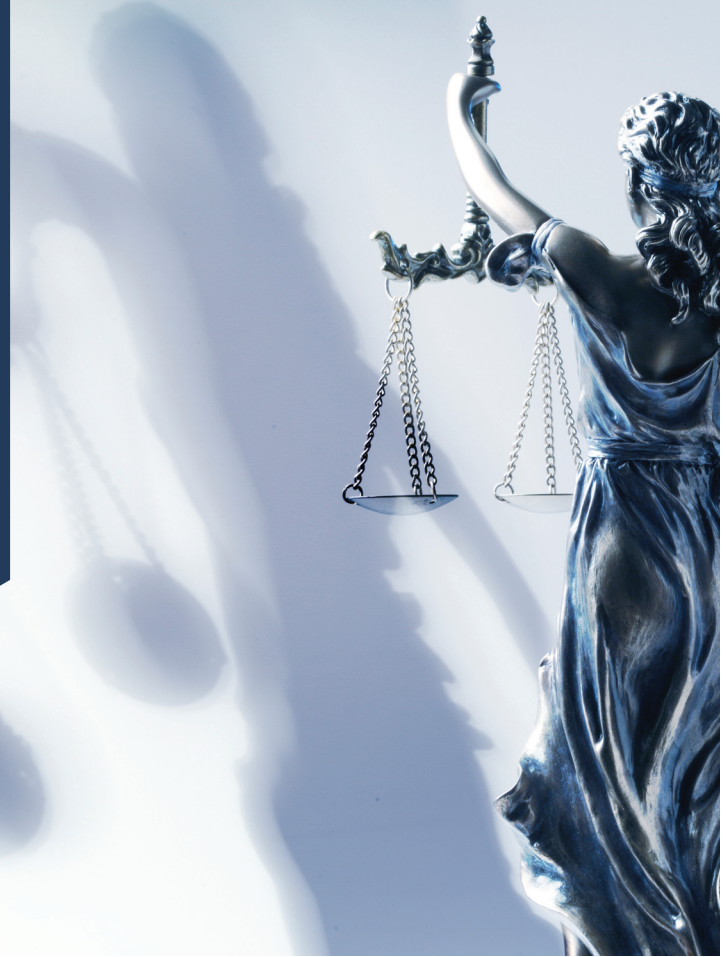


# IN BRIEF

NEWSLETTER | SPRING 2026



## President's Message



*The Honorable Frank J. Bailey  
President  
U.S. Bankruptcy Judge (ret.)*

James Madison warned us centuries ago, in *Federalist No. 51*, that government must be obliged to control itself. Yet time and again, it fails to do so. When Cambridge forces developers to sell homes at 70% below market value, when Boston retaliates against property owners who dare to appeal their tax assessments, when states exclude private schools from public programs through regulatory sleight of hand, Madison's warning echoes with urgent relevance. That is precisely why your support matters. Your generosity powers litigation that defends homeowners from government overreach and stands up for private schools wrongly excluded from public programs. It funds litigation challenging unconstitutional ordinances and retaliatory tax practices—cases, it should be noted, that have generated statewide media attention and laid the groundwork for precedent-changing decisions. It expands our national footprint in education law and helps shape federal rulemaking to keep education programs free from unnecessary bureaucratic interference. Simply put, your investment in the Legal Foundation is the reason families, property owners, and small businesses have a powerful advocate in their corner. And your commitment to the Legal Foundation is the reason liberty, equity, and constitutional government remain a force in New England and nationwide. Thank you for making our work possible.

185 Devonshire Street, Suite 1101  
Boston, MA 02110 | (617) 877-9511



# IN THE NEWS



🔪 **Profs. Akhil Amar** (Yale Law School) and **Vikram Amar** (UC Davis School of Law) called the Legal Foundation's amicus brief in *Trump v. Barbara* "brilliant and gripping" in their March 16 article for *SCOTUSBlog*.

🔪 **Staff Attorney Paul Johnson** was interviewed about the Legal Foundation's case on Cambridge's inclusionary zoning ordinance by *Banker & Tradesman* and *The Harvard Crimson* in February. The case also was highlighted in *The Boston Globe* and on *Homes.com*.

The  
Boston  
Globe

🔪 *The Boston Herald* exposed how the Legal Foundation forced the City of Boston to admit to, then renounce, its practice of inflating commercial property taxes on January 14.

BOSTON  
Herald

🔪 The Legal Foundation's President, **Frank Bailey**, was interviewed by WGBH about the dispute between the Massachusetts State Auditor and the legislative leaders over whether the Legislature must honor the November 2024 vote of the Massachusetts electorate requiring an audit.

WGBH

🔪 **Frank Bailey** was interviewed by Scott Van Voorhis of the *Contrarian Boston* about the City of Boston's response to the Legal Foundation's lawsuit charging the city with retaliating against commercial taxpayers that have had the temerity to exercise their right to appeal their inflated assessments.

# IN THE COMMUNITY

🔪 **Staff Attorney Gabriela Forero** participated in the Education Freedom Legal Network Summit in Washington, D.C., as well as the Reclaiming Education National Conference in Kansas City, where she strengthened relationships with leading education-law organizations and litigators nationwide.

🔪 In April, **Frank Bailey** will travel to Atlanta to moderate a panel examining how state constitutions can serve as an independent bulwark for individual rights and liberties beyond the protections afforded by the U.S. Constitution.

🔪 **Frank Bailey** led a group of 18 Boston College students to visit the courts in Dublin, Ireland, including a session with Chief Justice Donal O'Donnell. The students discussed the differences in our judicial systems and the role of the Irish courts in the EU. The role of public interest law firms was a prominent point of comparison as well.



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# SAVE THE DATE



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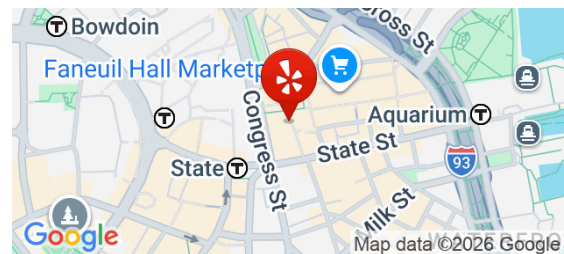
**Reasonable Minds Can Differ**  
**Monday, May 4**  
**5:30 p.m. – 8:30 p.m.**  
**WilmerHale | Boston, MA**

Reasonable Minds Can Differ exemplifies our commitment to principled and civil debate. This program convenes distinguished constitutional law experts for an in-depth discussion of the most significant cases pending before the Supreme Court each term.

Rather than adversarial argument, the format is designed to showcase thoughtful dialogue between scholars of differing judicial philosophies, demonstrating that productive debate about constitutional questions can transcend partisan divides. Panelists engage in substantive analysis of how complex legal questions might be resolved, often finding common ground on principles, even when they disagree on outcomes.

This year's panelists are Prof. Akhil Reed Amar, Sterling Professor of Law and Political Science at Yale University, and Thomas H. Dupree, Jr., Co-partner in Charge of Gibson Dunn's Washington, DC office and Co-chair of the firm's Appellate and Constitutional Law Practice Group.

We hope you will join us for an edifying discussion and an opportunity to network with business leaders and legal practitioners from across the region. Hors d'oeuvres and drinks will be served. To RSVP, please contact Victoria Huynh, Events and Operations Coordinator, at: [vhuyh@pioneerinstitute.org](mailto:vhuyh@pioneerinstitute.org). To sponsor Reasonable Minds Can Differ and events like it, please contact Jon Staab, Senior Director of Development, at: [jon.staab@pioneerlegal.org](mailto:jon.staab@pioneerlegal.org).



# CASE UPDATES

## Curbing Malign Government Overreach

Government overreach rarely looks like tyranny. More often, it looks like a zoning ordinance. Indeed, government overreach often arrives disguised as seemingly reasonable policy. The outcomes, however? A family loses a home to satisfy a \$2,200 tax lien. A city punishes property owners for exercising their constitutional right to appeal an unfair assessment. A federal program imposes price controls on life-saving medications, threatening the innovation pipeline

that patients depend on. And Cambridge mandates that private developers foot the bill for subsidized housing, a cost that belongs to the community writ large. These are not isolated incidents. They are symptoms of a government that has forgotten Madison's charge in *Federalist No. 51*.

**Pung v. Isabella.** A family's home, worth \$195,000, was seized and sold for \$76,000 to satisfy a \$2,200 tax debt. That is not tax enforcement. That is government-sanctioned theft. The Legal Foundation filed an amicus brief before the U.S. Supreme Court on behalf of the Pung family, arguing that the Constitution demands fair procedures and just compensation when the government forecloses on private property. The case drew the attention of Justice Alito himself, who questioned counsel directly on arguments raised in our brief. The fight against equity theft continues, and we intend to win it.

**Bristol Myers Squibb Co. and Janssen Pharmaceuticals v. Robert F. Kennedy, Jr.** Price controls have never worked, and the federal government's Drug Price Negotiation Program is no exception. Pioneer New England Legal Foundation filed



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# CASE UPDATES



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an amicus brief before the U.S. Supreme Court arguing that the program constitutes an unconstitutional taking of private property and compels manufacturers to endorse government-dictated messaging in violation of the First Amendment. Beyond the constitutional violations, the program threatens to gut research and development funding, stifle medical innovation, and ultimately harm the patients it claims to help.

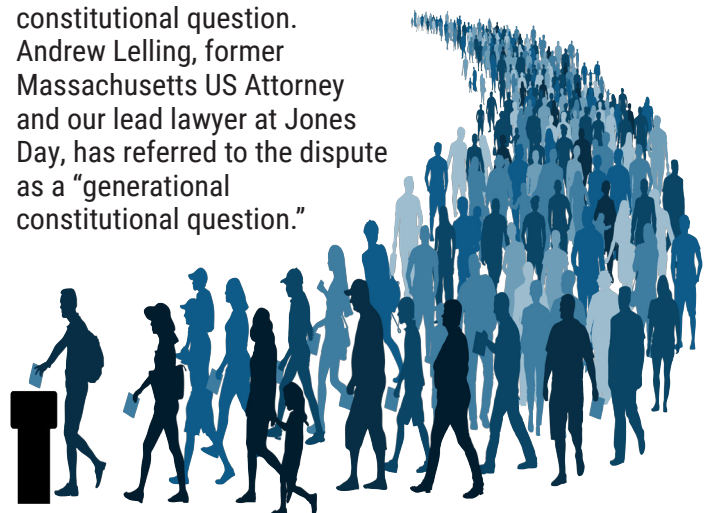
***Suquilanda v. Skyway Roofing, Inc.*** Massachusetts' workers' compensation system exists to provide injured workers with reliable, predictable relief while protecting employers from frivolous litigation. Pioneer New England Legal Foundation filed a brief before the Supreme Judicial Court defending that system against an attempt to circumvent it. The plaintiff, an employee of a subcontractor, sought to hold the general contractor liable under a legal theory Massachusetts has never recognized. Allowing such claims would unravel decades of carefully crafted law and expose contractors and insurers to liability that the Legislature never intended.



***Columbia St. LLC v. City of Cambridge.*** Cambridge wants to force private developers to pay for its affordable housing agenda. The city's inclusionary zoning ordinance requires that 20% of units in any new residential development be sold at roughly 70% below market value. Pioneer New England Legal Foundation has filed suit in the Land Court, arguing that this mandate is an unconstitutional taking of private property. The cost of subsidized housing is a community responsibility, one that the government cannot arbitrarily impose on individual property owners. This case has already drawn significant media attention, and we expect it to set an important precedent for property rights across the Commonwealth.

***HS 148SST, LLC v. City of Boston.*** When Boston property owners exercised their constitutional right to appeal unfair tax assessments, the City responded by raising their assessments even further. That is not responsible governance. It is retaliation. Pioneer New England Legal Foundation filed suit in Suffolk Superior Court on behalf of one such property owner, and we have sought class action status to extend relief to every taxpayer the City has punished for daring to push back. The City's Motion to Dismiss is pending, and we are confident the case will move forward because no government should be permitted to penalize citizens for exercising their constitutional rights.

***Initiative Petition 25-14.*** A constitutional crisis has erupted involving the Massachusetts State Auditor (the OSA), the state Legislature, and the Attorney General. In 2024, Massachusetts voters passed a referendum requiring the OSA to audit the Legislature. The OSA followed established protocols, including requesting that the Attorney General represent it before the state courts, but after a full year of fruitless negotiations, the OSA brought the matter directly to the Supreme Judicial Court. The AG's response was extraordinary—rather than uphold the voters' mandate, she appeared on behalf of Speaker Mariano and Senate President Spilka, moved to strike the OSA's complaint, and asserted that she alone has the authority to decide which cases may proceed to court. These actions constituted direct assaults on the separation of powers and the democratic will of Massachusetts voters. In pursuit of our mission to demand government transparency, the Legal Foundation supports the people's vote. We are partnering with Jones Day to file an amicus brief before the SJC that rejects the AG's attempt to prevent the Court from ruling on this pivotal constitutional question. Andrew Lelling, former Massachusetts US Attorney and our lead lawyer at Jones Day, has referred to the dispute as a “generational constitutional question.”



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# CASE UPDATES



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## Emerging Developments in Education

The structure of government must be designed to control itself. Indeed, enumerated rights are merely parchment guarantees in the absence of these structural protections. In this spirit, we recently launched our working group on public school quality consisting of leading experts, educators, policymakers, and advocates. This working group complements perfectly our private school choice working group, which continues to grow, foster new ideas, identify and generate new paths to strategic litigation, and strengthen our leadership in education law nationwide. As *Federalist No. 51* explains, power always will tend to expand at liberty's expense without vigilant constraint. Nowhere is that lesson more alive today than in the fight for educational freedom.



***Hellman v. Department of Elementary and Secondary Education.*** In Massachusetts, children with disabilities who attend private institutions must travel to public facilities to receive the special education services to which they are legally entitled. Pioneer New England Legal Foundation, alongside the Institute for Justice, represented the Hellman family in challenging this policy before a federal appeals court. The court ruled against the family, reasoning that Massachusetts' policy does not violate the parents' constitutional right under the Fourteenth Amendment. We believe that reasoning is wrong. The freedom to choose a school means nothing if the government can make that choice unworkable in practice. This fight is far from over.

### ***St. Mary's School v. Roy.***

Colorado offered free preschool to every four-year-old in the state, but two Catholic schools were denied monetary benefits because their faith-based admissions requirements did not conform to the state's nondiscrimination rule. Colorado's actions showcase how the government leverages regulatory legalese to accomplish what the Supreme Court's decision in *Carson v. Makin* expressly forbids. Pioneer New England Legal Foundation filed an amicus brief urging the Supreme Court to take up the case and shut down this growing tactic of using facially neutral regulations to exclude religious institutions from public-benefit programs.



***Fitzmaurice et al. v. City of Quincy.*** This case asks whether the City of Quincy, MA may install statues of Saint Michael the Archangel and Saint Florian outside its public safety headquarters to honor first responders, or whether their religious associations render the display unconstitutional. The amicus brief filed by Pioneer New England Legal Foundation supports the City and urges the Court to decline the framework in *Lemon v. Kurtzman*, which has long been criticized as unworkable and has produced inconsistent, subjective results. Recent decisions, including *Espinoza v.*



*Montana Department of Revenue* and *Carson v. Makin*, reflect a shift toward a more historically grounded approach focused on neutrality and equal treatment. That shift is especially important in the education context, where *Lemon*-style reasoning has impeded neutral public-benefit programs and limited educational opportunity. Our brief requests the Court adopt a clearer framework.

# SUPPORTER SPOTLIGHT



## Kevin Martin Goodwin Procter

Kevin P. Martin is co-chair of the Appellate and Supreme Court Litigation practice at Goodwin, where he has practiced since 2001. Kevin has argued nearly 40 cases in federal and state appellate courts around the country, and is a first-chair trial lawyer with experience around the country. Kevin has a particular focus in the areas of patent litigation and complex commercial disputes, though his practice reaches a breadth of substantive areas. Prior to joining Goodwin, Kevin clerked for Justice Antonin Scalia on the United States Supreme Court and Judge Laurence Silberman on the U.S. Court of Appeals for the District of Columbia Circuit.

Kevin is a fellow of the American Academy of Appellate Lawyers. The Legal 500 has noted that Kevin is known as an “excellent writer, advocate, and strategist.” He is ranked a “Star” for Appellate Litigation in Massachusetts by Benchmark Litigation, and has been named a “Lawyer of the Year” by Massachusetts Lawyers Weekly for his work before the Massachusetts Supreme Judicial Court (SJC). In 2024, Massachusetts Lawyers Weekly also recognized Kevin as a Go To Lawyer for Business Litigation, highlighting his leadership in the Massachusetts legal community. He has been recognized by the *Boston Business Journal* as one of its “Power 50,” an annual listing of top executives and “movers and shakers” in the Boston economy. Kevin is the immediate past chair of the board of directors of the New England Legal Foundation, and is a member of Goodwin’s Pro Bono Committee.

**The Legal Foundation (LF):** *How long have you been involved with the Legal Foundation, and what first drew you to the organization?*

**Kevin Martin (KM):** For years before the Legal Foundation was formed, I had been working with the Pioneer Institute on legal matters of significance to Pioneer’s core missions,



such as challenging the cap on charter school enrollment and the millionaire’s tax ballot question. So I was thrilled when Pioneer formed the Legal Foundation to formalize and expand its involvement in litigation matters. I joined the Legal Foundation when the New England Legal Foundation, which I chaired from 2021-2024, combined operations with the Legal Foundation.

**LF:** *When you think about the Legal Foundation’s impact, what comes to mind first?*

**KM:** The high-profile and high-stakes litigation it is bringing in the trial courts. At NELF we always had the ability to submit amicus briefs, but lacked a trial court capacity. The Legal Foundation has the ability not only to support causes that are important to the Massachusetts business community, but to drive the agenda.

**LF:** *Was there a specific moment—a case, a decision, a conversation—that reinforced for you why our work matters?*

**KM:** The litigation over the City of Boston’s practice of adding a real estate tax penalty on owners of properties who were challenging their assessments. Individual owners were reluctant to challenge City Hall, because fear of government retaliation is always real. The business community absolutely needs a non-profit organization like the Legal Foundation that is willing to take on the government without fear of retaliation.

**LF:** *What would you share with someone who is considering supporting the Legal Foundation?*

**KM:** The Massachusetts legal system absolutely needs an entity like the Legal Foundation, which brings together the best legal minds in the Commonwealth to fight for Pioneer’s core missions, including the rule of law, economic liberty, and educational opportunity for all. There is no shortage of lawyers on the other side of these issues, but just one Legal Foundation. Your support is absolutely vital and appreciated. Thank you!

