4th Circuit);
- Whether the Federal Arbitration Act’s “transportation workers” exemption is limited to workers in the transportation industry (*Bissonnette v. LePage Bakeries Park St., LLC*) (Supreme Court) (merits stage);
- Whether courts must respect the contracting parties’ decision to delegate questions of arbitrability to the arbitrator when a later contract might modify an earlier one (*Coinbase, Inc. v. Suski*) (Supreme Court) (merits stage);
- Whether an online seller whose products ship nationwide through a third-party virtual “storefront” should be subject to personal jurisdiction in every State into which even one of its products is shipped (*Photoplaza, Inc. v. Herbal Brands, Inc.*) (Supreme Court) (petition stage);



- Whether the implied right of action under Section 10(b) of the Securities Exchange Act and SEC Rule 10b-5 encompasses claims for alleged omissions of disclosures required under Item 303 of SEC Regulation S-K (*Macquarie Infrastructure Corp. v. Moab Partners, L.P.*) (Supreme Court) (merits stage);
- Whether the civil action treble damages provision of the Racketeer Influenced and Corrupt Organizations Act (“RICO”) extends to economic harm directly resulting from personal injuries (*Medical Marijuana, Inc. v. Horn*) (Supreme Court) (petition stage);
- Whether an intervenor’s interest in transparency is sufficient to confer standing to seek access to sealed or protected judicial records, or whether an intervenor must show personalized “adverse effects” to seek document unsealing (*Tardy v. Corrections Corp. of America*) (Supreme Court) (petition stage);
- Whether the expert testimony admissibility criteria established by Federal Rule of Evidence 702 apply to class certification decisions (*Carr v. Google, LLC*) (9th Circuit);
- Whether a self-appointed Americans with Disabilities Act “tester” has Article III standing to challenge a hotel’s failure to provide disability accessibility information on its website if she lacks any intention of visiting the hotel (*Acheson Hotels, LLC v. Laufer*) (Supreme Court) (merits stage); and
- Whether a federal district court is required to stay all judicial proceedings while denial of a motion to compel arbitration is being appealed (*Coinbase, Inc. v. Bielski*) (Supreme Court) (merits stage).

## Enforcing the Constitution & Curbing the Administrative State

- Whether a requirement to pay a fee to obtain a construction permit is exempt from the unconstitutional conditions doctrine, and thus does not violate the Fifth Amendment’s Just Compensation/Takings Clause, merely because the exaction was imposed through legislation (*Sheetz v. County of El Dorado, California*) (Supreme Court) (merits stage);
- Whether individuals whose property is taken without just compensation can seek redress under the Fifth Amendment’s Just Compensation/Takings Clause even if the state legislature has not affirmatively provided them with a cause of action (*Devillier v. Texas*) (Supreme Court) (merits stage);
- Whether Securities and Exchange Commission (SEC) “in house” civil administrative enforcement proceedings are structurally constitutional (*SEC v. Jarkesy*) (Supreme Court) (merits stage);

- Whether due process permits a court to exercise specific personal jurisdiction over a corporate defendant based solely on the forum contacts of an alleged co-conspirator (*BASF Metals, Ltd. v. KPFF Investment, Inc.*) (Supreme Court) (petition stage);
- Whether taxation of unrealized economic gains violates the Sixteenth Amendment of the Constitution (*Moore v. United States*) (Supreme Court) (merits stage);
- Whether “*Chevron*” judicial deference to federal administrative agencies’ interpretations of the statutes that they administer should be overruled (*Loper Bright Ent. v. Raimondo*) (Supreme Court) (merits stage);
- Whether the Consumer Financial Protection Bureau’s congressionally enacted self-funding mechanism violates the Appropriations Clause of the Constitution (*CFPB v. Community Financial Services Association of America*) (Supreme Court) (merits stage);
- Whether (despite the concerns of the business community) the Immigration and Nationality Act authorizes the Department of Homeland Security to create and operate a “Post-Completion Optional Practical Training Program” that allows holders of “F-1” nonimmigrant student visas to stay and work in the United States up to 3 years after receiving a university-level “STEM” (Science, Technology, Engineering, or Mathematics) degree (*Washington Alliance of Technology Workers v. DHS*) (Supreme Court) (petition stage);
- Whether a local government violates the Fifth Amendment’s Just Compensation/Takings Clause when it keeps, as authorized by a state statute, the surplus proceeds from sale of a home that it seizes to collect a delinquent property tax or other debt (*Tyler v. Hennepin County, Minnesota*) (Supreme Court) (merits stage); and
- Whether the Administration’s plan to unilaterally cancel a half-trillion dollars in student loan debt violates the Appropriations Clause of the Constitution (*Biden v. Nebraska*) (Supreme Court) (merits stage).





*Elyse A. Shimada*



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# How to Make the Most of the Rule 702 Amendments

*By: Eric G. Lasker, Elyse A. Shimada, and Shannon N. Proctor  
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***As amended on December 1, 2023, Federal Rule of Evidence 702 takes a strong step forward in protecting jurors from unreliable expert testimony in the courtroom. The Advisory Committee Note and working papers are key resources to ensure proper understanding of the import of the amendment and to put an end to the judicial recalcitrance that has too often undermined this important evidentiary protection.***

## **Introduction**

On December 1, 2023, Federal Rule of Evidence 702 was amended for the first time in twenty-three years to address what the Advisory Committee on Evidence Rules (“Advisory Committee”) identified as widespread recalcitrance by many federal courts to correctly fulfilling their gatekeeping responsibility against unreliable expert evidence in the courtroom. The language of the Rule is being amended in two keys respects: First, Rule 702 now includes express language requiring the court to hold the proponent of expert testimony to the preponderance of the evidence standard in establishing each of the four elements of the Rule 702 admissibility standard.<sup>1</sup> Second, the amended Rule clarifies that the court must evaluate not only the reliability of the underlying facts and methodologies used by the expert but also whether the expert reliably applies his or her methodology to the facts of the case.<sup>2</sup>

The new language provides a strong foundation for a more stringent application of Rule 702 than has been followed by many courts in the past. Importantly, however, practitioners challenging unreliable expert testimony should look as well to the Advisory Committee Note explaining the

amendments and to the eight years of Committee deliberations<sup>3</sup>, as further guides to the proper application of the new rule. Committee Notes and deliberations are accorded great weight in rule interpretation, and they provide important further instruction here as to the types of mistakes that courts have made in the past in admitting improper expert testimony into the courtroom. The interpretive materials also highlight specific flawed Rule 702 opinions that have enjoyed significant influence in the past but that have now been definitively overruled with the 2023 amendments.

This article focuses on the key findings in the Advisory Committee Note and deliberations and their significance in the proper interpretation and application of the amended Rule 702.

## I. **Advisory Committee Notes and Deliberations Are Afforded Great Weight.**

The Advisory Committee's evaluation of Rule 702 began in 2015 with a law review article calling for an amendment to the Rule in response to a significant body of case law that had failed to properly apply the Rule as it had been amended in 2000 following the United States Supreme Court's *Daubert* trilogy<sup>4</sup>. In its 2000 amendments, the Advisory Committee had sought to resolve conflicts in the courts about the proper meaning of *Daubert* by codifying a "more rigorous and structured approach" to the scrutiny of expert testimony than some courts were employing.<sup>5</sup> Unfortunately, however, many courts disregarded the Advisory Committee's work, and cited instead to selectively excerpted language in post- and even pre-*Daubert* opinions in support of a more liberal admissibility standard.<sup>6</sup>

During the past eight years, the Advisory Committee has extensively analyzed this history of judicial recalcitrance in the wake of its 2000 amendments, and the Committee's findings are reflected both in the Advisory Committee Note accompanying the newly-amended Rule and in the Committee working papers and publications that explain the Committee's reasoning. Particularly in light of the oft-flawed understanding of the prior Rule 702 amendments in 2000, practitioners and courts applying the new Rule 702 should look to these materials as necessary guidance in the proper screening of unreliable expert testimony going forward.

Committee Notes provide the most succinct and readily accessible guide to the proper application of federal rules. Published alongside the rules themselves, the Notes are subject to the same rule-making process, public notice and comment, and Supreme Court and Congressional review and approval. As such, "the interpretations in the Advisory Committee Notes are nearly universally accorded **great weight** in interpreting federal rules." *Horenkamp v. Van Winkle & Corp.*, 402 F.3d 1129, 1132 (11th Cir. 2005) (quotation marks omitted).<sup>7</sup> In *Tome v. United States*, 513 U.S. 150, 168 (1995), for example, Justice Kennedy, writing in support of his majority opinion, relied heavily on the Committee Note for Fed. R. Evid. 801(d)(1)(B) in concluding that the rule incorporated the common-law requirement that prior consistent statements had to be made before the motive to fabricate arose.<sup>8</sup> In so doing, Justice Kennedy emphasized the Congressional approval of the proposed Rule and Committee Note without amendment.<sup>9</sup> He cited also to the Committee's impressive credentials and to the notice-and-comment process by which the Committee consults the views of the academic community and the public when preparing the Committee Notes.<sup>10</sup>

While less readily accessible than the Committee Note, the Advisory Committee working papers are posted on the Federal United States Courts website and provide a more detailed discussion of the reasoning behind and intended meaning of the federal rules<sup>11</sup>. The deliberations are set forth in separate collections of agenda books, meeting minutes, committee reports, preliminary drafts, and Congressional and Supreme Court Rules packages, and also include suggestions for rule amendments and public comments on proposed amended rules<sup>12</sup>. Beyond this, members of Advisory Committees often make public statements or draft publications to further elucidate their reasoning.

As with Committee Notes, there is a solid body of judicial authority holding that Advisory Committee deliberations provide important guidance in the interpretation of federal rules. In *Mississippi Publishing Corporation v. Murphree*, 326 U.S. 438, 444 (1946), for example, the Supreme Court looked to statements from the Advisory Committee’s spokesperson when construing the meaning of Fed. R. Civ. P. Rule 4(f). Later, in *Amchem Products v. Windsor*, 521 U.S. 591, 613-19 (1997), the Supreme Court relied upon public statements by the Advisory Committee reporter to assist in determining the meaning of Fed. R. Civ. P. Rule 23(b)(3). Likewise, the Fourth Circuit (sitting *en banc*) relied heavily on the unpublished Advisory Committee writings and hearing transcripts to aid the court’s interpretation of Fed. R. Civ. P. Rule 63<sup>13</sup> and, the Ninth Circuit looked to the Advisory Committee’s meeting minutes and agenda books to confirm its interpretation of Fed. R. Crim. P. Rule 32<sup>14</sup>. Academic commentators likewise have explained the importance of the working papers of Advisory Committees in interpreting the federal rules<sup>15</sup>.

## II. **The Advisory Committee Note to the 2023 Rule 702 Amendments Calls Out Courts That Have Misapplied The Rule.**

The Advisory Committee is explicit in its Note to the 2023 Rule 702 amendment in calling out courts that had resisted the “more rigorous and structured approach” to expert admissibility that the Committee had sought to codify in 2000. First, the Committee Note explains that “the rule has been amended to clarify and emphasize that expert testimony may not be admitted unless the proponent demonstrates to the court that it is more likely than not that the proffered testimony meets the admissibility requirements set forth in the rule.”<sup>16</sup> The Committee then admonishes the “many courts [that] have held that the critical questions of the sufficiency of an expert’s basis, and the application of the expert’s methodology, are questions of weight and not admissibility. *These rulings are an incorrect application of Rule 702 and 104(a).*”<sup>17</sup> (emphasis added).

The Note continues, “[t]he Committee concluded that emphasizing the preponderance standard in Rule 702 was made necessary by the courts that have failed to apply correctly the reliability requirements of that rule.”<sup>18</sup> As the Committee further explains “[t]he amendment clarifies that the preponderance standard applies to the three reliability-based requirements added in 2000 – requirements that many courts have incorrectly determined to be covered by the more permissive Rule 104(b) standard.”<sup>19</sup>

The importance of this Committee Note language cannot be overstated. Beyond simply providing guidance on the interpretation of the amended rule, the Rule 702 Committee Note makes clear that a large body of case law regularly relied upon by parties seeking to admit expert testimony is incorrect and should no longer carry any weight. As discussed below, in its deliberations, the Advisory Committee identified many of these flawed rulings by name and provided clear reasoning whereby other such flawed rulings can be identified and properly discarded.

The Committee Note also takes aim at experts who offer opinions that may start with reliable facts and reliable methodologies but then stretch beyond what those facts and methodologies would reasonably support. This is often the most challenging step in a court’s gatekeeping function because it requires courts to closely scrutinize the analyses and reasoning by which an expert reaches his or her opinion. The Note specifies that the amendment to Rule 702(d) is designed to “emphasize that each expert opinion must stay within the bounds of what can be concluded from a reliable application of the expert’s basis and methodology.”<sup>20</sup> As the Note explains, “judicial gatekeeping is essential because just as jurors may be unable, due to a lack of specialized knowledge, to evaluate meaningfully the reliability of scientific and other methods underlying an expert’s opinion, jurors may

also lack the specialized knowledge to determine whether the conclusions of an expert go beyond what the expert's basis and methodology may reasonably support."<sup>21</sup>

### III. **The Advisory Committee Working Papers Provide More Detailed Criticisms of Improper Expert Witness Gatekeeping**

The Advisory Committee's working papers and statements are likewise replete with criticisms of courts that have been too liberal in their admission of expert testimony. The Committee bemoaned the "pervasive problem" that in "a number of federal cases . . . judges did not apply the preponderance standard of admissibility to [Rule 702's] requirements of sufficiency of basis and reliable application of principles and methods, instead holding that such issues were ones of weight for the jury."<sup>22</sup> In his memorandum to the Advisory Committee, the Committee Reporter, Professor Daniel J. Capra noted that "courts have defied the Rule's requirements . . . that the sufficiency of an expert's basis and the application of methodology are both admissibility questions requiring a showing to the court by a preponderance of the evidence."<sup>23</sup> After an extensive review of "wayward caselaw" Professor Capra admonished courts that found expert testimony to be reliable when the expert has failed to conduct "sufficient investigation, or has cherry-picked the data, or has misapplied the methodology" stating that "wayward courts simply don't follow the rule" and going as far as saying the "Evidence Rules are disregarded by courts."<sup>24</sup>

In a Report of the Advisory Committee to the Committee on Rules of Practice & Procedure, Committee Chair Judge Schiltz, further explained that "[t]he Committee has determined that in a fair number of cases, the courts have found expert testimony admissible even though the proponent has not satisfied the Rule 702(b) and (d) requirements by a preponderance of the evidence."<sup>25</sup>

In a law review article explaining the Committee's thinking, the Chair of the Advisory Committee's Rule 702 subcommittee, Judge Schroeder, provided a detailed analyses of many of these flawed opinions.<sup>26</sup> Judge Schroeder was particularly critical of the United States Court of Appeals for the Ninth Circuit, which he explained is "facially wrong" in its failure to hold proponents of expert testimony to their Rule 104(a) burden<sup>27</sup>. In doing so, Judge Schroeder noted that "[t]he Ninth Circuit appears to set its own standard for assessing admissibility of expert opinion apart from Rule 702" and improperly "interpret[s] *Daubert* as liberalizing the admission of expert testimony."<sup>28</sup> Likewise, in his initial legal memorandum to the Advisory Committee assessing the need to amend Rule 702, Professor Capra conducted a case-by-case analysis in which he highlighted the flawed reasoning in many court's Rule 702 analyses.<sup>29</sup> Specifically, Professor Capra noted "wayward caselaw" from lower courts that had "disregard[ed] either Rule 702(b) or Rule 702(d)" resulting in "rulings that are far more lenient about admitting expert testimony than any reasonable reading of the Rule would allow."<sup>30</sup>

In particular, the Advisory Committee discussed three cases decided *before* the 2000 amendments that are often still relied upon by plaintiffs' counsel to suggest there is a presumption in favor of admitting expert testimony or that Rule 702's requirement that the expert's methodology have a sufficient basis is a question for the jury, not the court: (1) *Loudermill v. Dow Chemical Co.*, 863 F.2d 566 (8th Cir. 1988); (2) *Viterbo v. Dow Chemical Co.*, 826 F.2d 420 (5th Cir. 1987); and (3) *Smith v. Ford Motor Co.*, 215 F.3d 713 (7th Cir. 2000). In discussing these cases, the Committee emphasized that the parts of these cases that suggest "[t]here is a presumption in favor of admitting expert testimony" or that "[t]he sufficiency of facts or data supporting an expert opinion is a question for the jury not the court" are wrong, which is "absolutely apparent from the inclusion of the preponderance standard in the text."<sup>31</sup>

In another Report of the Advisory Committee Judge Schiltz and Professor Daniel Capra explained, regarding the amendment to Rule 702(d), that “the trial court must evaluate whether the expert’s conclusion is properly derived from the basis and methodology that the expert has employed”.<sup>32</sup> The reasoning for the amendment to subpart (d) is further explicated in various working papers (e.g., memoranda and minutes) discussing the Committee’s desire to curb overstated opinions by experts, particularly in the area of forensics.<sup>33</sup>

### **Conclusion**

The December 2023 amendments to Rule 702 provide clear instructions as to the four requirements for admissible expert testimony (subparts a, b, c & d) that courts must separately address and find satisfied by a preponderance of the evidence. If history is a guide, however, there are many wayward courts that will need further assistance in understanding and properly exercising their gatekeeping responsibility. The Advisory Committee, through its Note to the amendments and extensive working papers, serves as an essential aid to this education process and points the way towards a fairer administration of justice in the courtroom based on sound science and reliable expert opinion.



<sup>1</sup> The introductory paragraph to Rule 702 has been amended (as underscored) to state: “A witness who is qualified as an expert by knowledge, skill, experience, training, or education may testify in the form of an opinion or otherwise if the proponent demonstrates to the court that it is more likely than not that . . .”

<sup>2</sup> Amended Rule 702(d) (as underscored) provides: “(d) the expert has reliably applied expert’s opinion reflects a reliable application of the principles and methods to the facts of the case.”

The texts of the remaining extensive footnotes are available upon request.



# Should Companies Be Accountable For Not Innovating Fast Enough?

By Atlantic Legal Foundation Advisory Council Member Jacob Traverse, MBA, MMB



**Jacob Traverse**  
President & CEO, Center  
for Truth in Science

This is a new one. We've heard of companies being sued for putting dangerous products on the market. We've also heard of companies getting bullied into expensive settlements despite a lack of evidence pointing to a specific danger. But this time around, California's appellate court took things full circle with a new legal precedent in a case against Gilead Sciences. Based on this decision, we can only imagine what kinds of claims will be brought against companies if plaintiffs can find a new product that might be better than what's on shelves right now.

About 24,000 patients are suing Gilead Sciences for not bringing an "allegedly safer version" of a drug to market quickly enough. The HIV drug at issue was approved by the Food and Drug Administration (FDA) in 2001, but Gilead says that early studies did not clearly demonstrate that the new drug was an improvement.



A California superior court ruled in 2022 that Gilead could be held negligent for failing to develop better products, and now, this ruling has been affirmed by the appellate court.

“We conclude that the legal duty of a manufacturer to exercise reasonable care can, in appropriate circumstances, extend beyond the duty not to market a defective product,” wrote Associate Justice Jeremy Goldman.

Thus marks the beginning of a new California Gold Rush for the modern industry of irresponsible mass tort lawyers who manipulate the system to line their own pockets.

Mass torts are an important part of our judicial system because they help level the playing field between individuals and large corporations. However, there are many trial lawyers who abuse the mass tort system for their own personal gain, and they do it using weak, incomplete (and sometimes just plain false) scientific research.

These bad actors are skilled at hiring so-called expert witnesses to create their own version of “facts” and recruiting thousands of willing plaintiffs through television and online ad campaigns. By flooding state courts with lawsuits, they force companies to do one of two things: pay millions to defend every lawsuit and possibly go bankrupt, or settle with the attorneys, regardless of the truth.

Settlements can run into the billions of dollars with most going to attorney’s fees. An entire cottage industry of these types of lawyers has been created to find the next big payday.

Typically, a tort lawsuit requires proving the defendant caused direct harm to individuals. But with this new legal precedent in place, the sky is the limit for these law firms. If they can find a new product that might be better than what is on the shelves right now, they can sue the creators of the product for not selling it sooner. Today it’s medicine, but tomorrow it can be technology, food, consumer products, and whatever else the imagination can conjure.

Based on this concept, if a company begins to research or commercialize a new or potentially improved product, it could be legally obligated to bring it to market, no matter the commercial or technical obstacles. This puts innovators in a nearly impossible position. Move too fast and put a risky product on the market? Expect a lawsuit. Conduct thorough research to evaluate risk and exercise an abundance of caution? Expect a lawsuit. Nobody wants to walk that tightrope.

I fear that California’s decision to declare open season on innovation is going to extinguish the curiosity and passion of scientists, engineers, and entrepreneurs striving to make life better for people in a world that constantly demands that we make more from less. I also fear that those in the C-suite and legal departments of these companies will decide it’s no longer worth the risk to innovate in the first place.

On March 4, 2024, ALF filed an amicus brief appealing to the Supreme Court of California urging the Court to grant Giliad's Petition for Review and reverse "The Court of Appeal's radical extension of product liability . . . to *any* type of product for which R&D might lead to an allegedly safer alternative."



## Amicus Curiae Program

# Three BIG Amicus Brief Mistakes

By Atlantic Legal Foundation Executive Vice President & General Counsel Larry Ebner



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

Filing *amicus curiae* briefs is a well-accepted part of practicing before the Supreme Court, federal courts of appeals, and many state appellate courts. If you really want to be a “friend of the court” — if you want your amicus brief to actually get read and persuade or inform the court — here are 3 major mistakes to avoid:

### **Mistake # 1 — Don’t Follow the Rules.**

This is an obvious mistake, but one often made by lawyers whose experience writing amicus briefs is limited.

The Supreme Court has a separate set of rules for amicus briefs. Sup. Ct. R. 37. So do the federal courts of appeals. Fed. R. App. P. 29. Most circuits also have their own local rules concerning amicus briefs. These detailed rules cover format, content, and more.

For example, one big pitfall to avoid is Sup. Ct. R. 37.2. It requires that all parties’ counsel of record receive at least 10 days advance notice

of your intention to file an amicus brief in support of a pending cert petition. Also, the Supreme Court no longer requires consent or a motion for leave to file a non-governmental amicus brief. But this is still the requirement in all federal courts of appeals and most state appellate courts.

And both the Supreme Court and federal courts of appeals require amicus counsel to indicate whether a party, or party's counsel, has helped to author or finance the amicus brief in whole or part. An amicus brief lacking this disclosure will not be accepted for filing.

## **Mistake # 2 – Clutter your brief with subheadings & substantive footnotes, and don't stop writing until you reach the word limit.**

You want your amicus brief to get read. But you are competing for the court's attention with the parties' own briefs, and often, with other amicus briefs. So you need to make your amicus brief an easy read: Keep it short, well under the word limit. Make it visually appealing, and pique the court's interest, by limiting the brief to just 2 or 3 major argument headings and only 1 level of subheadings. And if it's worth saying, put it in the text, not in footnotes (even if you use footnotes for case citations).

## **Mistake # 3 – Pretend that you are representing the party that your amicus brief supports.**

This is probably the BIGGEST mistake that the author of an amicus brief can make. Simply put, the mistake is to submit an amicus brief that duplicates the legal arguments being made by the party that you are supporting.

***Instead, for your amicus brief to get read and be persuasive, SAY SOMETHING DIFFERENT!***

This admonition is built right into the Sup. Ct. R. 37.1. It states that “An *amicus curiae* brief that brings to the attention of the Court relevant matter not already brought to its attention by the parties may be of considerable help to the Court. An *amicus curiae* brief that does not serve this purpose burdens the Court, and its filing is not favored.”

Your brief can address the same legal arguments as the party you are supporting, but drill deeper (for example, by discussing legislative purpose and history in a statutory construction case, or additional relevant case law). Or your brief can add new legal arguments on the questions presented, or practical or policy perspective on the importance or impact of the legal issues in the case. But if you file a “me-too” brief that essentially repeats the arguments made in the brief filed by the party you are supporting, it probably won't get read.

*Larry Ebner is ALF's Executive Vice President & General Counsel. A Fellow of the American Academy of Appellate Lawyers, he has authored dozens of amicus briefs during the course of his five-decade legal career.*

# Welcome to the Atlantic Legal Foundation's 2023 Annual Awards Dinner & Reception



**Dan Fisk**

Chairman and President

**Larry Ebner**

Executive Vice President &  
General Counsel

## **The Metropolitan Club Washington D.C. - November 14, 2023**

The Metropolitan Club of the City of Washington, established in 1863, stands as Washington, D.C.'s oldest and most exclusive private club, as dubbed by The New York Times. Originally conceived by six U.S. Treasury Department officials, the club officially formed on October 13, 1863. After acquiring a lot on the corner of H Street and 17th Streets in 1883, the Club moved into its first purpose-built structure, designed by W. Bruce Gray and Harvey L. Page, only to face destruction in a fire in 1904. The Club's current Renaissance revival home, situated two blocks from the White House, was built from 1904 to 1908 by the architectural firm Heins & LaFarge. A two-story annex, designed by Frederick H. Brooke of Donn and Deming, was added in 1925, solidifying the Club's enduring legacy in the heart of the nation's capital.





## Setting the Stage in the Metropolitan Club







THE PROGRAM

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ATLANTIC LEGAL FOUNDATION

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Renowned Mediator and Special Master

*With his introduction by the Honorable*  
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*U.S. Senator from Nebraska (1997-2009)*  
*U.S. Secretary of Defense (2013-2015)*

THE METROPOLITAN CLUB  
WASHINGTON D.C.

*Hosted by Club Member*  
*& Atlantic Legal Foundation Director*  
**JOE G. HOLLINGSWORTH, ESQ.**

NOVEMBER 14, 2023



Annual Awards Dinner Program 2023  
Honoring Kenneth R. Feinberg, Esq.



Master of Ceremonies ALF Director  
Tim Flanigan & his wife Katie

# The Reception







Dede Feinberg, Richard Skillman  
and Ken Feinberg



ALF Chairman Dan Fisk and Honoree Ken Feinberg



Dave & Carole Yoho

On May 18, 2022 Dave Yoho received the Congressional Gold Medal for his military service during World War II.

On May 30, 2022 Dave spoke at the WWII Memorial and led the Memorial Day Parade.

As a recipient of the coveted Cavet Award, the Oscar of public speaking, Dave was recognized as the #1 professional public speaker in the world.

This was his second attendance at an Atlantic Legal Foundation Annual Awards Dinner.

Cheers to a Great American  
and  
Great American Couple.



Dan and Diane Fisk with Dave and Carole Yoho



Diane Fisk and Carole Yoho



Ken Feinberg with Carole and Dave Yoho



Dave and Carol Yoho and  
Richard Skillman



Dan Fisk and Matt Miller



Dave Yoho, Dan Fisk and Matt Miller



Cheri Mazza and Tee Cirillo



Cheri Mazza, Dan Fisk and Jamie Belcastro



Dan Fisk, Tee Cirillo and Jacob Traverse



Chuck Hagel and Greg Ralieg



Chuck Hagel, Greg Ralieg and Nick Klitzing



Chuck Hagel, Greg Ralieg and Nick Klitzing



Chuck Hagel, Greg Ralieggh and Lawrence Ebner



Dean Martinez, Lawrence Ebner, Donald Kochan



Gus and Cheryl Siekierka, Dan Fisk and  
Jamie Belcastro



Cheryl and Gus Siekierka, Diane Fisk and  
Thomas Evans



Julia Choi, Josh Goldberg and Jordan Greene



Don McMinn, Shannon Proctor and Ashley Johnston



Donald Kochan, Jay Stephens and Rich Samp



Donald Kochan and Peter Keisler



Ashley Johnston and Catherine Baumer



Rich Samp and Donald Kochan



Rich Samp and John Reeves



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Larry Ebner, Sarah Spencer  
and Dean Martinez



Sam Jockel, LieAnn Van Tull and  
Shannon Proctor



Sam Jockel and Shannon Proctor



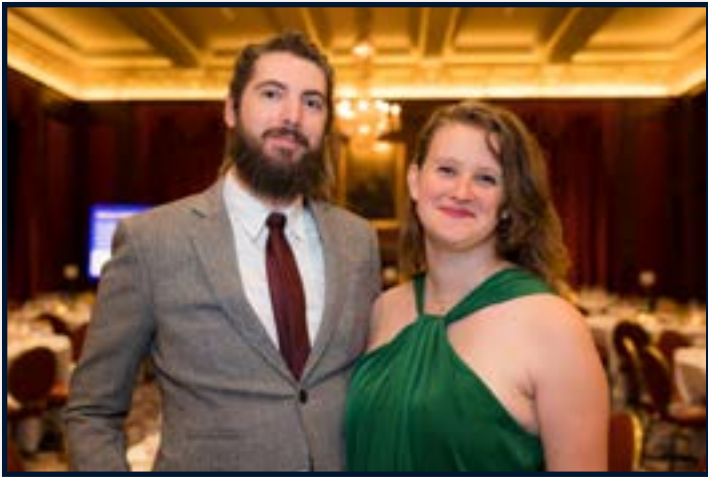
Chuck Work with Tim and Katie Flanigan



Tim and Katie Flanigan and Chuck Work



Hannah and Joshua Marcley and Rich Samp



Joshua and Hannah Marcley



Roni Haggart and Charles Work



Dan Fisk and Roni Haggart



Michalea Casey and Daniel Regan





Melanie and Nick Kosar



Cheryl and Gus Siekierka



Maria Reissaus and Andrew Reissaus



Marco Rossi with his daughter  
Helen



Joe Hollingsworth, Sam Jocket and Shannon Proctor



Joe Hollingsworth and Elyse Shimada



Harry Rhoads and Joe Hollingsworth



Nancy Hollingsworth and Harry Rhoads



Joe, Nancy and Grant Hollingsworth



Matt Soma, Nancy and Grant Hollingsworth



Henry Butler and Nancy Hollingsworth



Jacob Traverse, Lawrence Ebner, Dean Martinez and Donald Kochan



Jeff Kessler, Michalea Casey and Daniel Regan



ALF Director Lawrence McMichael with Advisory Council members Thom Golab and Dennis McBride



Joe Altieri, Joe Hollingsworth and Gary Rubin



Jamie Belcastro, Jacob Traverse, Greg Baumann and Joe Hollingsworth



Jay Stephens, Jason Klitenic and Marc Neilsen



Kathryn Simpson, Jay Stephens, Steve Rosenthal and Mark Nielsen



ALF Directors  
Thomas Evans and Steve Matthews



Maria and Andrew Reissaus and Robert Johnston



Katie Flanigan, David Higbee  
and Peter Keisler



ALF EVP/GC Lawrence Ebner  
and ALF Director Dean Martinez



Thomas Boyd, Mark Nielsen, Jay Stephens and  
Chad Boudreaux



William Kimmitt, Joe Barloon and Jonathan Nabavi



Matt Miller and ALF  
Director Lee Cheng



ALF Director William Primps and Geoffrey Coll



Matt Miller and Chad Boudreaux



Dan and Diane Fisk with  
Matt Miller



Thomas Evans and Joy Sharp



Ken and Dede Feinberg with Charles Work



Chairman Dan Flsk welcomes Harry Rhoads



Chairman Fisk and new director Greg Baumann



John Reeves, Ken Feinberg and Camille Biros

## THE PROGRAM

### WELCOME

**Dinner Chairman Timothy E. Flanigan**

Atlantic Legal Foundation Director &  
Chief Legal Officer of the International  
Capital Investment Company

**Hayward Dan Fisk**

Chairman and President  
Atlantic Legal Foundation

### INTRODUCTION OF THE 2023 ANNUAL AWARD RECIPIENT

**KENNETH R. FEINBERG**

Renowned Mediator / Special Master

*by*

**THE HONORABLE CHARLES T. HAGEL**

*U.S. Senator from Nebraska (1997-2009)*

*U.S. Secretary of Defense (2013-2015)*

### FOLLOWING HIS INTRODUCTION

*by*

Dinner Chair/ALF Director

**TIMOTHY E. FLANIGAN**

### REMARKS ON

*“Unconventional Responses to Unique Catastrophies:  
Tailoring the Law to Meet the Challenges”*

**Kenneth R. Feinberg**

### PRESENTATION OF AWARD

**Hayward Dan Fisk**

### Q&A AND CLOSING REMARKS

**Hayward Dan Fisk & Timothy E. Flanigan**

## DINNER HOST COMMITTEE

### —PLATINUM—

**RICHARD J STEPHENSON  
& DR. STACIE J. STEPHENSON**



### —GOLD—



### —SILVER—



### —BRONZE—



**Corporate Counsel  
Business Journal | CCBJ**

**KIRKLAND & ELLIS, LLP**

**MARCO Q. ROSSI & ASSOCIATI,  
PLLC**

**WINSTON & STRAWN LLP**

**HAYWARD DAN & DIANE FISK**

**JAY B. & JULIE STEPHENS**

**CHARLES R. WORK &  
VERONICA A. HAGGART**



Master of Ceremonies ALF Director  
Tim Flanigan Welcomes Guests

# The Awards Dinner



Master of Ceremonies ALF Director Tim Flanigan  
and the Head Table



Master of Ceremonies ALF Director Tim Flanigan







Master of Ceremonies ALF Director Tim Flanigan introduces Dan Fisk for his welcome remarks and a brief overview of ALF's mission and good works



ALF Chairman & President Dan Fisk welcomes guests and reports on the mission and good works of the Atlantic Legal Foundation



ALF Chairman & President Dan Fisk



Chairman Fisk calls on his 96 years young friend Dave Yoho... the former Number One Professional Public Speaker in the World and the recent recipient of the Congressional Gold Medal for his service in WWII

Dave Yoho springs into action . . .



Roni Haggart Work

Chuck Hagel

Dave Yoho

Lilibet Hagel

Chuck Work

Greeting former Secretary of Defense on his way to the podium



Chairman Fisk welcomes Dave Yoho to the podium



Introduced & Extolled



Dynamic



and Eloquent



as ever



With thanks for the blessing of his appearance . . .



Tim Flanigan introducing former US Senator & Secretary of Defense Chuck Hagel



Ken Feinberg

Roni Haggart

Chuck Hagel

Lilibet Hagel

Approaching the podium to introduce Honoree Ken Feinberg



Secretary Hagel introducing Ken Feinberg



## 2023 Annual Award Honoree Kenneth R. Feinberg Renowned Mediator and Special Master

Kenneth Roy Feinberg is an American attorney specializing in mediation and alternative dispute resolution.

He served as the Chief of Staff to Senator Ted Kennedy, Special Master of the U.S. government's September 11th Victim Compensation Fund and the Special Master for TARP Executive Compensation. Additionally, Feinberg served as the government-appointed administrator of the BP Deepwater Horizon Disaster Victim Compensation Fund. Feinberg was also appointed by the Commonwealth of Massachusetts to administer the One Fund—the victim assistance fund established in the wake of the 2013 Boston Marathon bombings. Feinberg was also retained by General Motors to assist in their recall response and by Volkswagen to oversee their U.S. compensation of VW diesel owners affected by the Volkswagen emissions scandal. Feinberg was hired by The Boeing Company in July 2019, to

oversee distribution of \$50 million to support 737 MAX crash victim families.

Feinberg is also an adjunct professor at the Columbia University School of Law, University of Pennsylvania Law School, Georgetown University Law Center, New York University School of Law, the University of Virginia School of Law and at the Benjamin N. Cardozo School of Law. He is a Trustee of the RAND Corporation.

Having served entirely pro bono as the Special Master for settling the over 4,000 victims claims in the aftermath of the 9-11 tragedy, Ken Feinberg is an especially deserving honoree. The heart wrenching story is captured in his book, *What is Life Worth?* and in the captivating movie *Worth* starring Stanley Tucci as Charles Wolf and Michael Keaton as Ken, depicted appropriately somewhat somberly under the circumstances as contrasted with the highly charged, dynamic professional Ken Feinberg we all know and respect.



Ken Feinberg delivering his stirring remarks

# Remarks of Kenneth R. Feinberg

Atlantic Legal Foundation  
Tuesday, November 14, 2023



I thank my dear friend of some forty years, Chuck Hagel, for his kind and generous introduction. I first met Chuck during the 1980s, when he was working at the Veteran's Administration, and I was the Court Special Master in the Agent Orange class action. His skill and political savvy proved essential in achieving a settlement for thousands of Vietnam veterans. Our friendship grew. I was the first financial contributor to his successful Nebraska Senate campaign. His career defines patriotism: United States Senator and Secretary of Defense in the Obama Administration. His wise counsel has had a direct and lasting impact on our Nation. And, I might add, on my personal career as well. I am grateful for his introduction this evening.

And it is a special pleasure for me to acknowledge the presence of Chuck's wife, Lilibet. Also present is my wife Dede Feinberg, who has achieved acclaim over the years in advancing and protecting Israel and Jewish causes around the world. She currently serves on the Board of the Jewish Democratic Council of America.

And a special shout out to my colleague of almost 50 years, Camille Biros. Camille is the foremost expert in our Nation when it comes to the design and administration of compensation claims programs - the 9/11 Fund, the BP Oil Spill Fund in the Gulf of Mexico, OneFund Boston following the Boston Marathon bombings and so many others. She has been a critical lifeline in compensating innocent victims of tragedy.

Finally, a few words of praise for two other important friends responsible for this evening's dinner. Dan Fisk, the Chairman and President of the Atlantic Legal Foundation, has been the individual most instrumental in the success of the Foundation and its mission. And my friend over the past four decades, Joe Hollingsworth, who took an idea about the law - the importance of assuring that sound science and research be required in our state and federal courts - and made it the law of the land. His law firm today is without equal in mastering the complexities of Daubert evidentiary hearings. These hearings require our courts to consider only credible evidence linking drugs, chemicals, and medical devices to alleged individual injuries. Joe is a credit to our profession and our Nation.

It is a particular honor for me to receive this 33rd annual award from the Foundation. I find myself in elite company — Gov. Frank Keating, Senator George Mitchell and last year's honoree Michael Rich of the RAND Corporation, to mention just a few. It is gratifying because this Foundation has been in the vanguard of promoting creative and long overdue reforms to our American legal system. The rule of law is an aspirational objective, a goal. It can only be achieved if the American people, as consumers of Civil justice, have confidence in how our judges, lawyers, and experts deliver on its promises. For decades the Foundation has proposed reforms to redeem those promises.



A few personal observations. For many years the Foundation was a relatively lonely voice when it came to the subject of court reform. Its focus on the inefficiencies and runaway costs of our trial courts - along with the uncertain results of the litigation lottery - were often met with criticism, or ignored as irrelevant. To the critics, the Foundation's reforms threatened long established rules and traditions.

But times have changed. Many of the Foundation's early warnings are now being addressed. It was not an accident that, after the tragedy of 9/11, the Congress completely bypassed the courts and, instead, established the September 11 Victim Compensation Fund to pay innocent victims of the tragedy. And after the BP Deepwater Horizon oil rig explosion, President Obama ordered BP to establish the Gulf Coast Claims Facility to compensate victims of the oil spill without direct court interference. In these and other examples our policymakers — copying a chapter of this Foundation's charter — created alternative compensation procedures. Rather than tinker with trial court defects, the courts, Congress and the President have implemented new creative methods to deliver justice in a more efficient, timely and cost-effective manner.

Judges of our federal and state courts continue to make greater use of Special Masters, Mediators and Claims Administrators (like Camille). The goal - to streamline our civil justice system, temper the presence of strident advocacy, and improve how we dispense justice in a more certain manner.

The effort continues. There are still challenges today that must be met. The Supreme Court's reluctance to expand class action rules to promote consolidation of mass claims (often favored by defendant companies); the failure of our trial courts to enforce Daubert principles of proof by keeping "junk science" from the jury; the ongoing issues surrounding forum shopping; the reluctance of judges to take advantage of Civil Rule 706 by designating their own "court experts" — these and other issues must continue to be addressed. The Atlantic Legal Foundation - with its credibility and record of success - continues to play a leadership role when it comes to these and other similar reforms.

The American people must have confidence in the rule of law and how our courts — federal, state and local — dispense justice every day. Our Nation is the envy of the world in many areas both domestic and foreign. But the idiosyncrasies and characteristics of our civil justice system - with its emphasis on adversarial combat, delay, duplicative costly trial practice, and uncertainty of result - are not looked upon as a system to be emulated elsewhere. There is much work to be done. And I'm sure this Foundation will continue to maintain its important role in advancing the challenging subject of justice reform.

I thank Dan, Joe, and the Foundation itself for this evening's Award.





Dinner guests listening intently



Advisory Council Member Henry Butler, former Dean of the Scalia School of Law



Henry Butler, ALF Advisory Council member and former Dean of the Scalia School of Law



Joe Hollingsworth greeting Catherine Baumer and Stephanie Salek



Lawrence Ebner, Executive Vice President and General Counsel of ALF





Chuck & Lilibet Hagel, Charles Work, Gus duPont, Bill Primps, Camille Biros, Harry Rhoads



Don Rivers



Geri Rivers and ALF Director Lee Cheng



ALF Treasurer & Director Marco Rossi



Helen Rossi



Jason Klitenic and Jennifer Brosnahan



Jonathan Nabavi



Charles Work with Henry Butler behind him



Marchello Gray



Marchello Gray, Joe Altieri,  
and Robert Johnston



Grant Hollingsworth, Matt Somma and Elyse Shimada



Ashley Johnson, Don McMinn and Greg Linsin



Peter Keisler and  
ALF Director Jay Stephens



ALF Vice Chairman Gus duPont and  
ALF Advisory Council Member Don



Stephanie Salek



Nebraskan's Roni Haggart  
and Chuck Hagel



Jessica Barilli



Michalea Casey



## Presentation of Award



Chairman Dan Fisk & Honoree Ken Feinberg





## ATLANTIC LEGAL FOUNDATION

*Is Proud to Honor as its 2023 Annual Award Recipient*

# KENNETH R. FEINBERG

RENOWNED MEDIATOR AND SPECIAL MASTER

Introduction by **The Honorable Charles T. Hagel**

U.S. Senator from Nebraska (1997 – 2009)

U.S. Secretary of Defense (2013 – 2015)

to be introduced by ALF Director and Dinner Chairman

**Timothy E. Flanigan**, the Chief Legal Officer of the  
International Capital Investment Company

*Our Honoree will address “Unconventional Responses to Unique  
Catastrophies: Tailoring the Law to Meet the Challenges”*

Hosted by Club Member  
Atlantic Legal Foundation Director  
**Joe G. Hollingsworth**



Annual Award Dinner Invitation 2023  
Honoring Kenneth R. Feinberg, ESQ.



# The Award

The Atlantic Legal Foundation's Annual Awards Dinner presents a prestigious event to honor exceptional individuals for their contributions to the betterment of America. As part of this distinguished occasion, each honoree is awarded a special custom award reflecting our Honoree's interests . . . This year, reflecting Ken's interests in history and the opera, we presented a special brass-trimmed hammered copper tub with a custom commemorative plaque in which was enclosed a complete collection of illustrated opera books with opera CD's and a generous check for opera tickets . . . Ken is still smiling!



Kenneth R. Feinberg





Time for Q&A



ALF Director Bill Primps



Chad Boudreaux



Geri Rivers and ALF Director Lee Cheng



Ken Feinberg & Chuck Hagel during Q&A



MC Tim Flanigan brings the Celebration to a Close



Thanks for coming



**The Big Guns**

ALF Chairman  
Dan Fisk

ALF Director &  
Metropolitan Club Host  
Joe Hollingsworth

Honoree  
Ken Feinberg

Honoree's Introducer  
Senator/ DOD Secretary  
Chuck Hagel

Master of Ceremonies  
ALF Director  
Tim Flanigan



Chuck Hagel, Greg Raleigh  
and ALF Vice-Chairman Gus duPont



Chairman Fisk with Nick and Melanie Kosar



Good friends Harry Rhoades and Joe Hollingsworth



ALF Director Jay Stephens and colleagues

Jason  
Klitenic

David  
Higbee

Jennifer  
Brosnahan

Peter  
Keisler



John Reeves and Ken Feinberg



ALF EVP-GC Larry Ebner and Director Joe Hollingsworth



"Well Done"

Gus Siekierka

Dan Fisk



Thanks for your support!  
Dan Fisk                      Larry Ebner



Thanks Tim



ALF is a superb organization. . .  
Jacob Traverse CEO Center for Truth In Science  
Greg Baumann Nisus Corporation Executive



# Annual Award Recipients 1988-2023

2023



**Kenneth R. Feinberg**  
*Special Master and Mediator*

2022



**Michael D. Rich**  
*President Emeritus  
RAND Corporation*

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® & CEO International  
Capital Investment Company*

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  
Chairman & CEO  
General Electric*

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 & Bank of America*

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*

# Annual Award Recipients 1988-2023

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*

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



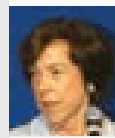
**Alfred C. DeCrane, Jr.**  
*Chairman and CEO*  
*Texaco Inc.*

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*

# Special Lifetime Achievement Honorees



2022

**Dr. Thomas Sowell**  
*One of the Great Social Theorist &  
Iconic Thinkers of our Age*



2016

**The Honorable Michael Mukasey**  
*Retired Attorney General  
United States of America  
U.S. District Court Judge for  
the Southern District of New York*



2014

**Evan R. Chesler**  
*Chairman  
Cravath, Swaine & Moore LLP*



2013

**The Late Richard Wilson**  
*Mallinckrodt Professor of Physics, Emeritus  
Harvard University*



2011

**Kathryn S. Wylde**  
*President and CEO  
Partnership for New York City*



2009

**The Late Hon. Judith S. Kaye**  
*Retired Chief Judge  
State of New York*



2006

**The Late Dr. Frederick Seitz**  
*President Emeritus  
The Rockefeller University*



*In 2023, we welcomed two new Directors to ALF's Board, four new Officers and three new Advisory Council Members strengthening ALF's leadership team, with appreciation to three long time members of our leadership team who retired late in 2023:*

## Dean Martinez New Board Member Elected in early 2023



### **Dean Martinez**

Chief Executive Officer  
DRI - The Voice of the  
Defense Bar

Dean Martinez is the CEO of DRI, the largest association for civil defense attorneys and in-house counsel. Dean is an outcome-driven attorney executive with a long track record in a full range of strategic management operations, marked by a successful career comprised of numerous leadership roles in professional societies and nonprofit organizations. He joined DRI in the spring of 2020. His innovative vision, proactive leadership and entrepreneurial spirit has led DRI to adjust its programming strategy to not only include the highest quality of on-person programming but to include dynamic virtual content that make networking easy, to meet current and future needs of DRI members.

Prior to joining DRI, Dean served as the General Counsel (GC) and Chief Operating Officer (COO) for APICS/Association of Supply Chain Management (the largest supply chain association in the world), Illinois Deputy Governor, Secretary of the Illinois Department of Financial and Professional Regulations, Chief Legal Counsel of the Illinois Department of financial Institutions, and Assistant Cook County State's Attorney. He holds a J.D. from Loyola University Chicago School of Law and a B.A. from DePaul University, and lives in Illinois with his wife and three children.

## Chemical Industry Veteran Greg Baumann Elevated from ALF Advisory Council to Board of Directors in November, 2023



Greg Baumann is Vice President of Global Regulatory and Technical Services for Nisus Corporation, a global pest management and industrial products manufacturer based in Knoxville, Tennessee. Greg's responsibilities include oversight of regulatory compliance, global product registration, data generation, technical services, and interaction with government agencies, both domestic and international.

Prior to Nisus, Greg was Vice President of Training and Technical Services for Rollins, Inc., parent company of Orkin, Orkin Canada, HomeTeam, IFC, Western, and All Pest Australia. In that role, he was responsible for product selection, service development, and training including oversight of the live broadcast studios.

For sixteen years, Greg was with the National Pest Management Association starting as Manager of Government Affairs and rising to Vice President of Technical Services, where he was responsible for all technical and scientific activities of the organization. Prior to NPMA, Greg was a quality assurance and regulatory compliance manager at Hershey Foods Corporation.

He is a member of industry fraternity Pi Chi Omega, the American Wood Protection Association, and the Entomological Society of America and represents Nisus on the American Chemistry Council's Center for Biocide Chemistries, the Treated Wood Council, the International Code Council and was appointed as a public health advisor to the United Nations World Health organization. Greg had been a member of the Atlantic Legal Foundation's Advisory Council since 2022.

Greg is chair of the Antimicrobial Exposure Assessment Task Force of the American Chemistry Council, a coalition of forty-five companies funding and generating human exposure data for toxicological assessments of antimicrobial products with oversight by USEPA and Health Canada.

He is a published writer and is a frequent speaker at global conferences and has been a guest on the NBC Today Show, ABC Primetime, MSNBC, and dozens of local television and radio shows. Greg is a recipient of the Rollins President's Award for outstanding achievement, PCT Leadership Award, and has been inducted into the industry Hall of Fame. He holds a degree in chemistry.

Greg and his wife Jill live in Knoxville, Tennessee.

# Officers



**Hayward "Dan" Fisk**  
*Chairman and President*



**Augustus I. duPont**  
*Vice Chairman*



**Lawrence S. Ebner**  
*Executive Vice President and  
General Counsel*



**Nicholas W. Klitzing**  
*Vice President — External Affairs*



**Hannah S. Marcley**  
*Assistant General Counsel  
& Assistant Secretary*



**Marco Q. Rossi**  
*Treasurer  
Founder and Principal  
Marco Q. Rossi & Associati PLLC*



**Ana Tagvoryan**  
*Secretary  
Partner, Blank Rome*



**Mark D. Nielsen**  
*Assistant Treasurer  
EVP & Chief Legal Officer  
Frontier Communications Corporation*

# New Officer Elected in 2023



## Nicholas W. Klitzing Vice President – External Affairs [nick.klitzing@atlanticlegal.org](mailto:nick.klitzing@atlanticlegal.org)

Nick Klitzing is Vice President of External Affairs at Atlantic Legal Foundation. As a member of the ALF leadership team, Nick works to expand ALF's network of supporters in furtherance of our mission to advance the rule of law by advocating for individual liberty, free enterprise, property rights, limited and efficient government, sound science in judicial and regulatory proceedings, and effective education.

As a tested public affairs and communications professional with nearly two decades of experience at the intersection of public affairs, communications, law, and government, Nick has earned the trust of corporate executives, philanthropists, and high-ranking elected officials for his ability to achieve strategic objectives by activating grassroots networks, framing compelling media narratives, and leading record-breaking fundraising campaigns to support issue advocacy efforts.

A licensed attorney, Nick served as a prosecutor in St. Clair County, Illinois, early in his career, trying multiple felony cases and rising to the position of supervisor of the Juvenile Unit of the Children's Justice Division. During law school, he served as a part-time law clerk for Illinois Supreme Court Justice Lloyd Karmeier. Nick has also worked for Senator John McCain and Governor Mitt Romney's presidential campaigns and as a program assistant at the International Republican Institute, a nonpartisan, nongovernmental organization that promotes democracy worldwide where McCain served as Chairman for 25 years.

He has extensive experience in his home state of Illinois, where he served as Executive Director and Special Counsel for the Illinois Republican Party, Deputy Campaign Manager & Special Counsel for former Governor Bruce Rauner, and a senior team member on multiple statewide, Congressional, and issue advocacy campaigns. Nick earned a B.A. and M.A. in political science and civic leadership from the University of Illinois at Urbana-Champaign and a J.D. from Saint Louis University School of Law. He is a member of the American Enterprise Institute (AEI) Leadership Network and active in the McCain Alumni Club and McCain Institute at Arizona State University.

## Director Marco Q. Rossi Elevated from Assistant Treasurer to Treasurer in 2023



### Marco Q. Rossi is the founder and principal of Marco Q. Rossi & Associati, PLLC,

a boutique innovative international law firm with a singular focus: assisting international enterprises and global minded individuals with strategic legal and tax advice on cross-border business transactions and personal international legal and tax matters.

Marco was born and educated in Italy, where he earned his law degree from the University of Genoa School of Law in 1990 and started practicing international maritime law working primarily as local counsel for major UK-based law firms and U.S.-based clients. In 2002, he earned an International Tax LL.M. degree from New York University School of Law and in 2005 established Marco Q Rossi & Associati as a U.S.-Italy cross-border practice with offices in Italy and New York. In 2016, Marco opened an office in Los Angeles, through which he operates out of both the east and west coasts of the United States while being seamlessly integrated with its E.U. - based offices in Italy.

Marco is licensed in Italy, New York and California and assists international clients and global families with strategic income tax, estate and trust planning and compliance; foreign-based multinational enterprises on U.S. inbound investments, acquisition and business transactions; U.S.-based companies with outbound business operations, and international executive and managerial workforce employed across borders. In Italy, Marco maintains a sophisticated Italian international tax practice, advising U.S. business and private clients on Italian international legal and tax matters.

## Director Mark D. Nielsen elected Assistant Treasurer in 2023



### Mark D. Nielsen is Executive Vice President and Chief Legal Officer of Frontier Communications.

In this position, Nielsen has leadership responsibility for the company's legal and regulatory affairs, facilities and real estate operations, and corporate communications. As a member of the Senior Leadership Team, he participates in the operational management and strategic planning of the Company.

Nielsen started his legal career in 1990 as an associate lawyer at the Hartford law firm of Murtha, Cullina, Richter & Pinney, while simultaneously serving in the Connecticut Legislature. Later, he served as Mitt Romney's legal counsel, and then chief of staff, when Romney was Governor of Massachusetts (2003-2007). As Chief Legal Counsel, Nielsen provided advice on legal aspects of policy decisions, drafted legislation and executive orders, and served as the Governor's principal advisor on judicial appointments. As Chief of Staff, he was responsible for the Administration's policy and legislative initiatives, as well as overseeing the daily operations of state government.

Before joining Frontier in 2014, Nielsen served as Vice President and Associate General Counsel at Raytheon Company from 2007 to 2009 and Vice President and Associate General Counsel at Praxair, Inc. from 2009 to 2014.

Nielsen is an honors graduate of Harvard College and Harvard Law School.

# New Officer Elected in 2023



## Hannah S. Marcley, Assistant General Counsel and Assistant Secretary

Hannah Marcley, ALF 's new Assistant General Counsel, and more recently Assistant Secretary, as well, is a dedicated advocate for limited government. Hannah clerked for ALF in law school under the late Marty Kauffman, retired EVP-General Counsel, before graduating from the University of Georgia School of Law and joining the Freedom Foundation. There, Hannah worked in the right-to-work movement, largely focusing on obtaining government records through state FOIA laws to assist public employees in exercising their right to reject union membership. Hannah won several appellate cases for the Freedom Foundation, including a politically charged case in front of the Washington Supreme Court. From there, Hannah went in-house with Building Industry Association of Washington, the home builders trade association of Washington State, where she engaged in a much broader advocacy area, forcing Washington to treat employers and businesses constitutionally.

Hannah also provided support to the industry in the beginning of the Covid lockdowns, helping them abide by the new rules to avoid penalties while also advocating against restrictions that were not reasonably applied to their business activities. Hannah expanded on this skillset at Pacific Legal Foundation and then turned these skills into her own private practice, Diogenes Law PLLC. Throughout her career she has volunteered for organizations that attempt to right government wrongs, including the Washington Coalition for Open Government and the Seattle Clemency Project.

Hannah is dedicated to working with ALF to advance its mission.

# New Advisory Council Member Appointed in Early 2023



## Constitutional Law Expert Herbert L. Fenster, Appointed To ALF Advisory Council

**Herbert Fenster** focuses his practice on litigation, particularly against the United States, and on the subjects of procurement, environmental, administrative, and tort law. He has extensive experience in the negotiation, interpretation, and litigation of contracts for major weapons systems, as well as the procurement of research and development.

Mr. Fenster has had key involvement in critical legal and regulatory issues arising in the award and termination of major weapons programs. He has lectured and testified multiple times on the subject of government finance and accounting from both industry and government perspectives, and also had major involvement in contracting for “Stability Operations and Expeditionary Support” starting in the early years of the Vietnam War.

Mr. Fenster’s additional achievements include:

- A.B./B.S. Architecture and Civil Engineering, University of Pennsylvania; MS Economics, University of Pennsylvania
- J.D., University of Virginia
- Counsel to Reagan-Bush Campaign 1979-1982
- Counsel to Jamestown Foundation
- Counsel to National Defense University Foundation
- Board of Directors, U.S. Chamber of Commerce, National Chamber Litigation Center (30 years)
- Co-Founder and Board of Directors, ATLAS Institute (University of Colorado)
- Chair, University of Colorado Student Affairs Advisory Board
- Board of Directors, Center of The American West
- General Counsel, Congressional 809 Commission
- American Law Institute - Life Member
- Counsel to David Packard - Packard Commission
- Lecturer - Texas A&M Law School
- Founding Board Member, Keewaydin Foundation



# New Advisory Council Member Appointed Late in 2023



**Donald Kochan**

## Succeeding Long-time Advisory Council Member, Henry Butler\*, Former Dean Antonin Scalia Law School

**Donald Kochan** is Professor Law and Executive Director of the Law & Economics Center (LEC) at the George Mason University Antonin Scalia Law School. Before joining the Antonin Scalia Law School faculty, he was the Parker S. Kennedy Professor in Law at Chapman University's Dale E. Fowler School of Law from 2004 to 2020. From 2003 to 2004, Professor Kochan was an Olin Fellow at the University of Virginia School of Law. During 2002-2003, he was a Visiting Assistant Professor of Law at the Scalia Law School.

Professor Kochan's scholarship focuses on areas of property law, constitutional law, administrative law, natural resources and environmental law, tort law, and law & economics. He has published more than 40 scholarly articles and essays in well-regarded law journals, and his work has been cited in dozens of books and in hundreds of published law review articles. Professor Kochan is an elected member of the American Law Institute (ALI); and, he was appointed by ALI in July 2016 to serve as an Adviser to the Restatement of the Law Fourth, Property project. Professor Kochan is a Nonresident Scholar at the Center for the Constitution at Georgetown University Law Center, where he was a Visiting Scholar in residence during Fall 2018.

Professor Kochan received his JD from Cornell Law School, where he was a John M. Olin Scholar in Law and Economics and managing editor of the Cornell International Law Journal. During law school, he also served as editor and executive editor of the Harvard Journal of Law & Public Policy symposium issues in 1997 and 1998. He received his BA from Western Michigan University, magna cum laude, with majors in both political science and philosophy, where he studied as the John W. Gill Medallion Scholar and was honored as the Presidential Scholar (awarded to the top graduate in the political science department). After graduating from law school, Professor Kochan was a law clerk to The Honorable Richard F. Suhrheinrich of the United States Court of Appeals for the Sixth Circuit. Following his clerkship, Professor Kochan was an associate with the firm of Crowell & Moring LLP in Washington, D.C., where he specialized in natural resources & environmental law as well as tort, products, and consumer civil litigation & legislative affairs.

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# New Advisory Council Member Appointed Late in 2023



**Dr. Dennis  
McBride**

Succeeding Long-time Advisory Council Member Dr. Alan Moghissi\*, both as a Member of ALF's Advisory Council and as President of the Institute for Regulatory Science

**Dr. Dennis McBride** is President of the Institute for Regulatory Science (RSI). This Washington area non-profit, non-partisan organization is focused on the proposition that the production of sound public policy, and the administration of justice require timely availability and clear access to sound, understandable - useful science. RSI has published several hundred articles and consulted extensively to government, academia and industry on this seemingly uncontentious proposition, over its nearly 40-year life.

McBride's most recent positions include Chief Strategy Officer for Source America, the U.S. government's (\$3B/yr) central non-profit agency that oversees the Ability One Commission (Department of Justice) mission of producing jobs for people with disabilities nationally; and Director, Office of the Secretary of Defense, Acquisition Innovation Research Center, a university-affiliated research consortium of 24 top U.S. university colleges of engineering, business, law, and the sciences - with the mission of significantly enhancing the acquisition of "game-changing" technologies for national defense.

Dennis earned his Navy gold wings and served a 20-year career in an 'elite corps of Ph.D. scientists,' with research and leadership tours at six high-tech government laboratories, aviation, and headquarters organizations, including DARPA and the Office of Naval Research. Dr. McBride's scientific advancements earned multiple decorations, including the Defense Superior Service Medal, Legion of Merit, Meritorious Service Medal, and the Joint Service Commendation Medal. He retired at 20 years active duty as a Navy Captain (O-6).

McBride was subsequently elected to full professor and has taught and conducted cutting-edge research, with appointments in colleges and departments of engineering, arts & sciences, public policy, aeronautics, and medicine. He served for ten years as President of the Potomac Institute for Policy Studies, a non-partisan, academic-oriented non-profit think tank, providing many of the services provided (before its closure) by the Office of Technology Assessment. He was editor-in-chief for two peer-reviewed

\*See page 85 Following.

journals: Review of Policy Research, and Technology. He has supported the authorship of *amici curiae* and has served as an expert witness and/or strategist in many cases of civil and criminal law. Dennis has participated/led numerous human factors-focused reviews and projects for the National Academies of Science, Engineering, and Medicine.

Professor McBride served, inter alia, as dean-level Director, Institute for Simulation and Training, University of Central Florida and subsequently as assistant/acting VP for Research and President of the GMU Research Foundation (for Intellectual Property development), George Mason University - helping elevate the university to R-1 status. He co-created, and for twelve years, taught two evening courses per semester in Georgetown University Medical School's graduate program in public policy for scientists. He is currently an adjunct professor at the Hume Center for Intelligent Systems - National Security Institute, and Professor of Practice in Public Policy, Virginia Tech. He is an adjunct professor at Embry-Riddle Aeronautica University (graduate level flight simulation). Dr. McBride has authored/co-authored more than 200 scientific/technical publications.

Dennis' academic degrees include the S.S., M.S., and Ph.D. (Experimental Psychology, the University of Georgia), MPA/M.S.P.A., (Public Administration, Troy State University), and M.S. (Systems, Viterbi College of Engineering, University of Southern California), Aerospace Experimental Psychologist Designation (Naval Aerospace Medical Institute) and Flight Test Engineering credentials (Navy Test Pilot School / University of Tennessee Space Institute).



*Late in 2023, three long-term members of ALF's leadership team retired following combined service to ALF of well over fifty (50) years for which we are so very grateful: Henry Butler, Esq, Dr. A. Alan Moghissi and Mr. Nevin Sanli. In tributes, see their respective bio's following . . .*

## Retiring from ALF's Leadership



**Henry N.  
Butler, Esq**

**Henry N. Butler** after serving with distinction for well over twenty years on ALF's Advisory Council, has retired to undertake an around the world travel adventure with his wife Paige. He has been serving as the Henry G. Manne Chair in Law and Economics and Chairman of the Law & Economics Center at George Mason University's Antonin Scalia Law School. For over 30 years, Butler has developed and led educational programs that teach economics, finance, accounting, statistics, and the scientific method to federal and state judges. He served as dean of the law school from 2015 through 2020 and achieved unparalleled success, including raising record-breaking gifts, establishing a host of new centers, institutes, and clinics, boosting the law school's national and international reputation, and naming the school after the late Justice Antonin Scalia.

From 2007 to 2010, Butler served as the first executive director of the Searle Center on Law, Regulation, and Economic Growth at Northwestern University School of Law. He has held prior appointments at the Brookings Institution, AEI-Brookings Joint Center for Regulatory Studies, Chapman University, the University of Kansas, the University of Chicago, and Texas A&M University. From 1986 to 1993, he was a law professor at George Mason, and during that period he also served as an Associate Dean and Director of the Law & Economics Center.

Butler received his bachelor's degree in economics from the University of Richmond. He received an MA and a PhD in economics from Virginia Polytechnic Institute and State University, where Professor James M. Buchanan, George Mason University's first Nobel Laureate in economics, served on his dissertation committee. In 2017, Butler was inducted into Virginia Tech College of Science Hall of Distinction. As a student at the University of Miami School of Law, Butler was a John M. Olin Fellow at the Law and Economics Center, which had been founded in 1974 by Butler's mentor, Professor Henry G. Manne. In February 2020, Butler spoke in the University of Miami School of Law Distinguished Alumni Lecture Series.



**A. Alan Moghissi**

**Dr. Alan Moghissi** after serving with distinction on ALF's Advisory Council for well over 20 years, has recently retired in his mid-90's from service to ALF and the Institute for Regulatory Science (RSI) which he formed in early 1985 after spending over two decades of federal service at the U.S. Environmental Protection Agency (EPA). At the EPA, Dr. Moghissi held a number of positions including that of Principal Science Advisor for Radiation and Hazardous Materials. Later on, he joined the University of Maryland Baltimore as Assistant Vice President, and Temple University in Philadelphia as Associate Vice President. In both universities his portfolio included operational aspects of environmental health and safety. Alan Moghissi's research has dealt not only with his primary area of education which includes biological and environmental kinetics, but increasingly with the development and implementation of the concept of "Best Available Science" in societal-including regulatory-decisions. Alan Moghissi has written over 400 papers including several books, and has edited a number of scientific journals. Alan Moghissi achieved his training in Zurich, Switzerland and Karlsruhe, Germany where he received a doctorate degree in physical chemistry. He was instrumental with the late Richard Wilson, Emeritus Director of the Physics Department at Harvard, in ALF's advocacy with other renowned scientists as the leading organization in America fostering sound science in judicial and regulatory proceedings.



**Nevin Sanli**

Director and Treasurer, **Nevin Sanli**, after 13 years of service to ALF, retired in 2023 from the Board & his office to devote time to his growing business and aging father in Brussels, Belgium. Nevin Sanli is President and co-founder of financial consulting firm Sanli, Pastore & Hill, Inc. ("SP&H"). Nevin has over 30 years of experience in expert testimony & litigation opinions, forensic accounting, finance & economics, business, brand & IP valuations, fairness & solvency opinions and transaction advisory services. He is also experienced in real estate acquisition, management, diligence analysis, research and land use issues.

Nevin has a BA with Honors in Economics from the University of California at Irvine. He is an Accredited Senior Appraiser with the American Society of Appraisers, in the Business Valuation Discipline. Nevin is fluent in English, French, Turkish and conversational in Spanish

Current and past board positions: ProVisors, All Cities, IR Global, and the Barrington Group, the Mediterranean Executives Group, Chairman of the Board of Dubnoff Center for Child Development, Co-Chairman of Investment Capital Conference of the Los Angeles Venture Association ("LAVA") and Board Member and parent representative on the New West Charter School Governance Council.

Nevin strongly believes in and supports continued growth and fostering of solid business relationships.

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“A constitution of government once changed from Freedom, can never be restored. Liberty, once lost, is lost forever.”

— *John Adams*

“I predict future happiness for Americans, if they can prevent the government from wasting the labors of the people under the pretense of taking care of them.”

— *Thomas Jefferson*

“We champion freedom not only because it is practical and beneficial but because it is morally right and just.”

— *Ronald Reagan*

“Freedom has its life in the hearts, the actions, the spirit of men and so it must be daily earned and refreshed - else like a flower cut from its life-giving roots, it will wither and die.”

— *Dwight D. Eisenhower*

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