

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

WILMER CUTLER PICKERING HALE
AND DORR LLP,

Plaintiff,

v.

EXECUTIVE OFFICE OF THE
PRESIDENT, *et. al.*,

Defendants.

Case No. 1:25-cv-917-RJL

**BRIEF OF *AMICI CURIAE* OF 808 LAW FIRMS IN SUPPORT OF PLAINTIFF'S
MOTION FOR SUMMARY JUDGMENT**

Nathan P. Eimer (*pro hac vice forthcoming*)
EIMER STAHL LLP
224 South Michigan Avenue, Suite 1100
Chicago, IL 60604
Telephone: (312) 660-7600
Fax: (312) 692-1718
neimer@eimerstahl.com

Donald B. Verrilli, Jr. (D.C. Bar. No. 420434)
MUNGER, TOLLES & OLSON LLP
601 Massachusetts Ave. NW, Suite 500E
Washington, D.C. 20001-5369
Telephone: (202) 220-1100
Fax: (202) 220-2300
Donald.Verrilli@mtto.com

Counsel for Amici Curiae

CORPORATE DISCLOSURE STATEMENT

Amici curiae are law firms and legal corporations. They have no parent corporations and do not issue stock.

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INTEREST OF AMICI CURIAE¹

This *amicus* brief is filed on behalf of many of this Nation’s leading law firms.²

Although we do not take this step lightly, our abiding commitment to preserving the integrity of the American legal system leaves us no choice but to join together to oppose the March 27, 2025 Executive Order entitled “Addressing Risks from WilmerHale” (the “Executive Order”) that is at issue in this litigation. The Executive Order (which is now subject to a temporary restraining order) should be permanently enjoined as a violation of core First, Fifth, and Sixth Amendment guarantees, as well as bedrock separation-of-powers principles.

But something even more fundamental is at stake. In recent weeks, the President has issued not one but *six* executive orders imposing punitive sanctions on leading law firms in undisguised retaliation for representations that the firm, or its former partners, have undertaken, and more may be in the offing.³ Those Orders pose a grave threat to our system of constitutional governance and to the rule of law itself. The judiciary should act with resolve—now—to ensure that this abuse of executive power ceases. Cf. *Cooper v. Aaron*, 358 U.S. 1 (1958).

¹ In accordance with Federal Rule of Appellate Procedure 29(a)(4)(E), *amici* certify that (1) this brief was authored entirely by counsel for *amici curiae* and not by counsel for any party, in whole or part; (2) no party or counsel for any party contributed money to fund preparing or submitting this brief; and (3) apart from counsel for *amici curiae*, no other person contributed money to fund preparing or submitting this brief.

² The individual *amici* are described in Appendix A.

³ See Addressing Risks from Perkins Coie LLP, The White House (Mar. 6, 2025) (“Perkins Coie Order”), <https://tinyurl.com/3jabz9vu>; Addressing Risks from Jenner & Block, The White House (Mar. 25, 2025) (“Jenner Order”), <https://tinyurl.com/u7ts9x49>; Addressing Risks from Paul Weiss, The White House (Mar. 14, 2025) (“Paul Weiss Order”), <https://tinyurl.com/5w4j69fv>; Suspension of Security Clearances and Evaluation of Government Contracts (Feb. 25, 2025), <https://tinyurl.com/3yxdrmf>; Addressing Risks from Susman Godfrey, The White House (April 9, 2025), <https://tinyurl.com/278knbkz>.

ARGUMENT

1. The Executive Order at issue in this case, and the others like it, take direct aim at several of the Nation’s leading law firms and seek to cow every other firm, large and small, into submission. On the basis of vague and unsubstantiated allegations, the Executive Order subjects an entire firm, as well as its clients and personnel, to draconian punishment—including the revocation of its attorneys’ security clearances, the potential loss of clients that contract with the United States, and denial of access to federal buildings and facilities. Such disabilities would threaten the survival of any law firm.

2. The looming threat posed by the Executive Order at issue in this case and the others like it is not lost on anyone practicing law in this country today: any controversial representation challenging actions of the current administration (or even causes it disfavours) now brings with it the risk of devastating retaliation. Whatever short-term advantage an administration may gain from exercising power in this way, the rule of law cannot long endure in the climate of fear that such actions create. Our adversarial system depends upon zealous advocates litigating each side of a case with equal vigor; that is how impartial judges arrive at just, informed decisions that vindicate the rule of law. See *Legal Services Corp. v. Velazquez*, 531 U.S. 533, 545 (2001) (“An informed, independent judiciary presumes an informed, independent bar.”). In the same vein, it is a deeply held principle of the legal profession that everyone, no matter their actions or beliefs, is entitled to zealous advocacy on their behalf. See *Martinez v. Ryan*, 566 U.S. 1, 12 (2012) (“[T]he right to counsel is the foundation for our adversary system.”). The principle is so deeply ingrained that lawyers—going back to John Adams’ defense of eight British soldiers who perpetrated the Boston Massacre of 1770—consider it a core part of their professional obligation to take on representation of clients with whom they disagree, even vehemently. Indeed, the

“courage” of attorneys who take on unpopular clients has long “made lawyerdom proud.” *Sacher v. United States*, 343 U.S. 1, 4 (1952).

The work done by *amici*, and other firms like them, is indispensable to the success of our system. Many advocate for the interests of the Nation’s leading business and financial institutions, which depend on the stability of the rule of law in order to thrive economically. Others advocate for the interests of small businesses, nonprofit organizations, consumers, workers and other individuals, and likewise depend on the impartial administration of justice to advance their clients’ objectives. Individuals at these firms hold a wide range of political, social and economic views—even with respect to the representations attacked in the executive orders. But despite those differences *amici* are united in their support for the integrity of the adversarial system and the rule of law.

3. The role of *amici* and firms like them is particularly important when a law firm represents a client challenging the actions of a president or his administration, Republican or Democratic. Checking federal government overreach, whether it be infringements on religious liberty, assaults on the freedom of the press, or burdensome regulation, is a vital part of what *amici* and others like them are called to do. By definition, such litigation brings lawyers into conflict with the policies and objectives of the Executive Branch.

Since the Court entered its Temporary Restraining Order in the Perkins Coie case, the Administration has redoubled its threats of retaliation against the legal profession. In that regard, the express targeting of law firm pro bono efforts in the four most recent executive orders, including in the executive order against WilmerHale at issue in this case—which alleged that the firm has “abused its pro bono practice to engage in activities that undermine justice and the interests of the United States”—is cause for particularly acute concern. WilmerHale Order, § 1.

For our system of justice to operate, members of the bar must be free to advocate zealously for all their clients, large and small, rich and poor, without fear of retribution. They must be free, in the words of Chief Justice Marshall, to defend “the right of every individual to claim the protection of the laws.” *Marbury v. Madison*, 5 U.S. 137, 163 (1803). Without such zealous advocacy, there is no prospect of equal justice under law.

4. History offers indelible reminders of the perils associated with governmental intrusion into the autonomy of the legal system and with political retribution aimed at lawyers thought to stand in the way of a regime’s political objectives. In too many countries and instances to name, regimes have disbarred, prosecuted and jailed lawyers who dared to represent opposition figures or challenge government actions, with predictable results for the rule of law and the integrity of the legal profession.

Fortunately, such abuses have been rare in our country’s history. Over the past two decades alone, elite law firms have represented clients seeking to invalidate major presidential initiatives, from the Military Commissions Act of 2006⁴ to the Affordable Care Act⁵ and the Dodd-Frank Act.⁶ Until now, it would have been inconceivable that a law firm would risk punitive retribution from the federal government for undertaking representations of this kind. And when state or local governments have attempted to wield the threat of official retribution to deter entities from advocating for what they believe, the Supreme Court has condemned such actions in clear and decisive terms. E.g. *National Rifle Ass’n v. Vullo*, 602 U.S. 175, 189 (2024) (“[T]he First Amendment prohibits government officials from relying on the threat of invoking

⁴ *Boumediene v. Bush*, 553 U.S. 723 (2008).

⁵ *NFIB v. Sebelius*, 567 U.S. 519 (2012).

⁶ *Seila Law LLC v. Consumer Financial Protection Bureau*, 591 U.S. 197 (2020); *Consumer Financial Protection Bureau v. Community Financial Services Ass’n*, 601 U.S. 416 (2024).

legal sanctions and other means of coercion ... to achieve the suppression of disfavored speech.” (citation omitted)). But that proud tradition is in jeopardy. Unless the judiciary acts decisively now, what was once beyond the pale will in short order become a stark reality. Corporations and individuals alike will risk losing their right to be represented by the law firms of their choice and a profound chill will be cast over the First Amendment right to petition the courts for redress.

5. Like every lawyer, the members of the *amicus* law firms have sworn an oath to uphold the Constitution and to discharge the obligations of the profession to the best of our ability. That oath obligates all of us, no matter our political views, to be faithful custodians of our Nation’s commitment to the rule of law—a commitment that has made it possible for this Nation’s corporations to lead the world in innovation and productivity; for our scientists, scholars and creative artists to contribute so much to human progress; and for all of us to know that we can turn to the courts to vindicate our fundamental civil rights. We therefore feel a special responsibility to stand up now to the unprecedented threat posed by the Executive Order at issue in this case and the others like it.

CONCLUSION

For the foregoing reasons, this Court should grant the motion for summary judgment.

Dated: April 11, 2025

Nathan P. Eimer (*pro hac vice forthcoming*)
EIMER STAHL LLP
224 South Michigan Avenue, Suite 1100
Chicago, IL 60604
Telephone: (312) 660-7600
Fax: (312) 692-1718
neimer@eimerstahl.com

/s/ Donald B. Verrilli, Jr.

Donald B. Verrilli, Jr. (D.C. Bar. No. 420434)
MUNGER, TOLLES & OLSON LLP
601 Massachusetts Ave. NW, Suite 500E
Washington, D.C. 20001-5369
Telephone: (202) 220-1100
Fax: (202) 220-2300
Donald.Verrilli@mto.com

Counsel for Amici Curiae

CERTIFICATE OF COMPLIANCE

I hereby certify that the foregoing complies with Local Civil Rule 7(o)(4) and does not exceed 25 pages. I further certify that the attached *amicus* brief complies with the typeface and type style requirements of Local Rule 5.1(d) because it has been prepared in a proportionally spaced typeface using Microsoft Word and 12-point Times New Roman font.

Dated: April 11, 2025

/s/ Donald B. Verrilli, Jr.

Donald B. Verrilli, Jr.

APPENDIX A

List of Amici Curiae

300degrees PLLC
Aaron C. de la Garza, PLLC
Abdnour Weiker, LLP
Advocate Law Group P.C.
AEON Law, PLLC
Aisha N. Smith Regulatory Law, PLLC
Ajamie LLP
Aldous Law
Ali & Lockwood LLP
ALR Civil Rights LLC
Altair Law
Alto Litigation
Altshuler Berzon LLP
Ambrose Law Firm, PLLC
Amis, Patel and Brewer, LLP
Anapol Weiss
Anderson & Kreiger LLP
Andrues/Podberesky
Andrus Anderson LLP
Andrus Wagstaff, PC
Arete Law Group PLLC
Arguedas, Cassman, Headley & Goldman LLP
Armond Wilson LLP
Arnold & Porter
Arns Davis Law
Arrowood LLP
Arshack, Hajek & Lehrman, PLLC
Arthur J. Lachman, Attorney at Law
Ascheman Law
ASNER LLC
Atheria Law PC
Avera & Smith, LLP
Aviso Legal Group LLP
Aviva Kamm Law PLLC
Aylstock, Witkin, Kreis and Overholtz, PLLC
Bailey & Glasser, LLP
Banashek Irving & McNutt, LLP
Bangos Law Firm, P.A.
Bangs, McCullen, Butler, Foye & Simmons, LLP
Bantle & Levy LLP
Barnard Iglitzin & Lavitt, LLP
Barrientos PC
Bassford Remele
Baughman Kroup Bosse PLLC
Beale, Micheaels, Slack & Shughart, P.C.

Bedell, Dittmar, DeVault, Pillans & Coxe, P. A.
Beeman & Muchmore, LLP
Beldock Levine & Hoffman LLP
Benach Pitney Reilly LLP
Benedict Law Group PLLC
Bennett & Samios LLP
Berger Montague PC
Berman Tabacco
Berner Chawla, PLLC
Bernstein & Gordon LLP
Beveridge & Diamond, P.C.
Bharti Law Group, PLLC
Binder & Schwartz LLP
Bird, Marella, Rhow, Lincenberg, Drooks & Nessim, LLP
Birnbaum & Godkin, LLP
Birrell Law Firm PLLC
BLL LLP
Block & Leviton LLP
Bloom Law PLLC
Bloom Peters, LLC
Blumberg Law Corporation
Bondurant, Mixson & Elmore, LLP
Boro Law Firm
Botkin Chiarello Calaf PLLC
Bradley Bernstein Sands LLP
Brady Reilly & Cardoso, LLC
Bragança Law LLC
Brandt Law, PLLC
BraunHagey & Borden LLP
Brautigam & Brautigam, LLP
Bremer Whyte Brown & O'Meara, LLP
Breskin Johnson & Townsend PLLC
Brian L. Tannebaum, P.A.
Broadband Legal Strategies, LLC
BrotmanLaw, PLLC
Brown, Goldstein & Levy, LLP
Bryan Schwartz Law, P.C.
Burgess Law PC
Byrd Davis Alden & Henrichson, LLP
Cade Law Group LLC
Caffrey Hill, PLLC
Cairncross & Hempelmann, PS
Caldwell LLP
Cannon & Dunphy
Caplan Cobb LLC
Carney Bates & Pulliam, PLLC

Casey Gerry Francavilla Blatt LLP
Cavanagh Sorich Law Group
Charhon Callahan Robson & Garza, PLLC
Charles J. Kettlewell LLC
Charles S. Tusa PLLC
Chatillon Weiss PLLC
Choate, Hall & Stewart LLP
Cicccone Law, LLC
Ciresi Conlin LLP
Civil Rights Litigation Group, PLLC
Clallam Public Defenders
Clapp, Moroney, Vucinich, Beeman + Scheley
Clarick Gueron Reisbaum LLP
Clark Smith Villazor LLP
Clarke Johnston Thorp & Rice, PPC
Clayman Rosenberg Kirshner & Linder LLP
Clean Energy Counsel, LLP
Clifford Law Offices, P.C.
Clinton & Peed
Coast Law Group, LLP
Coblentz Patch Duffy & Bass LLP
Cochran Law Group
Cohen Hirsch, LP
Cohen Milstein Sellers & Toll PLLC
Cohen Williams LLP
Cohen&Green P.L.L.C.
Cohen, Placitella & Roth, P.C.
Colantuono, Highsmith & Whatley, PC
Collado Law, LLC
Commins, Knudsen & Chou, P.C.
Complex Appellate Litigation Group LLP
Conn, Kavanaugh, Rosenthal, Peisch & Ford, LLP
Connolly Law Offices, LLC
Conrad | Metlitzky | Kane LLP
Coogan Gallagher
Coopers LLP
Coppersmith Brockelman PLC
Corey B. Bearak, Esq.
Cornish & Dell'Olio, P.C.
Corr Cronin LLP
Correia & Puth, PLLC
Cotchett, Pitre & McCarthy, LLP
Covington & Burling LLP
Cowan, DeBaets, Abrahams & Sheppard LLP
Cowdery, Murphy & Healy, LLC
Crain Brogdon, LLP

Creative Criminal Defense Consultants
Crowell & Moring LLP
Cultural Heritage Partners, PLLC
Cummins & Cummins, LLP
Curcio Law, PLLC
Daar & Newman, a Professional Law Corporation
D'Amico & Pettinicchi, LLC
Dardarian Ho Kan & Lee
Davey & Goldman Law Firm
David Corbett PLLC
Davis Graham & Stubbs LLP
Davis Levin Livingston
Davis Wright Tremaine LLP
Davison Law, LLC
DEH Law, PLLC
Delegal, Poindexter & Underkofler, P.A.
Deutsch Hunt PLLC
DMC Law, LLC
Donahue Law Firm, PLLC
Donahue, Goldberg & Herzog
Donald F. Carnes, P.C.
Dorsay & Easton LLP
Doyle Dennis Avery LLP
Drahota Defense LLC
Dreher Law Firm
Dreyer Babich Buccola Wood Campora, LLP
Durkin & Roberts
Dyller & Solomon, LLC
Eagle Team LLP
Edelson PC
EDGE, A Professional Law Corporation
Edward J. McIntyre, Esq.
Edward R. Shaw P.A.
Ehrlich & Craig LLP
Eimer Stahl LLP
Emery Celli Brinckerhoff Abady Ward & Maazel LLP
Emily Jane Bell, Nicholson Goetz & Otis, S.C.
Equinox Business Law Group PLLC
Equity Litigation Group LLP
Eric Maxfield Law, LLC
Erica McKinley, PLLC
Esler Stephens & Buckley LLP
Estes Law Group
Ezkovich & Co., LLC
Faraci Lange, LLP
Farella Braun + Martel LLP

Faughnan Law, PLLC
Feinberg, Jackson, Worthman & Wasow LLP
Fenwick & West LLP
Ferrara & Gable, LLC
Fick & Marx LLP
Finkel Law Group P.C.
Fisher Taubenfeld LLP
Foley & Mansfield, PLLP
Foley Hoag LLP
Folger Levin LLP
Forsgren Fisher McCalmont DeMarea Tysver LLP
Fox & Robertson, PC
Fox Swibel Levin & Carroll LLP
Frank Freed Subit & Thomas LLP
Frankel PLLC
Frankfurt Kurnit Klein & Selz PC
Freedman Boyd Hollander & Goldberg P.A.
FreelandLaw LLP
Freshfields US LLP
Friedemann Goldberg Wargo Hess LLP
Friedlander Mislner, PLLC
Friedman | Rubin, PLLP
Fritz Byrne, PLLC
FTW Law Group, APC
Gainey Law, PLLC
Gair, Gair, Conason, Rubinstein, Bloom, Hershenhorn, Steigman & Mackauf
Gale Law Firm
Galiher DeRobertis & Waxman LLP
Gallagher Evelius & Jones LLP
Garland, Samuel & Loeb, P.C.
Garmey Law
gartner + bloom P.C.
Gass Arbitration
Gelber & Santillo PLLC
George Brothers Kincaid & Horton, LLP
Getman, Sweeney & Dunn, PLLC
Gibbs Mura LLP
Gideon Asen LLC
Gilbert LLP
Gingras, Thomsen & Wachs, LLP
GinsburgLaw PLLC
Girard Sharp LLP
Gish PLLC
Giskan Solotaroff & Anderson LLP
Gladstein, Reif & Meginniss, LLP
Glaser Weil Fink Howard Jordan & Shapiro LLP

Gleason, Dunn, Walsh & O'Shea
Glenn Agre Bergman & Fuentes LLP
Glenn F. Hardy, P.C.
Goldman Ismail Tomaselli Brennan & Baum LLP
Goodley McCarthy LLC
Goodman Corporate Law PLLC
Goodman Hurwitz & James, P.C.
Gordon & Saunders, PLLC
Gordon Thomas Honeywell LLP
Gordon Tilden Thomas & Cordell LLP
Goulston & Storrs PC
GrahamHollis, APC
Grant & Eisenhofer, P.A.
Grant Austin, LLC
Graves, Dougherty, Hearon & Moody, P.C.
Green & Willstatter
Greenblatt Law LLC
Greene Broillet & Wheeler, LLP
Greene Espel PLLP
Greenspun Shapiro Ginsberg & Yang P.C.
Griffin Frey, PLLC
Groombridge, Wu, Baughman and Stone LLP
Gross & Belsky P.C.
Grossman LLP
Grossman Roth Yaffa Cohen
Gupta Wessler LLP
Gustafson Gluek, PLLC
GVR Partners LLP
H.P. Williams Jr., PLLC
Haber | Blank
Haddon Morgan & Foreman, P.C.
Hagens Berman Sobol Shapiro LLP
Hamilton Law and Mediation, PLLC
Hangley Aronchick Segal Pudlin & Schiller LLP
Hanson Bridgett LLP
Hanson Crawford Crum Family Law Group LLP
Hanusz Law, PC
Harris St. Laurent & Wechsler LLP
Hart McLaughlin & Eldridge LLP
Hausfeld LLP
Heath Law, PLLC
Hecker Fink LLP
Heller Huron Chertkof & Salzman, PLLC
Hendler Flores Law PLLC
Hepworth Holzer, LLP
Hilliard Law

Hilliard Shadowen LLP
Hillis Clark Martin & Peterson P.S.
Hinman Legal PC
Hirschfeld Kraemer LLP
HKM Employment Attorneys LLP
Holland, Holland Edwards & Grossman, LLC
Holmes Costin & Marcus PLLC
Holwell Shuster & Goldberg LLP
Hone Law LLC
Hoq Law APC
Houlding Law PC
Hubbard Snitchler & Parzianello PLC
Hughes Socol Piers Resnick & Dym, Ltd.
Hurley McKenna & Mertz, P.C.
Hutchinson, Black and Cook, LLC
Hykel Law, LLC
Icenogle & Boggins PLLC
Iliff, Meredith, Wildberger & Brennan, P.C.
Incline Law Group, LLP
Interlaken Law Group, PLLC
Internet Law Center Ltd.
Irigonegaray & Revenaugh
IzenbergLaw PLLC
J. Cantor Law
Jack Vetter, Esq.
Jackson Sjoberg LLP
Jacobs & Dow, LLC
Jacobs & Schlesinger LLP
Jacobs Injury Law, SC
Jaffe Counsel PLC
James & Hoffman, P.C.
James D. Leach Attorney
James D. Taylor, P.C.
James Ellis Arden, Attorney at Law
Jason Wiener|p.c., a public benefit corporation
Jassy Vick Carolan LLP
Jay Hailey Attorney PLLC
Jayne Law Group, P.C.
Jeff Rein Law
Jenner & Block LLP
Jennifer F. Apitz, Attorney at Law
Jester Gibson & Moore, LLP
Joanne E. Kleiner, Esquire
John A. Yannis, Attorney at Law
John Vail Law, PLLC
Johnson & Klein Law, PLLC

Jon Michael Smith, Attorney
Joseph Saveri Law Firm, LLP
Justice Law Collaborative, LLC
Kaiser PLLC
Kaplan Gore LLP
Kaplan Kirsch LLP
Kaplan Law Firm, PLLC
Kaplan Martin LLP
Kassel McVey
Kathryn Ross Law
Katsky Korins LLP
Katz Banks Kumin LLP
Kaufman Lieb Lebowitz & Frick
KBM Law
Keenan & Bhatia, LLC
Keker, Van Nest & Peters LLP
Keller Benvenuti Kim LLP
Keller Grover LLP
Keller Rohrback L.L.P.
Kendall Brill & Kelly LLP
Kennedy, Johnson , Schwab & Roberge, P.C.
Kenneth P. Tableman, P.C.
Kibler Fowler & Cave LLP
Kidd Law Firm, LLC
Kieve Law Offices
Killmer Lane, LLP
Kingfisher Law APC
KKL LLP
Kline & Specter, PC
KO Law PC
Kohls Law Firm PLC
Kohn, Kohn & Colapinto LLP
Koskoff Koskoff & Bieder PC
Kosloski Law, PLLC
Koslyn Law
Koss Firm APC
Kostelanetz LLP
Kramon & Graham, P.A.
Krantz & Berman LLP
Kreindler & Associates
Krevolin & Horst, LLC
Krokidas & Bluestein LLP
Kropf Moseley Schmitt
Kuras Legal, PLC
Kwall Barack Nadeau PLLC
Kwun Bhansali Lazarus LLP

Laminack, Pirtle & Martines LLP
Lamitie Law LLC
Langer, Grogan & Diver, P.C.
Langrock Sperry & Wool, LLP
Lansner & Kubitschek
Larkins Vacura Kayser LLP
Larsen Walters PLLC
Lasher Holzapfel Sperry & Ebberson PLLC
Lauren H. Berkowitz, Attorney at Law, PLLC
Law Forward, Inc.
Law Office of Alexis Haller, P.C.
Law Office of Anne Garrett PC
Law Office of Annette Newman PLLC
Law Office of Anya Goldstein
Law Office of Chun T. Wright, PLLC
Law Office of Dan Roth
Law Office of Darlene Bagley Comstedt
Law Office of Diane K. Vaillancourt
Law Office of Elisabeth Ames
Law Office of Elizabeth Kelley
Law Office of Gail Shifman
Law Office of Gerry Weber, LLC
Law Office of Harris Taback
Law Office of Ihsan Dogramaci PLLC
Law Office of Janet L. Brewer
Law Office of Jeffrey R. Boxer
Law Office of John A. Strait
Law Office of John D. Cline
Law Office of Lewis Chimes
Law Office of Lisa C. Lambert
Law Office of M. Suzanne Molley
Law Office of Mark S. Mishler, P.C.
Law Office of Matthew Stiegler
Law Office of Michael Lumer
Law Office of Nanci Clarence
Law Office of Peter J. Heflin
Law Office of Rebecca E. Ary
Law Office of Richard E. Johnson
Law Office of Richard J. Davis
Law Office of Sara Azari
Law Office of Stephen Chahn Lee, LLC
Law Office of Susan F. Zinder, PLLC
Law Office of Susan Mindenbergs
Law Office of Timothy Black
Law Offices of Alex J. Higgins
Law Offices of Andrew Marks PLLC

Law Offices of Arlan A. Cohen
Law Offices of Arthur Thomas Donato
Law Offices of Brett D. Colacurcio
Law Offices of Clemente Franco, APC
Law Offices of David M. Zeff
Law Offices of David P. Sheldon, PLLC
Law Offices of Deborah LaBelle
Law Offices of Dena Alo-Colbeck
Law Offices of Donald V. Smiley, APC
Law Offices of Evan A. Jenness
Law Offices of Greg Rosenfeld, P.A.
Law Offices of Gregory S. Smith
Law Offices of Johanna J. Raimond Ltd.
Law Offices of Jonathan G Stein
Law Offices of Joseph M. McMullen
Law Offices of Julia S. Gold
Law Offices of Karen A. Klein
Law Offices of Laurel Stuart-Fink, PLLC
Law Offices of Mark P. Zimmet
Law Offices of Melissa A. Weinberger
Law Offices of Michael R. Marrinan
Law Offices of Paul Weich
Law Offices of Richard E. Grayson
Law Offices of Richard M. Steingard
Law Offices of Robert D. Richman LLC
Law Offices of Scot D. Bernstein, A Professional Corporation
Law Offices of Steven B. Piser
Law Offices of Thomas C. Willcox
Law Offices of Thomas S. Salinger, A.P.C.
Law Offices of Thomas Schneck
LeGrand Law PLLC
Leichtman Law PLLC
Lenzo & Reis, LLC
Lerch, Early & Brewer
Leung Law PLLC
LeVan Law LLC
Leventhal Puga Braley PC
Levi Merrithew Horst PC
Levin & Perconti
Levin Sedran & Berman LLP
Levine Lee LLP
Levy Ratner, P.C.
Lewis & Lin, LLC
Lewis Baach Kaufmann Middlemiss PLLC
Lex Lumina LLP
Libby Hoopes Brooks & Mulvey, P.C.

Liedel Law Group
Lieff Cabraser Heimann & Bernstein, LLP
Lisa Cahill PLLC
Littlepage Booth
Livelihood Law, LLC
Lockridge Grindal Nauen PLLP
Loevy & Loevy
Loftus & Eisenberg, Ltd.
Lohr Law Office LLC
Long & Levit LLP
Louis P. Pfeffer, P.A.
LoVerde Law, LLC
Lowrey Parady Lebsack & DeFazio, LLC
Luby Law & Mediation Services, PLLC
Lynn Pinker Hurst & Schwegmann
MacDonald Hoague & Bayless
Manatt, Phelps & Phillips, LLP
Mancini Shenk LLP
Marino & Weiss, P.C.
Marino, Tortorella & Boyle, P.C.
Mark E. Strickland, Attorney at Law
Markowitz Herbold PC
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