

## WMC SUBMITS AMICUS BRIEF CONCERNING UNCONSTITUTIONAL APPOINTMENT OF ACTING ATTORNEY GENERAL

(WASHINGTON, DC - November 26, 2018) - Weisbrod Matteis & Copley has submitted an Amicus brief on behalf of seven nationally known constitutional law scholars in support of the State of Maryland in *Maryland v. United States, et al.*, a case pending in the United States District Court for the District of Maryland. The brief asks the court to conclude that “Matthew Whitaker’s purported appointment as acting Attorney General is unconstitutional, or, at minimum, poses grave constitutional issues.” The brief further asks the court to conclude that the law requires “the Deputy Attorney General—who has been confirmed by the Senate in part as a constitutional understudy—to fill the office” of Attorney General in the event of a vacancy.

The brief was filed on behalf of the following professors: Erwin Chemerinsky (University of California Berkeley School of Law); Jon D. Michaels (UCLA School of Law); Alan B. Morrison (George Washington University Law School); Victoria Nourse (Georgetown University Law Center); Peter M. Shane (Ohio State University Moritz College of Law); Jed Handelsman Shugerman (Fordham University School of Law); and Laurence H. Tribe (Harvard Law School).

Almost immediately after Jeff Sessions resigned as Attorney General, President Trump tweeted that Whitaker—Sessions’s former Chief of Staff—would become the new Acting Attorney General. The brief explains that, under applicable statutory and constitutional provisions, the Acting Attorney General cannot be Whitaker.

The brief observes that, prior to President Trump’s selection of Whitaker, in the entire history of appointing individuals to serve as Attorney General, there had never been an appointment in which the Senate was not involved. The brief further explains that “the President baldly bypassed the advice and consent of the Senate to unilaterally install a government employee, whose name had never been sent to the Senate, let alone approved by it, to a principal constitutional office,” and there “is no compelling or exigent circumstance that justifies such an extraordinary action, as demonstrated by the simple fact that there are several constitutional officers already confirmed by the U.S. Senate who can fill in now as acting Attorney General, including the Deputy Attorney General, the Solicitor General, and the numerous Assistant Attorneys General.”

“We were pleased to participate in the briefing on this critically important issue,” said Stephen Weisbrod, a founding partner of Weisbrod Matteis & Copley. Firm partners Shelli L. Calland and Matthew S. Krauss also participated in the matter.

### **ABOUT STEPHEN WEISBROD**

Stephen Weisbrod is a founding partner of Weisbrod Matteis & Copley PLLC. An experienced trial lawyer, Mr. Weisbrod represents clients in financial and commercial disputes, judgment enforcement and bankruptcy matters, and criminal cases. Most of his clients are businesses and individuals seeking payment from insurers, banks, investment managers, professionals, suppliers, or other parties liable for breach of contract, fraud or some other kind of misconduct. His clients include corporations, creditors’ committees, post-bankruptcy litigation trusts, and other individuals and entities.

## **ABOUT WMC**

WMC is one of the nation's premier policyholder-side insurance recovery firms and was named by the National Law Journal as one of the ten hottest litigation boutiques in the country. The firm has offices in Washington, Fort Lauderdale, Jackson, Philadelphia, and San Juan. For more information please visit [www.wmclaw.com](http://www.wmclaw.com).