

Atlantic Legal Foundation

2025 ANNUAL REPORT



ALF's Advocacy Makes a Difference:

“The Atlantic Legal Foundation’s amicus brief program has a critical impact at both the certiorari and merits stages. At the certiorari stage, ALF briefs highlight the cases that really matter to the business community and provide the opportunity for the Court to improve the civil justice system. At the merits stage, they provide cogent analysis and complement the presentation of the parties. Throughout the process, the ALF provides a real service to both the business community and the Court.”

— Paul D. Clement

Former Solicitor General of the United States
Partner-in-Charge, Clement & Murphy, PLLC

For other testimonials see pages 6-9

The Year in Review / Executive Summary

Now in its 49th year and preparing to celebrate the hallmark of its 50th Anniversary following its incorporation in the Commonwealth of Pennsylvania in 1977, the Atlantic Legal Foundation (“ALF”) recounts its successes in serving the public interest in 2025 . . .

- **As the nation’s leading advocate for sound science in judicial and regulatory proceedings;**
- **As a champion for parents’ rights to choose the schools, types of educational instruction and parenting 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 the U.S. Constitution.**

While ALF made excellent progress in 2025 in pursuing its nationwide mission, the challenges brought by ever encroaching governmental, financial, 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 recent years and the earlier, legacy testimonials from leading practitioners and executives reported at pages 6-9 following.

Early in 2025, Supreme Court scholar and statistical expert Adam Feldman, J.D., Ph.D., published an analysis titled *The Power Players Behind Supreme Court Petitions: Who’s Filing Amicus Briefs—and Who’s Winning*. In his survey of more than 2,500 certiorari petitions filed between July 2023 and February 2025, the Atlantic Legal Foundation, among many dozens of organizations that file amicus briefs supporting certiorari petitions, ranks as one of the most “**highly successful repeat filers.**”

More specifically—

- ALF ranks **3rd** (along with five other organizations) in the category of most “successful cert stage amicus fil[ers] associated with granted petitions.”
- ALF ranks within the **top 10** in the most cert-stage amicus briefs filed during the study period.

In 2025, ALF honored Darren W. Woods, Chairman & Chief Executive Officer of Exxon Mobil Corporation, as ALF’s annual awardee for 2025. ALF Director Jeffrey A. Taylor, Vice President, General Counsel & Secretary of ExxonMobil orchestrated an engaging “fireside chat” with extensive Q&A preceded by introductory remarks by ALF Chairman & President, H. Dan Fisk. ALF Director William G. Primps, of Counsel to Cullen and Dykman in New York City, served as emcee of the event held in the Grand Ballroom of The Junior League of Houston on October 10.

See pages 52-54 for Atlantic Legal’s distinguished lists of Annual and Lifetime Achievement Honorees over the past 30 plus years.

Atlantic Legal Foundation’s advocacy in 2025 included the submission of persuasive *amicus curiae* briefs and other filings in furtherance of its mission areas. See In the Courts at page 10 and ALF’s website, atlanticlegal.org, for more details respecting ALF’s 2025 filings, its current filings, and its archived filings over many years before the Supreme Court of the United States, federal courts of appeals, and state appellate courts, and its record of success.

In addition to ALF’s top-ranked program of Supreme Court and other amicus filings during 2025 and into 2026 (see In the Courts at page 10), ALF has continued to advance its overarching civil justice mission through commentary, publications, and presentations. For example:

- Publications such as the New York Times, Law360, Bloomberg Law, Reuters, Politico, and The Corporate Counsel Business Journal have called upon us to comment on key cases before the Supreme Court and other courts.

- ALF Board member Kristin Calve, who is Editor & Publisher of the Corporate Counsel Business Journal, interviewed ALF Chairman & President Dan Fisk and Executive Vice President & General Counsel Larry Ebner during a 60-minute webcast on the use of amicus curiae briefs— specifically, why in-house litigation managers should “think amicus” whenever their company is involved in an appeal, or when they become aware of appeals involving legal issues that are important to their company or industry.
- On behalf of ALF, Larry submitted written comments to, and orally testified before, the U.S. Judicial Conference’s Advisory Committee on Appellate Rules concerning proposed amendments to the federal court of appeals rules on submission of amicus briefs.
- Larry posted a commentary on ALF’s website, *Ending the Plague of Roundup Litigation*, later republished by the Federation of Defense & Corporate Counsel and the Washington Legal Foundation.
- As a service to the legal profession, Larry published an article, *Five Myths About Appellate Lawyers*, in DRI’s For The Defense magazine. Larry also presented a panel on key Supreme Court decisions, and participated in a panel on amicus briefs, for the Federation of Defense & Corporate Counsel. His newsletter, All Things Amicus, appears quarterly on LinkedIn.

This 2025 Annual Report also includes articles of broad interest that further advance and illuminate ALF’s core mission areas, including *Justices’ Monsanto Decision May Fix a Preemption Mistake* at page 20 by Lawrence Ebner and *Mahmoud v. Taylor and the Clash of Orthodoxies* at page 16 by Sarah Parshall Perry.

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 prior Annual Reports and the current article *Mahmoud v. Taylor and the Clash of Orthodoxies* at page 16 by Sarah Parshall Perry of Parents Defending Education and a recognized authority on parental rights. Note, the testimonial at page 8 by Nicole Neily, President of Parents Defending Education, extolling ALF’s work.

The compelling value of charter schools, and ALF’s longtime commitment to effective education through fostering school choice, is extolled by Journalist Jason Riley in his article *New York’s Charter Schools Live Up to Their Promise* published in the February 4, 2026 edition of the Wall Street Journal. Quoting convincing supportive statistics and reputable research, Mr. Riley opines: “. . . the obvious take-away is that charters are a viable model for narrowing education gaps regardless of a student’s socioeconomic background, and that opposition to school choice is especially harmful to our neediest children.”

In 2024, 2025, and early 2026, ALF advocated for effective education in three key U.S. Supreme Court cases - *Parents Protecting Our Children v. Eau Claire Area School District*, *Oklahoma Statewide Charter School Board v. Drummond*, and *International Partners for Ethical Care v. Ferguson*.

In the spring of 2025, we elected four new Directors to ALF’s Board: Lee Barrett, President & CEO of Nisus Corporation; Sean Dolan, COO and General Counsel of DRI; Philip R. Sellinger, former US Attorney for the District of New Jersey and current co-chair of Greenberg Traurig’s global Litigation Practice; and Jeffrey A. Taylor, Vice President, General Counsel & Secretary of Exxon Mobil Corporation. Their photos and bios are shown at pages 33-34 in the related news releases reproduced.

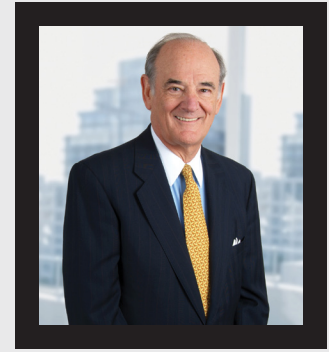
Late in 2025, we elected two new Directors to ALF’s Board: Adam P. Laxalt, former Nevada Attorney General and current Partner at Cooper & Kirk, PLLC and Michael T. Lempres, owner & Principal at Ashfield Advisors, LLC. Their photos & bios are shown at pages 35.

Also joining our leadership team in the spring of 2025 by appointment to ALF’s Advisory Council were Grant Hollingsworth, Partner of Hollingsworth LLP and Robert L. Levy ExxonMobil’s Executive Counsel, Legal Policy & Administration. Their photos and bios are shown at pages 34-35.

Sad News...

Stephen J. Harmelin, Atlantic Legal Foundation's long-time Director from 1998

passed away on May 3, 2025 at the age of 85, just four days before his next birthday. "He was a pillar of our Foundation, his Philadelphia community, Pennsylvania and our nation . . . truly a man of mark . . . a man of integrity, of high relations, and remarkable accomplishments with an extraordinarily creative ability to get matters of moment done" according to his long-time friend and colleague, H. Dan Fisk, Chairman & President of ALF. Among Steve's more notable achievements . . .



- **Managing Partner & Chair of Dilworth Paxson law firm in Philadelphia . . . a** most impactful partner over the course of the firm's long history;
- A transformative civic leader in Philadelphia and Pennsylvania with a strong hand in creating the **Barnes Foundation**, the **Convention Center** and the **National Constitution Center**, among other institutions;
- **Speech writer**, hired while at Harvard Law School, in his mid-20's, for President Lyndon B. Johnson;
- Instrumental in orchestrating Bicentennial Celebrations, displays of the original **13th Century Magna Carta** in Philadelphia in 1987 and 2001, the unprecedented recovery and restoration of **North Carolina's missing copy of its Bill of Rights**, stolen during the Civil War, by arranging a sting operation led by the FBI for retrieval in his office, and arranging for the sharing of **Pennsylvania's original Bill of Rights**, then being held in the New York Public Library, in Pennsylvania at the Constitution Center for the ensuing 100 years;
- **Coast Guard Service, Special Prosecutor under Philadelphia District Attorney Arlen Specter** and later **Treasurer of Senator Specter's campaigns**;
- As a **Director on the Board of the Barnes Foundation** for many years, instrumental in relocating **billions** worth of paintings and sculptures to the Foundation's new Benjamin Franklin Parkway museum from its original location in Lower Merion; and
- Along with his public service and dedication to American history, Mr. Harmelin served from 2014 on the **Board of the Philadelphia Inquirer**, the largest nonprofit newspaper in the U.S.

Mr. Harmelin is survived by two daughters – Alison and Melina, both high achievers in their own rights, by his lovely wife of 30 years, Julia Harmelin, a former model; a son, Thomas Tracy; seven grandchildren, and one great-grandchild. He is missed by many.

Atlantic Legal's current distinguished Officers, Board of Directors and Advisory Council (listed at pages 58-61 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 nearly 50 years. The need has been exacerbated over past years by ongoing challenges to the rule of law and our Constitution, and by the disruption and compromises thrust upon our Republic by political pressures from both inside and outside our country. We are especially grateful for our supporters, contributors, leadership, staff, and consultants who enable the Foundation to continue its important work. 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 . . .

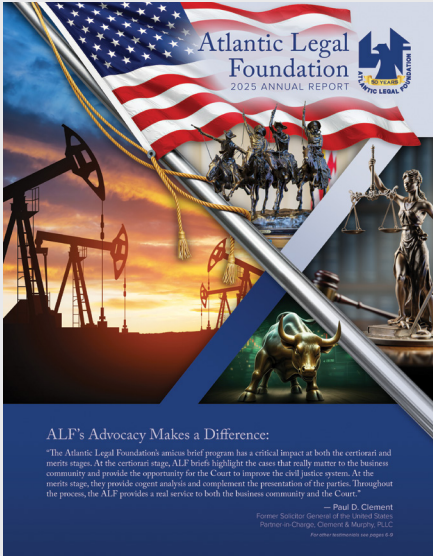


Dan Fisk
Chairman & President



Larry Ebner
Executive Vice President
& General Counsel

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Recent Testimonials

“The Atlantic Legal Foundation provided crucial amicus support for our clients at both the review and merit-stages, and we are immensely grateful for their sustained efforts. ALF’s briefs contributed persuasive advocacy on the import of civil justice, responsible government, and free enterprise. We appreciate their thoroughness, and the common sense reasoning presented on behalf of our clients.”

— **Noel Francisco**

Former Solicitor General of the United States
Partner-in-Charge, Jones Day’s Washington Office

“The Atlantic Legal Foundation provided outstanding and invaluable support to our client seeking Supreme Court review. Recognizing the importance of amicus briefs, we are grateful for ALF’s outside perspective and quality advocacy on the issue before the Court.”

— **Scott Burnett Smith**

Chair, Appellate Team
Bradley Arant Boult Cummings LLP

— **Schylar B. Burney**

Associate, Bradley Arant Boult Cummings LLP

“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

“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**

Partner, Milbank LLP
Former Acting Solicitor General of the United States

“The Atlantic Legal Foundation’s amicus brief program has a critical impact at both the certiorari and merits stages. At the certiorari stage, ALF briefs highlight the cases that really matter to the business community and provide the opportunity for the Court to improve the civil justice system. At the merits stage, they provide cogent analysis and complement the presentation of the parties. Throughout the process, the ALF provides a real service to both the business community and the Court.”

— **Paul D. Clement**

Former Solicitor General of the United States
Partner-in-Charge, Clement & Murphy, PLLC

“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**

Assistant Attorney General for the
Civil Division of the U.S. Department of Justice
Former Partner, Jones Day

“Our client is grateful for ALF’s amicus brief in support of a petition for a writ of certiorari we filed in the Supreme Court this year. The case involves issues that are important for manufacturers and other commercial businesses, and it was enormously helpful to have a brief from ALF explaining the practical implications of the legal questions presented in the case. ALF’s robust experience filing cert-stage amicus briefs makes them well-positioned to understand what kind of arguments the Supreme Court may respond to when deciding whether to hear a case. Working with Larry Ebner and his team was a great experience; they brought thoughtful ideas to the table and were eager to engage in a helpful dialogue.”

— **Sarah Harrington**

Co-Chair, Appellate and Supreme Court Litigation Group,
Covington & Burling LLP

Recent Testimonials

“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
Williams & Connolly LLP

— **Sarah M. Harris**

Principal Deputy Solicitor General of the U.S.
Former Acting Solicitor General of the U.S.
Former Partner, Williams & Connolly LLP

“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, Covington & Burling LLP

— **Emily A. Vernon**

Associate, Covington & Burling LLP

“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



“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

“The Atlantic Legal Foundation is truly one of the go-to resources for Supreme Court advocates seeking amicus support on cases implicating free enterprise, civil justice, and the rule of law. My clients and I are deeply grateful for ALF’s efforts over the years, and look forward to working closely with ALF going forward.”

— **Roman Martinez**

Global Chair, Supreme Court & Appellate Practice
Latham & Watkins LLP

Recent Testimonials

“The Atlantic Legal Foundation consistently produces amicus briefs of exceptional quality—thoughtful, rigorous, and strategically impactful. We were grateful for their support in defending American property rights in recent Supreme Court litigation against Cuba’s state oil companies. Their brief emphasized our Nation’s robust protection of private property and helped demonstrate that Congress gave the victims of Castro’s expropriation a route to compensation from Cuban state entities.”

— Jeffrey B. Wall

Chair Supreme Court and Appellate Practice
Sullivan & Cromwell
Former Acting Solicitor General of the U.S.

— Morgan L. Ratner

Partner, Sullivan & Cromwell

“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

Founder & President, Defending Education

“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, New Civil Liberties Alliance

— Peggy Little

Sr. Litigation Counsel, New Civil Liberties Alliance

“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

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...”

— **The Late 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.”

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

During 2025 and into 2026, ALF's top-ranked Amicus Curiae Program continued to make a difference by advocating for civil justice in the nation's appellate courts. In fact, during 2025 we reached a notable milestone: 100 amicus filings in the Supreme Court, federal courts of appeals, and state appellate courts during the past five years.

Our recent amicus briefs have addressed issues such as the following:

- Curtailment of federal regulatory agencies' rule-making activities in the absence of express congressional authorization
- Federal preemption of tort suits that undermine U.S. EPA's science-based regulatory determinations
- States' assertions of general ("all-purpose") jurisdiction over out-of-state corporations
- The unfairness of plaintiff-side, state-court forum shopping, especially in putative class actions
- Protection of business and personal property rights, including payment of just compensation for governmental takings
- Parental rights to oversee the upbringing and education of their children
- As required by the Federal Arbitration Act, enforcement of contractual agreements to settle consumer, employment, and other types of disputes via arbitration

Our national reputation for filing consistently high-quality amicus briefs produces a continual stream of amicus support requests from the nation's leading Supreme Court and appellate advocates—indeed, many more worthy requests than ALF's small legal staff can handle. The amicus brief and news release archives on ALF's content-rich website (atlanticlegal.org) reflect our high level of productivity on a great variety of cutting-edge legal issues aligned with ALF's mission areas.

As free-enterprise, limited-government, individual-liberty, property-rights, sound-science, and effective-education thought leaders as well as advocates, we are regularly called upon for written and oral commentary on key cases before the Supreme Court. During 2025 we were quoted in publications such as the New York Times, Law360, Bloomberg Law, Reuters, Politico, and the Corporate Counsel Business Journal.

We also serve the legal profession through active involvement in organizations such as the DRI Association of Lawyers Defending Business, the Federation of Defense & Corporate Counsel, and the American Academy of Appellate Lawyers. During the past two years, ALF's Executive Vice President & General Counsel, Lawrence Ebner, has been honored for his leadership and scholarship by FDCC with its John Appleman Award and by DRI with its Tom Segalla Excellence In Education Award.

The specific issues that our amicus briefs addressed during 2025 and early 2026—and the major points we raised in our amicus briefs—are summarized below. Details of the cases in which we filed, the amicus briefs themselves, and our news releases, are readily accessible through ALF's website.

Fostering Sound Science

- Whether, under Federal Rule of Evidence 702, challenges to the factual basis of an expert witness's testimony always go to the weight of the evidence rather than to admissibility, or whether such challenges go to weight only if a court first finds it more likely than not that an expert has a sufficient basis to support the testimony. *Union Carbide Corp. v. Sommerville* (Supreme Court)
 - *ALF's amicus brief argued that federal judges must fulfill their Rule 702 gatekeeping duty by shielding juries from unreliable expert testimony.*



- Whether federal law preempts state-law tort suits brought by state and local governments seeking to hold the nation’s major oil & natural gas producers liable for local harm allegedly caused by global warming and climate change. *Suncor Energy (U.S.A.) Inc. v. County Commissioners of Boulder County* (Supreme Court) & *Mayor & City Council of Baltimore v. B.P. P.L.C.* (Maryland Supreme Court)
 - *ALF’s amicus briefs argued that climate-change tort suits brought by state and local governments against fossil fuel energy companies are preempted because they implicate uniquely federal interests.*
- Whether the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) preempts a label-based failure-to-warn claim where EPA has not required the warning. *Monsanto Co. v. Durnell* (Supreme Court)
 - *ALF’s amicus brief argued that FIFRA expressly preempts state-law damages suits that second-guess EPA’s determinations on what warnings should, and should not, appear on a pesticide product’s nationally uniform labeling.*
- Whether a Pennsylvania trial court erred in admitting certain general causation testimony resulting in a \$ 725 million non-economic damages award to a single plaintiff who alleged occupational exposure to gasoline. *Gill v. ExxonMobil Corp.* (Pennsylvania Superior Court)
 - *ALF’s amicus brief argued that the state-court trial judge failed to properly apply the applicable standards for admission of expert testimony.*

Promoting Free Enterprise & Civil Justice

- Whether an out-of-state corporation can be subjected to a State’s general (“all-purpose”) jurisdiction merely by registering to do business in the State. *Norfolk Southern Railway Co. v. Mallory* (Supreme Court); *BNSF Railway Co. v. Lynn* (Supreme Court); *Syngenta Crop Protection, LLC v. Nemeth* (Supreme Court)
 - *ALF’s amicus briefs argued that the Supreme Court needs to address personal-jurisdiction questions left unanswered by Mallory v. Norfolk Southern Railway Co., 600 U.S. 122 (2023), because clarity, predictability, and national uniformity concerning the circumstances under which an out-of-state corporation can be haled into a State’s courts by an out-of-state plaintiff are critical to civil justice.*
- Whether an arbitration agreement governing disputes in a professional sports league is categorically unenforceable under the Federal Arbitration Act because it designates the league commissioner as the default arbitrator and permits the commissioner to develop arbitral procedures. *New York Football Giants, Inc. v. Flores* (Supreme Court)
 - *ALF’s amicus brief argued that federal judges should not be allowed to deny motions to compel arbitration based on speculation about whether an arbitration proceeding will be fair.*
- Whether the Inflation Reduction Act’s “Drug Price Negotiation Program” for prescription drugs sold within the Medicare/Medicaid system violates the Constitution’s Takings/Just Compensation Clause, or Free Speech Clause, or both. *Janssen Pharmaceuticals, Inc. v. Kennedy & Bristol Myers Squibb v. Kennedy* (Supreme Court)
 - *ALF’s amicus brief argued that the “unconstitutional conditions doctrine” invalidates the Program regardless of whether a drug manufacturer’s participation is “voluntary,” and that the Program undermines the public interest in fostering pharmaceutical R&D.*
- Whether, consistent with the federal government’s exclusive authority to wage war, a State may impose its tort law on private contractors for claims arising out of combatant activities on a foreign battlefield. *Hencely v. Fluor Corp.* (Supreme Court)
 - *ALF’s amicus brief argued that uniquely federal interests preclude state-law damages suits against government contractors that provide mission-critical logistical and other support services to the U.S. military in overseas combat zones.*
- How should the federal-officer removal statute, 28 U.S.C. § 1442(a)(1), be applied to federal contractors that are sued in connection with performance of federal contracts? *Chevron U.S.A., Inc. v. Plaquemines Parish* (Supreme Court).
 - *ALF’s amicus brief argued that the federal-officer removal statute should be construed in a way that affords federal contractors a neutral forum for suits tied to federal projects.*
- To what extent does the attorney-client privilege apply to communications that have both legal and business purposes? *Epic Games, Inc. v. Apple, Inc.* (Ninth Circuit)

- *ALF's amicus brief argued that the attorney-client privilege should apply to multi-purpose corporate communications as long as a primary purpose of a particular communication (even if not the sole primary purpose) is to provide or receive legal advice.*
- Whether the Federal Arbitration Act (FAA) protects all arbitration agreements or only a subset of traditional, bilateral arbitration agreements that the FAA's drafters specifically envisioned. *Live Nation Entertainment, Inc. v. Heckman* (Supreme Court)
- *ALF's amicus brief argued that the FAA applies to consumer arbitration agreements that include procedures designed to combat abusive mass arbitration tactics.*
- Whether a solely intrastate worker who locally delivers out-of-state goods is engaged in interstate commerce for purposes of the Federal Arbitration Act § 1 "transportation workers" exemption. *Flowers Foods, Inc. v. Brock* (Supreme Court)
- *ALF's amicus brief argued that contractual arbitration agreements over a wide range of industries that rely on local distribution and delivery networks are enforceable under the Federal Arbitration Act.*
- Whether a federal court of appeals must remand a fully adjudicated product liability case to state court if it concludes that the district court, exercising diversity jurisdiction, improperly dismissed a nondiverse defendant before entering judgment in favor of the diverse defendant. *The Hain Celestial Group, Inc. v. Palmquist* (Supreme Court)
- *ALF's amicus brief argued that a Fifth Circuit ruling allowing a product liability plaintiff who lost in federal court to retry her suit in state court on the ground that the federal court lacked diversity jurisdiction is fundamentally unfair.*
- Whether a federal court may certify a class action pursuant to Federal Rule of Civil Procedure 23(b) (3) when some members of the proposed class lack Article III injury. *Laboratory Corp. of America Holdings v. Davis* (Supreme Court)
- *ALF's amicus brief argued that certification of class actions with uninjured members violates the Constitution's restriction of federal judicial power to resolution of "Cases" and "Controversies."*
- Whether the Federal Food, Drug, and Cosmetic Act (FDCA) prohibition against private enforcement actions, 21 U.S.C. § 337(a), preempts a private-party action seeking to enforce FDA food labeling regulations by invoking a California statute that incorporates those regulations by reference. *Sprout Foods, Inc. v. Davidson* (Supreme Court)
- *ALF's amicus brief argued that preemption of private enforcement suits is essential for maintaining nationally uniform FDA food labeling standards.*



Protection of Property Rights

- Whether the Helms-Burton Act abrogates foreign sovereign immunity in cases against Cuban instrumentalities, or whether parties proceeding under that Act must also satisfy an exception under the Foreign Sovereign Immunities Act. *Exxon Mobil Corp. v. Corporacion Cimex, S.A. (Cuba)* (Supreme Court)
 - *ALF's amicus brief argued that the Helms-Burton Act is intended to provide a straightforward judicial process for U.S. businesses whose property in Cuba was seized by the Fidel Castro regime to obtain compensation from Cuban-owned state entities that now operate and profit from the confiscated property, as well as from other entities that traffic in the property.*
- Whether the government's appropriation of water that a person had a property right to use is analyzed as a physical taking, rather than a regulatory taking, under the Fifth Amendment. *United Conservation Water District v. United States* (Supreme Court)
 - *ALF's amicus brief argued that a governmental taking of water rights is a per se or physical taking, not a regulatory taking.*



Effective Education

- Whether parents have standing to challenge a law or policy that deliberately displaces their decision-making role as to “gender transitions” of their children, and in so doing creates present and likely future impediments to their ability to parent their children as they deem best for them. *International Partners for Ethical Care, Inc. v. Bob Ferguson, Governor of Washington* (Supreme Court)
 - *ALF's amicus brief argued that parents have an unalienable right, repeatedly recognized by the Supreme Court, to supervise and control the upbringing and education of their children.*
- Whether a State's refusal to enter into a charter school contract with a privately owned and operated K-12 religious school is constitutional. *Oklahoma Statewide Charter School Board v. Drummond & St. Isidore of Seville Catholic Virtual School v. Drummond* (Supreme Court).
 - *ALF's amicus brief argued that a privately created and operated charter school that exercises autonomy over its curriculum and instruction is not a “state actor” or “state entity” for First Amendment “establishment of religion” purposes merely because it receives a state “charter,” i.e., enters into an agreement with a State, to provide education services to students and receive public funds.*



Respecting the Constitution & Curbing the Administrative State

- Whether the SEC’s “Gag Rule” policy, which prohibits SEC civil enforcement targets that sign consent agreements from questioning the factual basis for the SEC’s allegations, violates the First Amendment. *Powell v. Securities and Exchange Commission* (Supreme Court)
 - *ALF’s amicus brief argued that the Gag Rule is part of a scheme to maintain a level of secrecy that deprives individual and corporate civil enforcement targets of civil justice.*
- Whether the Department of Homeland Security (DHS) has authority, independent of Congress, to determine, based on its own economic, social, and other policy judgments, whether, or how long, various classes of nonimmigrant alien visa holders delineated by the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15), can work in the United States. *Save Jobs USA v. Dep’t of Homeland Security*.
 - *ALF’s amicus brief argues that the issue of whether DHS has the power to decide for itself which particular statutorily defined classes of nonimmigrant alien visa holders should be allowed to work in the United States is a “major question” that requires express statutory authorization because it involves complex, policy-driven decisions that affect millions of American workers, and can have vast economic, social, national security, and foreign relations ramifications.* 🇺🇸

Mahmoud v. Taylor and the Clash of Orthodoxies

By Sarah Parshall Perry

As expected, the Supreme Court's opinion in *Mahmoud v. Taylor* elicited feverish condemnations from progressive commentators across the internet. Slate insisted that the "Supreme Court ruled some Americans have a constitutional right to insist on theocracy." *School Library Journal* called the ruling "devastating." Vox charged that the "Supreme Court just imposed a 'Don't Say Gay' regime on every public school in America."

These mischaracterizations are indicative of the cultural maelstrom surrounding the operation of—and parental involvement in—modern American public education, where the heat of battle is most intensely felt at the intersection of parental rights and gender orthodoxy.

By a vote of six to three, the Supreme Court correctly decided in *Mahmoud* that the Montgomery County School Board's elimination of both notification and parental opt-out for certain LGBTQ-themed instructional materials was an impermissible burden on the religious freedom of a multi-faith group of parents, and that they were entitled to injunctive relief during the pendency of the litigation. However, the *Mahmoud* decision was notable not so much for its holding as for the clash of orthodoxies apparent within it from the Court's Left and Right wings, which itself represented the culture at large.

In 1972, the Supreme Court in *Wisconsin v. Yoder* ruled that parents' interest in the free exercise of religion under the First Amendment outweighed the State's interest in compelling school attendance beyond the eighth grade. The *Mahmoud* majority, in an opinion penned by Justice Alito and joined

by all but Justices Jackson, Sotomayor, and Kagan, criticized the Fourth Circuit Court of Appeals' impossibly narrow construing of *Wisconsin v. Yoder* when it assessed the parents' claims and considered how far their religious parental rights extended. The lower court's view was that nothing short of government compulsion to renounce or abandon one's religious faith would amount to a burden on a parent's right to raise their child in accordance with the traditions of their religion.

The Supreme Court sharply disagreed.

The Court had never—Alito wrote—confined *Yoder* to its facts, and there was no reason to conclude that the decision was "sui generis" or "tailored to [its] specific evidence." And because the board's policies substantially interfered with the parents' ability to guide the religious development of their children, the appellate court erred. And significantly so.

But how did the books and curriculum interfere? Weren't these just pedestrian exercises in tolerance and diversity? No, they were designed explicitly to "disrupt" the thinking of children between four and 11 years old on issues of sex and gender, and directly geared at changing their perspectives on issues that, as recently as a decade or two ago, would have been beyond debate.

Alito identified just those characteristics, writing that the books at issue were "unmistakenly normative" and that the board had even encouraged teachers to accuse children of being "hurtful" when they expressed an alternative view. That, Alito wrote, was the kind of "objective



danger to the free exercise of religion that the First Amendment was designed to prevent.”

During oral arguments, on questioning from the justices about why the opt-out right had been revoked without explanation, Montgomery County School’s attorney Alan Schoenfeld answered that opt-outs were non-administrable due to the sheer number of parents who had exercised that option. When Alito asked why the LGBTQ themed curriculum couldn’t simply be presented during health class, where opt-out rights already existed, Schoenfeld argued that there was “no constitutional obligation” on the school’s part to do so.

An increasingly frustrated Alito then pressed Schoenfeld on the line between “exposure” and “coercion.” He noted that the material “expresses the idea—subtly—that this is a good thing,” asking Schoenfeld why the Montgomery County Board of Education was running away from “what they clearly wanted to say”—that it had a very definite view on LGBTQ themes.

Schoenfeld responded that the message that “these things ought to be normalized and treated with respect” was merely incidental to the curriculum itself.

And therein, of course, lies the rub.

The “normalization” of which Schoenfeld spoke, the “respect” urged by the Board for lifestyles, beliefs, and choices that are antithetical to most faith traditions, is precisely why the *Mahmoud* parents sought an opt-out in the first place. Reprogramming efforts camouflaged as the insistence on “tolerance” and “respect” for LGBTQ themes, policies, and choices are the detritus of the Supreme Court’s ruling in *Obergefell v. Hodges* that divined a constitutional right to same-sex marriage in the same illiberal and confounding way that the Court had divined a constitutional right to abortion in *Roe v. Wade*.

Issued nearly 10 years to the day before the *Mahmoud* decision, the *Obergefell* ruling assuaged Americans with the promise that they would still be able to live by their “decent and honorable beliefs” on the nature of marriage. In his *Obergefell* majority opinion, Justice Kennedy promised that “those who adhere to religious doctrines, may continue to advocate with utmost, sincere conviction that, by divine precepts, same-sex marriage should not be condoned.”

But even then, Alito, in his prescient dissent, decried the *Obergefell* decision in part for its anticipated impact on the religiously faithful:

It will be used to vilify Americans who are unwilling to assent to the new orthodoxy. In the course of its opinion, the majority compares traditional marriage laws to laws that denied equal treatment for African-Americans and women... The implications of this analogy will be exploited by those who are determined to stamp out every vestige of dissent.

Indeed, those implications were exploited, leading to a flurry of Supreme Court controversies in the years post-*Obergefell*. In cases like *303 Creative v. Elenis*, *Masterpiece Cakeshop v. Colorado Civil Rights Commission*, and *Fulton v. City of Philadelphia*, the battle between sexual orthodoxy and religious liberty engaged the nation's attention. And it did little to settle the debate on whether the two worldviews could peacefully coexist in a pluralistic society without igniting future challenges to healthcare, employment, or education policies that would inevitably rise to prominence.

It now appears they could not.

Ten years later, Alito's concerns proved true for parents in Montgomery County who wanted to exercise their right to shield their children from instruction at odds with the traditions of their faith.

Justice Sotomayor and her fellow liberal colleagues did not see the opt-out requests as nearly so benign in *Mahmoud*.

Characterizing the parents' position as wanting to insulate children from "every lesson plan or story time that might implicate a parents' religious beliefs," Sotomayor argued in her dissent that the board's policies would have to literally coerce the children or parents "to give up or violate their religious beliefs." She argued that "[m]anaging opt outs will impose [great] administrative burdens," and that exposure to "worldly influence" was required in the name of tolerance.

In a bombastic opinion full of dire warnings, Sotomayor argued that the majority's holding "threatens the very essence of public education" because it "strikes at the core premise of public schools: that children may come together to learn not the teachings of a particular faith, but a range of concepts and views that reflect our entire society."

Alito countered that "According to the dissent, parents who send their children to public school must endure any instruction that falls short of direct compulsion or coercion and must try to counteract that teaching at home. The Free Exercise Clause is not so feeble."

He noted that the Court did not accept the Board's characterizations of the "LGBTQ+-inclusive" instruction as mere "exposure to objectionable ideas" or as lessons in "mutual respect," as they had "unmistakably" conveyed a particular viewpoint about same-sex marriage and gender. But even if the instruction amounts to nothing more than mere "exposure," Alito added that "Whether or not a requirement or curriculum could be characterized as 'exposure' is not the touchstone for determining whether religious liberty rights ha[ve] been infringed."

"Justice Sotomayor fails to appreciate the enduring nature of religion—and the Constitution's respect for it," Alito wrote. "As the Court explained in *Yoder*, a compelled curriculum focused on 'contemporary worldly society'—no matter how practically useful—may still impermissibly 'contraven[e] . . . basic religious tenets and practice . . . , both as to the parent and the child.'"

In *Mahmoud* and beyond, the enduring nature of religious belief will always yield "vestiges of dissent." As culture lurches toward the expansion of gender identitarianism, as education evolves, as advocacy for new "sexual orientations" burgeons, the eternal and enduring will always stand in inconvenient opposition to the march of time. 🙏

Sarah Parshall Perry is Vice President and Senior Legal Fellow at Defending Education. Former Senior Counsel at the U.S. Department of Education's Office for Civil Rights, and former Senior Legal Fellow at the Heritage

Foundation. Her work focuses on parental rights, civil rights, and constitutional law. Perry chairs the Federalist Society's Education Law executive committee, is a Trustee of Florida Gulf Coast University, and is the mother of 3 children.



Better than human... Holly Hannah
Enough to make a purist... a fanna
In the time we think or merely wink
We mere mortals may become extinct

AI generated:

Ode to the Amicus Curiae

(A Brief That Wasn't Brief)

In the court's grand halls where the gavel swings,
And justice flaps her mighty wings,
There comes a voice not from the fray—
The amicus curiae, here to weigh.

"I'm not a party," it begins with flair,
"But I've got thoughts I'd like to share.
I bring no claim, I seek no fee
Just wisdom, insight, clarity!"

The judges sigh, "Another brief?"
Their clerks now groan in quiet grief.
For though it's "friendly," make no mistake—
It's fifty pages, give or take.

It cites the Founders, quotes Rousseau,
And footnotes things we'll never know.
It charts the law from Rome to Kent,
And questions what the framers meant.

It's filed by scholars, think tanks, firms,
By unions, churches, labs with germs.
Each one convinced their view is key
To shaping legal destiny.

Sometimes it helps, sometimes it clutters,
Sometimes it's just legal nutters.
But still it stands, this noble rite,
To join the fray without a fight.

So here's to you, oh Brief of Friend,
Who pops in where the pleadings end.
You may not win, you may not sway—
But you sure had a lot to say.

Justices' *Monsanto Decision* Fix A *May* Preemption Mistake

By Lawrence S. Ebner

On Jan. 16, the U.S. Supreme Court granted certiorari in *Monsanto Co. v. Durnell* to address the following question: “Whether the Federal Insecticide, Fungicide, and Rodenticide Act preempts a label-based failure-to-warn claim where EPA has not required the warning.”

The answer to this question could result in dismissal of tens of thousands of pending state law personal injury claims alleging that Monsanto, now Bayer AG, failed to include a cancer warning on the U.S. Environmental Protection Agency-regulated labels for its Roundup herbicide products.

This wave of Roundup failure-to-warn litigation has burdened the civil justice system for years. It not only clashes with FIFRA’s express preemption provision, but also with the EPA’s carefully considered, expert determination that a cancer warning for glyphosate — the active ingredient in Roundup — is scientifically unwarranted and would be false and misleading.

I have been a steadfast FIFRA preemption advocate since the 1980s. For the past 20 years I have been urging, and waiting for, the Supreme Court to revisit and clarify its only other FIFRA tort preemption decision, *Bates v. Dow AgroSciences LLC*, handed down in 2005. The *Durnell* case provides the court with this important and long-overdue opportunity.

From a product liability viewpoint, *Durnell* presents the question of exactly how Congress should word a statute if it wants to completely preempt state law — including state tort law — on a particular subject.

From an even broader civil justice perspective,

the Roundup litigation is a cautionary tale: It illustrates how the plaintiffs bar has been able to target a company — and a highly beneficial, widely used product that a federal regulatory agency repeatedly has determined does not cause cancer in humans — by consistently misinterpreting a prior Supreme Court decision in a way that essentially negates a federal statute’s express preemption provision.

FIFRA Preemption Background

FIFRA Section 24(b) is a seemingly airtight express preemption provision. Under the heading “Uniformity,” Section 24(b) declares that a “State shall not impose ... any requirements for labeling ... in addition to or different from those imposed under [FIFRA].”

Legislative history confirms that Congress intended Section 24(b) “to completely preempt State authority in regard to labeling.”

In *Bates*, the Supreme Court held that Section 24(b) expressly preempts pesticide-related failure-to-warn claims. The court noted that such claims “are premised on common-law rules that qualify as ‘requirements for labeling’ ... they set a standard for a product’s labeling that the ... label is alleged to have violated by containing ... inadequate warnings.”

This should have been the end of the story. However, the *Bates* opinion, authored by former Justice John Paul Stevens, did not stop there.

According to the opinion, the statutory phrase “in addition to or different from,” which appears in identical or similar form in a number of federal regulatory statutes, is not as all-encompassing as one might think.



Exterior of the US Environmental Protection Agency building in Washington

Instead, the Bates opinion indicates that, as used in FIFRA Section 24(b), “in addition to or different from” includes an implicit exception for state labeling requirements that are “parallel,” “genuinely equivalent” to or “fully consistent with” FIFRA’s labeling requirements — specifically, FIFRA’s general prohibition against distribution of pesticide products that are “misbranded” due to inadequate label warnings.

The court, except perhaps for former Justice Stephen Breyer in his concurring opinion, failed to recognize that FIFRA’s misbranding prohibition, and even the EPA’s labeling regulations, are merely a regulatory baseline. In reality, the EPA imposes pesticide labeling requirements, including labeling requirements for specific human health and safety warnings, on a product-by-product basis.

The plaintiffs bar, supported by antipesticide groups, immediately seized upon the fuzzy “parallel requirements” part of the Bates opinion. For two decades, they have argued, with considerable success in the lower courts, that FIFRA preemption does not apply to failure-to-warn claims if a state’s tort law, like FIFRA’s misbranding provision, imposes upon product manufacturers a general duty to warn.

Every state, of course, imposes such a duty. In effect, the plaintiffs bar’s simplistic interpretation of the Bates parallel requirements exception negates the Supreme Court’s holding that FIFRA expressly preempts state law failure-to-warn claims.

To the contrary, the implied parallel-requirements exception does not allow a state, through tort law or otherwise, to impose its own warning requirements if they diverge in any way from the EPA’s warning requirements. It is a narrow exception that should not be interpreted to swallow the express preemption rule from which it is derived.

For example, if the EPA determines that a product label should warn about “X” and the manufacturer fails to include a warning about “X,” then under the parallel-requirements exception, a state law damages suit based on the label’s failure to warn about “X” would not be preempted.

What state tort law cannot do, however, is impose a requirement for a label warning about “Y” if the EPA does not require a warning about “Y.”

As Justice Clarence Thomas explained in his separate opinion in Bates, “[w]hile States are free to impose liability predicated on a violation of the federal standards set forth in FIFRA and in any accompanying regulations promulgated by the Environmental Protection Agency, they may not impose liability for labeling requirements predicated on distinct state standards of care.”

The FIFRA Preemption Saga

I was introduced to FIFRA in 1974 as a young associate at a small Washington, D.C., law firm. Throughout the 1970s and 1980s, it was widely assumed — even by the pesticide industry — that

the FIFRA Section 24(b) preemption provision applied only to state statutes and state agency regulations that imposed additional or different requirements for pesticide product labeling.

But beginning in the early 1990s, a few of us began to argue that Section 24(b) also preempts labeling requirements imposed through the state tort duties that underlie failure-to-warn claims.

Our preemption argument was fueled by a 1992 Supreme Court cigarette label warning decision, *Cipollone v. Liggett Group Inc.* The court held in *Cipollone* that a statutory provision that preempts state law requirements includes requirements imposed through state tort law.

From the early 1990s until 2005, we were quite successful establishing that FIFRA preempts failure-to-warn claims against pesticide manufacturers. During this period I orally argued or briefed FIFRA preemption in many federal courts of appeals and district courts, and in some state appellate courts, including the California Supreme Court. Most of these cases were personal injury suits.

Then came *Bates*, which was an agricultural crop damage case. From my point of view, *Bates* was a win. It affirmed, as so many lower courts had held, that FIFRA Section 24(b) expressly preempts label-based failure-to-warn claims.

But the plaintiffs bar responded to *Bates* by focusing on the opinion's discussion of parallel state requirements. They argued that a product manufacturer's general state tort duty to provide adequate warnings is parallel or equivalent to FIFRA's general prohibition against distributing misbranded pesticide products.

This argument, which turned the judicial tide on FIFRA tort preemption, is oblivious to the way that the EPA actually regulates pesticides on a science-based, product-specific basis.

In the case of Roundup, for example, the EPA, based on careful review of numerous scientific studies, repeatedly has determined that glyphosate is not a human carcinogen. The EPA even took the extraordinary step of sending a "Dear Registrant" letter to glyphosate producers in 2019, advising them that it would be false and misleading, and a violation of FIFRA's misbranding prohibition, to distribute their products with labels that contain a cancer warning.

It was particularly frustrating that unlike Monsanto and a few other companies, most pesticide producers and their trade associations quickly gave up on the FIFRA preemption defense in the wake of *Bates* — a decision that, in my opinion, was a victory for the pesticide industry.

I also have been fascinated by the succession of federal government positions on FIFRA tort preemption since the 1980s. By my count, it has shifted at least four times, based primarily on which party controls the executive branch. In *Durnell*, the U.S. solicitor general submitted an amicus brief urging review and supporting preemption.

During the two decades since *Bates*, I have emphasized in amicus briefs and articles that only EPA has the authority to regulate the content of pesticide labels, e.g., to determine what specific warnings should and should not appear on a particular pesticide product's label.

As Justice Thomas indicated in his separate opinion, the parallel-requirements exception merely provides a state law remedy where a manufacturer fails to comply with a product-specific warning requirement imposed by the EPA.

With the certiorari grant in *Monsanto Co. v. Durnell*, FIFRA preemption has returned to the Supreme Court. I hope that it finally will end there with an unambiguous opinion reaffirming that FIFRA expressly preempts any form of state law that deviates from the EPA's label warning determinations, and that clarifies the narrow scope of the *Bates* parallel requirements exception.

This article by Mr. Ebner as a guest author was first published in the February 12, 2026 editions of Law360, complete with endnotes providing case and statutory citations. 🇺🇸

Lawrence S. Ebner is the Executive Vice President and General Counsel of the Atlantic Legal Foundation. He is a fellow of the American Academy of Appellate Lawyers and graduate of Harvard Law School.





Dan Fisk
Chairman & President

Larry Ebner
Executive Vice President
& General Counsel

Commemorating the Atlantic Legal Foundation's
2025 Annual Awards Reception & Dinner

Honoring

Darren W. Woods

Chairman & Chief Executive Officer
Exxon Mobil Corporation

*At the Junior League of Houston
October 10, 2025*

Setting the Stage



Dinner Host Committee

Diamond



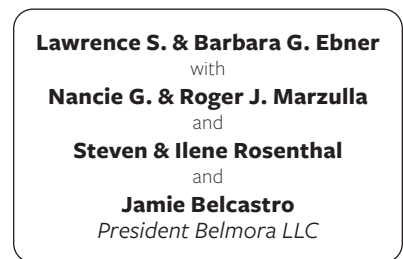
Platinum



Gold



Silver



Bronze



The Program and Award Presentation



Dan Fisk, William Primps, Darren W. Woods, Jeff Taylor

Atlantic Legal Foundation Honors ExxonMobil Chairman and CEO Darren W. Woods at 35th Annual Awards Dinner

On October 10, 2025, the Atlantic Legal Foundation (ALF) convened its 35th Annual Awards Reception and Dinner in the Grand Ballroom of the Junior League of Houston, bringing together leaders from the legal, business, and public policy communities to celebrate principled leadership and the rule of law.

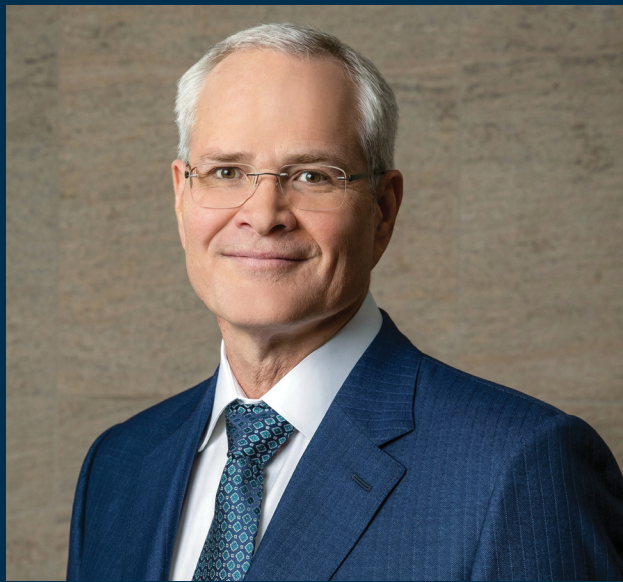
The evening's honoree was Darren W. Woods, Chairman and Chief Executive Officer of Exxon Mobil Corporation, recognized for his commitment to free enterprise, sound science, and constitutional governance. The event reflected the Foundation's long standing mission to promote rigorous, science based decision making in courts and regulatory forums, as well as to protect free enterprise, individual liberty, property rights, and the integrity of the legal system.

The program featured welcoming remarks from Atlantic Legal Foundation leadership, the formal presentation of the Foundation's annual award, and a wide ranging discussion between Woods and Jeffrey A. Taylor, ExxonMobil's Vice President, General Counsel, and Secretary, who also serves as a Director of the Atlantic Legal Foundation. Taylor introduced the honoree and moderated a "fireside chat" that explored the role of principled leadership in navigating complex legal, regulatory, and geopolitical challenges facing modern global enterprises.

Throughout the evening, speakers emphasized the importance of leadership grounded in integrity and long term perspective, particularly in environments where legal risk, regulatory uncertainty, and public scrutiny are constant. The discussion highlighted the strategic partnership between executive leadership and in house legal teams, underscoring the view that lawyers play a critical role in helping organizations pursue their objectives responsibly rather than merely constraining risk.

Continued on page 29

The Program and Award Presentation



Darren W. Woods

*Chairman & Chief Executive Officer
Exxon Mobil Corporation*

Darren Woods is a graduate of Texas A&M University, where he earned a Bachelor of Science degree in electrical engineering. He also holds a Master of Business Administration degree from Northwestern's Kellogg School of Management in Evanston, Illinois.

Mr. Woods joined Exxon Company International in 1992 as a planning analyst in Florham Park, New Jersey. He progressed through a number of domestic and international

assignments for Exxon Company International, ExxonMobil Chemical Company and ExxonMobil Refining and Supply Company.

In 2005, Mr. Woods was appointed Vice President of ExxonMobil Chemical Company in Houston, Texas, where he managed global specialty-chemical businesses. In 2008, he was named ExxonMobil Refining and Supply Company's Director of Refining for Europe, Africa and the Middle East, and was based in Brussels. In 2010, he was appointed Vice President of Supply and Transportation, based in Fairfax, Virginia.

Mr. Woods was appointed President of ExxonMobil Refining and Supply Company and Vice President of Exxon Mobil Corporation in 2012. In 2014, Mr. Woods was elected Senior Vice President of Exxon Mobil Corporation.

Effective January 1, 2016, Mr. Woods was elected President of Exxon Mobil Corporation and a member of the Board of Directors.

The ExxonMobil Board of Directors elected Mr. Woods as Chairman and Chief Executive Officer, effective January 1, 2017.

Mr. Woods serves on the Board of Directors of the American Petroleum Institute and the Board of Trustees of the Center for Strategic and International Studies. He is also a member of the National Petroleum Council, the Business Roundtable, the Business Council and the Texas A&M University Engineering Advisory Council.

The Program and Award Presentation



Jeffrey A. Taylor

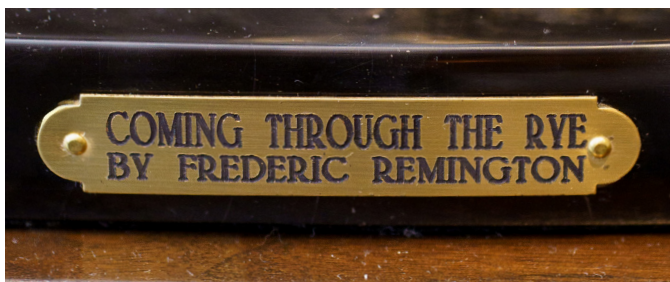
*Vice President, General Counsel & Secretary
Exxon Mobil Corporation*

Effective July 1, 2024, Jeff Taylor became the Vice President, General Counsel and Secretary of Exxon Mobil Corporation. Jeff joined ExxonMobil from Fox Corporation, where he was Executive Vice President and General Counsel. Before joining Fox, Jeff was the Deputy General Counsel and Chief Compliance Officer for General Motors Co., and General Counsel of Raytheon Integrated Defense Systems. He worked for more than 15 years in the federal government, including as the U.S. Attorney for the District of Columbia from 2006 to 2009, Counselor to the Attorney General, Counsel to the U.S. Senate Committee on the Judiciary, and Assistant U.S. Attorney for the Southern District of California.



Jeff received his bachelor's degree in history from Stanford University and earned his J.D. from Harvard Law School.

The Program and Award Presentation



Continued from page 26

Foundation leaders also reflected on ALF's history and influence, including its nationally recognized Supreme Court amicus curiae advocacy on issues at the intersection of law, science, and public policy. The program acknowledged the resilience of the Foundation through recent challenges and recognized the contributions of its Board of Directors, Advisory Council, staff, and supporters.

A highlight of the evening was the presentation of the Foundation's annual award, continuing ALF's tradition of honoring recipients with a distinctive and symbolic gift. This year's award commemorated both the Foundation's legacy and its enduring commitment to leadership rooted in principle, perseverance, and respect for the rule of law.

The event was supported by sponsors from across the legal and business communities. See page 25. Attendees included representatives from major corporations, law firms, and public interest organizations, reinforcing the breadth of engagement around the Foundation's mission.

The 35th Annual Awards Dinner concluded with reflections on the enduring importance of principled advocacy, collaboration between business and legal leadership, and the vital role of sound legal frameworks in supporting innovation, economic growth, and democratic institutions. The evening served not only as a recognition of individual achievement, but also as a reaffirmation of the Atlantic Legal Foundation's commitment to strengthening American jurisprudence through integrity, expertise, and civic responsibility. 🦋

Annual Award Recipients 1988-2025

2025



Darren W. Woods
Chairman and CEO
Exxon Mobil Corporation

2024



Paul D. Clement
Leading Supreme Court of the U.S.
Advocate

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®
and 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 and 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 1988-2025

2005



Edward D. Breen
Chairman and CEO
Tyco International Ltd.

1996



Bruce Atwater
Retired Chairman and CEO
General Mills, Inc.

2004



Hon. George J. Mitchell
Former United States Senator
Chairman, The Walt Disney Company
Partner, Piper Rudnick LLP

1995



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

2003



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

1994



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

2002



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

1993



Amb. Carla Anderson Hills
United States Trade Representative

2001



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

1992



Paul H. Henson
Retired Chairman and CEO
Sprint Corporation

2000



Norman R. Augustine
Retired Chairman and CEO
Lockheed Martin Corporation

1991



Walter B. Wriston
Retired Chairman and CEO
Citicorp

1999



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

1990



Irving S. Shapiro
Retired Chairman and CEO
DuPont

1998



Hon. Rudolph Giuliani
Mayor of New York City

1989



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

1997



Hon. Donald Rumsfeld
Former Secretary of Defense

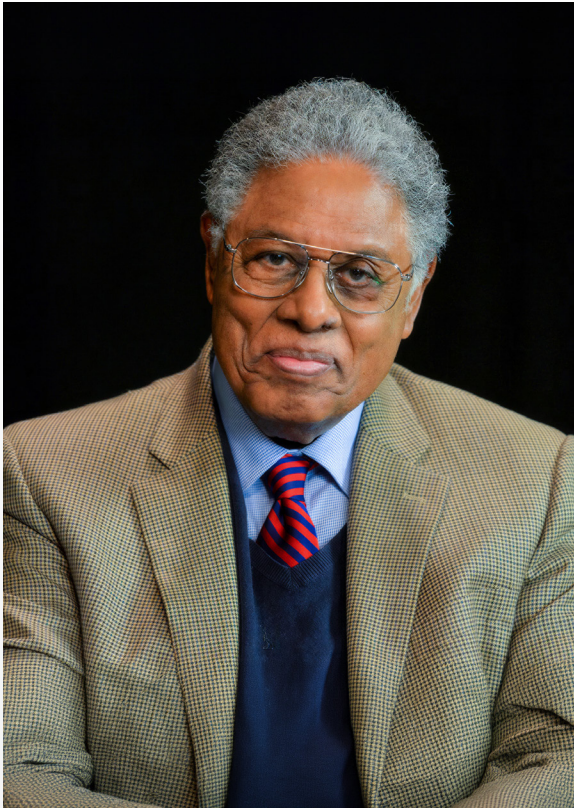
1988



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

For nearly half a century, Thomas Sowell has been a towering presence at the Hoover Institution, challenging conventional wisdom and inspiring critical thought across generations. Through his scholarship and fearless inquiry in economics, social theory, and public policy, Dr. Sowell's work continues to shape the conversation about the most important issues of our time.

Late in 2022, the Institution celebrated Dr. Sowell's remarkable impact, culminating in a major event honoring his life and achievements.

Explore The Sowell Legacy: Ideas, Impact, and Intellectual Freedom, at the Hoover Institution's website, a curated digital archive that showcases the breadth and depth of Thomas Sowell's intellectual contributions. This collection stands as a testament to his lifelong pursuit of clarity and truth—an enduring legacy for both current friends and future generations.

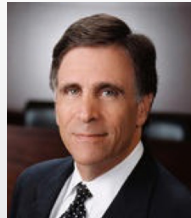
2016



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 and former member of
the Advisory Council of
[The Atlantic Legal Foundation](#)

2011



Kathryn S. Wylde

President and CEO
Partnership for New York City

2009



The Late Honorable Judith S. Kaye

Retired Chief Judge
State of New York

2006



The Late Dr. Frederick Seitz

President Emeritus
The Rockefeller University

In the spring of 2025, we welcomed four new Directors to ALF's Board, and two new Advisory Council Members strengthening ALF's leadership team and in the fall of 2025 strengthened it further with the election of two new Directors to the Board as announced in the news releases following:

Lee Barrett, President & CEO of Nisus Corporation, Elected to ALF Board of Directors

April 23, 2025



At ALF's Annual Meeting, the Board of Directors elected Lee Barrett, President and CEO of Nisus Corporation, to its Board of Directors.

"Lee Barrett's broadly based business experience and his focus on

sound science from an industrial perspective should prove beneficial for ALF in its advocacy for the broad public interest by assuring the advancement of sound science in judicial and regulatory proceedings," said ALF Chairman and President H. Dan Fisk.

"As Greg Baumann moves toward semi-retirement as a long-time officer of Nisus Corporation, he has stepped up his dedication to the leadership team of ALF as its Assistant Treasurer and as a continuing committed Director. We are fortunate to have two talented executives from the industry dedicated to ALF's advocacy for sound science and related mission areas."

As President and CEO, Lee leads Nisus Corporation, an American-owned chemical manufacturer based in Rockford, Tennessee, in providing sustainable solutions for pest control, industrial and commercial wood protection, and agricultural micronutrients. He is a board member of the National Pest Management Association (NPMA), the non-profit dedicated to addressing the technical, governmental, educational, and business needs of the pest control industry. He is also a board member of UPFDA (the United Producers, Formulators, and Distributors Association). UPFDA represents suppliers in the pest control industry, providing support for logistical, legislative, and regulatory affairs.

Lee has worked in the closely connected pest control and wood protection industries for 35 years, ever since he got his start in the mailroom

at US Borax. Today, he is a leading advocate for sustainable science in chemical manufacturing.

Learn more about Lee Barrett in his full bio on the ALF website.

Sean Dolan, COO and General Counsel of DRI, Elected to ALF Board of Directors

April 24, 2025



At ALF's Annual Meeting, the Board of Directors elected Sean Dolan, COO and General Counsel of DRI, to its Board of Directors.

"We are delighted that Sean Dolan, Chief Operating Officer and General Counsel of DRI-

The Voice of the Defense Bar, has joined ALF's Board of Directors. Sean brings a wealth of knowledge and experience concerning key civil justice issues such as litigation abuse, third-party litigation funding, and class action fairness," stated ALF Chairman and President H. Dan Fisk.

DRI is the largest association for civil defense attorneys and in-house counsel. Sean has a background in legal, business operations, and strategic management across both the governmental and nonprofit sectors.

He joined DRI in June of 2020 and oversees legal, financial, information technology, human resources, and facility operations at the organization. He also oversees DRI's Center for Law and Public Policy, which through scholarship, legal expertise, and advocacy provides the most effective voice for the defense bar in the discussion of substantive law, judicial process, constitutional issues, and the integrity of the civil justice system at both the national and state levels.

Learn more about Sean Dolan in his full bio on the ALF website.

Philip R. Sellinger, Co-Chair of Greenberg Traurig's Global Litigation Practice, Elected to ALF Board of Directors

April 25, 2025



At ALF's Annual Meeting, the Board of Directors elected Philip R. Sellinger, Co-Chair of Greenberg Traurig's Global Litigation Practice, to its Board of Directors.

ALF Chairman & President H. Dan Fisk observed that the leadership of ALF "is especially pleased to welcome Philip Sellinger back to the Board in recognition of his many years of distinguished service before he necessarily stepped down from the Board to serve by Presidential appointment as New Jersey's U.S. Attorney. In that role he gained valuable experience and insights which will enhance his renewed service to ALF and its mission."

Philip Sellinger is co-chair of Greenberg Traurig's Global Litigation Practice and founding chair of the firm's New Jersey office.

From 2021 to 2024, Philip served as U.S. Attorney for the District of New Jersey. Under his direction, the New Jersey U.S. Attorney's Office achieved international prominence in fighting cybercrime; reached landmark corporate criminal and civil resolutions, and aggressively prosecuted securities fraud, insider trading and market manipulation; public corruption, money laundering, fraud against government and private health care plans, government contract and customs fraud, unlawful kickback schemes, violent crime, and civil rights violations.

Prior to his appointment as U.S. attorney in 2021, Philip founded and managed Greenberg Traurig's New Jersey office and served as co-Chair of the firm's Global Litigation Practice. A former Assistant U.S. Attorney and New Jersey federal clerk, Philip has more than 30 years of trial experience and has led litigation teams in a wide variety of class actions and other complex cases in state and federal trial courts and appellate courts, including the New Jersey Supreme Court, around the country. He has served as Chair of the Lawyers Advisory Committee to the New Jersey federal judiciary and as a member of the New Jersey Supreme Court Civil Practice Rules Committee.

Learn more about Philip R. Sellinger in his full bio on the ALF website.

ALF Welcomes ExxonMobil's General Counsel Jeff Taylor to its Board of Directors and Executive Counsel Robert Levy to its Advisory Council

April 28, 2025



Jeffrey A. Taylor

Vice President, General Counsel & Secretary, Exxon Mobil Corporation



Robert L. Levy

Executive Counsel, Legal Policy & Administration, Exxon Mobil Corporation

At its recent Annual Meeting, ALF's Board of Directors elected Jeff Taylor, Vice President, General Counsel & Secretary of Exxon Mobil Corporation, to its Board of Directors and appointed ExxonMobil's Executive Counsel, Legal Policy & Administration Robert Levy to its Advisory Council.

Recognizing the vital role of the oil and gas industry to the success of America, both historically and looking toward the future, ALF Chairman & President H. Dan Fisk has enthusiastically welcomed both men to the ALF Leadership Team. Fisk expressed optimism that "their combined expertise, experience and influence will contribute greatly to ALF's successful advocacy in furtherance of wisdom in judicial decisions and public policy impacting the industry which is so vital to the strength of America, domestically and globally, and to the well being of its citizenry."

Jeffrey A. Taylor

Effective July 1, 2024, Jeff Taylor became the Vice President, General Counsel and Secretary of Exxon Mobil Corporation.

Jeff joined ExxonMobil from Fox Corporation, where he was Executive Vice President and General Counsel. Before joining Fox, Jeff was the Deputy General Counsel and Chief Compliance Officer for General Motors Co., and General Counsel of Raytheon Integrated Defense Systems. He worked for more than 15 years in the federal government, including as the U.S. Attorney for the District of Columbia from 2006 to 2009, Counselor to the

Attorney General, Counsel to the U.S. Senate Committee on the Judiciary, and Assistant U.S. Attorney for the Southern District of California.

Robert L. Levy

Robert L. Levy's duties include representing ExxonMobil in support of its Advocacy and Civil Justice Reform initiatives. He also guides the Company on Data Privacy and Information Governance.

Robert is Chair of the Board of the American Tort Reform Association. He previously served as President of the Civil Justice Reform Group. He is also Treasurer of Lawyers for Civil Justice (LCJ) and chairs its Discovery Committee. He also is active in the Institute for Legal Reform and Litigation Center. Robert also has been a member of the Texas Supreme Court Advisory Committee for over 13 years and chairs one of its subcommittees. He was honored by LCJ in 2014, receiving its Al Cortese Award for Leadership in Civil Justice Reform.

Grant W. Hollingsworth Appointed to ALF Advisory Council

March 24, 2025



We are pleased to announce the appointment of Grant W. Hollingsworth to ALF's Advisory Council. A partner at Hollingsworth LLP, Grant litigates a wide variety of complex civil matters, with a current focus on pharmaceutical products liability, medical malpractice, and sports law.

Grant has extensive experience litigating cases in MDLs in federal courts throughout the United States, including In re Tepezza Marketing, Sales Practices, and Products Liability Litigation (Amgen); In re Tasigna Products Liability Litigation (Novartis); In re Aredia and Zometa Products Liability Litigation (Novartis); and In re Roundup Products Liability Litigation (Monsanto/Bayer).

ALF's leadership team has worked with Grant over recent years and has found him to be keen in his thinking, brilliant in his research, and committed to working diligently to assure American jurisprudence comports with justice and America's founding

Constitutional principles. "We are especially pleased to welcome a young man of his stature to ALF's leadership team," ALF Chairman & President Dan Fisk exclaimed.

ALF Welcomes Adam P. Laxalt and Michael T. Lempres to its Board of Directors

January 6, 2026



Adam P. Laxalt



Michael T. Lempres

We are pleased to begin 2026—ALF's 49th year of advocating for civil justice—by announcing the addition of two new members to our distinguished Board of Directors. Their election follows a highly productive 2025:

- We achieved the **filing of 100 amicus briefs** in the Supreme Court, federal courts of appeals, and state appellate courts during the past five years.
- We **augmented our advocacy** through articles, webcasts, and media interviews on key cases.
- We **hosted a highly successful Awards Dinner** honoring ExxonMobil Chairman & CEO Darren Woods at the Junior League of Houston.

Our new Board members are Adam P. Laxalt, Partner at Cooper & Kirk, LLC and former Attorney General of Nevada, and Michael T. Lempres, Owner & Principal of Ashfield Advisors, LLC.

H. Dan Fisk, Chairman & President of ALF, extolls both Michael Lempres and Adam Laxalt as:

"paragons of our profession, uniquely qualified to add appreciably to the success of ALF's advocacy in the pursuit of its mission as America's leading organization fostering sound science in judicial and regulatory proceedings, free enterprise, the protection of property rights and civil liberties while advocating for limited, responsible government and effective education underpinned by respect for parental rights . . . all under the umbrella of the rule of law and our Constitution."

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& Assistant Secretary

IN THIS TEMPLE
AS IN THE HEARTS OF THE PEOPLE
FOR WHOM HE SAVED THE UNION
THE MEMORY OF ABRAHAM LINCOLN
IS ENSHRINED FOREVER



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Over the past few years, the Atlantic Legal Foundation has benefited greatly from the valuable pro bono assistance of its Board of Directors, Advisory Council, Staff, and Consultants, and especially the following professionals for whom we are most grateful:

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Thank You.

With your help, the Atlantic Legal Foundation has been able to successfully pursue its mission to advocate for the rule of law, limited effective government, free enterprise, individual liberty, effective education, property rights, and sound science. The Board of Directors, Advisory Council and Staff of the Foundation thank you for your continued support.

Atlantic Legal Foundation: Mission and Programs

The Atlantic Legal Foundation is a nonprofit, nonpartisan, public interest law firm with a distinguished, 49-year record of advancing civil justice and the rule of law by advocating for individual liberty, free enterprise, protection of property rights, limited and responsible government, sound science in judicial and regulatory proceedings, and effective education through parental rights and school choice. To accomplish these goals, the Foundation conducts a renowned and robust *amicus curiae* program in the U.S. Supreme Court, federal courts of appeals, and state appellate courts. Our amicus brief program has helped achieve many favorable outcomes for businesses, nonprofit organizations, and individuals on some of the most important legal issues confronting Americans today. Esteemed appellate attorneys and free-enterprise and other nonprofit advocacy organizations from around the United States continually seek our amicus support.

The Foundation also undertakes advocacy and educational efforts in the form of a resource-rich website (atlanticlegal.org), presentation and participation in webinars and conferences with other nonprofit or professional organizations, and publication of seminal articles on legal matters, as well as white papers and handbooks, such as our *Leveling The Playing Field* series on charter schools, primarily for charter school leaders.

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

Please visit atlanticlegal.org, where the Foundation's most recent activities are detailed and its rich history of achievements is archived.



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We the People of the United States, in order to form a more perfect Union, insure domestic Tranquility, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.

“A primary object should be the education of our youth in the science of government. In a republic, what species of knowledge can be equally important? And what duty more pressing than communicating it to those who are to be the future guardians of the liberties of the country?”

— George Washington

“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

“Don’t interfere with anything in the Constitution. That must be maintained, for it is the only safeguard of our liberties.”

— Abraham Lincoln

“I had never known such a man as he, and never shall again . . . He poured into my heart such visions, such ideals, such hopes, such a new attitude toward life and patriotism and the meaning of things, as I had never dreamed men had.”

— Famed Journalist,
William Allen White
Years after the death of
Theodore Roosevelt

“This country would not be a land of opportunity, America could not be America, if the people were shackled with government monopolies.”

— Calvin Coolidge

“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

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

— Ronald Reagan



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“People talk about capitalism and socialism and communism. There’s only two kinds of economic systems: the market-driven and the government-directed. That’s it! The more you move toward a state-directed economy, the less efficient and more corrupt it becomes.”

— Frederick W. Smith
1944-2025
Founder of FedEx
In re ALF’s Mission Fostering Free Enterprise