

Ten Years of Impact

# The State and Local Legal Center

2010-2020

The majority of U.S. Supreme Court cases—big and small—impact states and local governments. In the last decade the State and Local Legal Center (SLLC) has filed about [75 Supreme Court \*amicus\* briefs](#) on behalf of its members and associate members: the National Governors Association, the National Conference of State Legislatures, the Council for State Governments, the National Association of Counties, the National League of Cities, the U.S. Conference of Mayors, the International City/County Management Association, the International Municipal Lawyers Association, and the Government Finance Officers Association.

The SLLC is the only organization that files Supreme Court *amicus* briefs on behalf of national associations of state and local elected officials.

In almost every case where a local government or local government official is a party or directly impacted by an issue, the SLLC has filed an *amicus* brief.

SLLC *amicus* briefs cover a range of topics affecting states and local governments including: federalism, preemption, First Amendment free speech, qualified immunity (usually for police officers), Fifth Amendment takings, public employment, deference to federal agencies, taxation, etc.

*Amicus* briefs have proliferated over the years. Still, it is not unusual for the SLLC to file the only *amicus* brief on one side of a case.

The SLLC has built relationships with preeminent attorneys from across the country—former Supreme Court clerks, future judges, and subject matter experts—who write pro bono for the SLLC and its members.



The impact of a Supreme Court brief often may be gleaned from the Justices' written opinions. Plenty of evidence suggests SLLC *amicus* briefs filed in the last decade have impacted the Justices' thinking about cases. Here are a few examples:

- The [SLLC amicus brief](#) in [Direct Marketing Association v. Brohl](#) (2015), asked the Supreme Court to overturn [Quill v. North Dakota](#) (1992), which prevented states and local governments from requiring businesses to collect sales tax unless the business had a physical presence in the state. Justice Kennedy's concurring opinion in this case stated that the "legal system should find an appropriate case for this Court to reexamine *Quill*," just as the SLLC asked. Justice Kennedy also criticized *Quill* for many of the same reasons the SLLC stated in its [amicus brief](#). In [South Dakota v. Wayfair](#) (2018), the Supreme Court overturned *Quill*. *South Dakota v. Wayfair* has resulted in states and local governments collecting billions of additional tax dollars annually.
- The question the Supreme Court decided in [Mitchell v. Wisconsin](#) (2019), was when police officers have probable cause to believe an unconscious person has committed a drunk driving offense are warrantless blood draws permissible. Wisconsin argued yes relying on the "implied consent" exception to the Fourth Amendment warrant requirement. The SLLC argued yes as well relying on the "exigent circumstances" exception. The Supreme Court held that warrants are generally not required relying on the "exigent circumstances" exception the SLLC argued for in its [amicus brief](#).
- In the last decade states and local governments have only won two takings cases. In [Murr v. Wisconsin](#) (2017), the Supreme Court held that no taking occurred where state law and local ordinance "merged" nonconforming, adjacent lots under common ownership (meaning the property owners could not sell one of the lots by itself). The Court cited the [SLLC amicus brief](#) twice in its opinion, which argued that these very common provisions are constitutional.