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Liberty & LAW



By Scott Bullock

Can an entrenched cartel of Minneapolis taxi drivers violate the civil rights of entrepreneurs and consumers?

No, according to U.S. Magistrate Judge Franklin L. Noel. In an opinion released at the end of October, the judge recommended that a lawsuit brought by members of the taxi cartel to overturn the city's free-market reforms be dismissed.

The Institute for Justice Minnesota Chapter (IJ-MN) intervened in this case to defend the city of Minneapolis' deregulation efforts that removed a cap on the number of taxis licensed in the city. The city finalized its reforms in March 2007 and opened the market to entrepreneurs who are "fit, willing and able" to serve the public. The new ordinance will increase the number of cabs by 180 in the coming years, and eliminate completely the cap on the number of cabs by 2011.

In response, the established taxicab cartel sued the city, demanding reversal of the reforms and proclaiming that its owners should be able to keep the spoils of the old law that excluded new competitors from the taxi market in Minneapolis for more than 10 years.

The Institute represents taxi entrepreneur Luis Paucar, who had tried for nearly four years to provide service in Minneapolis. He received licenses for 22 vehicles under the new law.

The decision is an important victory both for aspiring taxi entrepreneurs like Luis and for Minneapolis consumers. The significance of the decision rests with the fact that the taxi cartel argued that the monopoly profit the license holders could charge for their licenses in a secondary market was a "property right" and that the city's deregulation of the taxi market had unconstitutionally "taken" the artificially inflated price they

Taxi Entrepreneurs continued on **page 7**

No Fine(r) Time To Dance



No Fines for Dancing at San Tan Flat

By Jennifer Perkins

The Institute for Justice Arizona Chapter (IJ-AZ) recently secured a crucial ruling that client Dale Bell will not have to pay daily fines for refusing to act as the dance police at his popular restaurant.

On October 9, 2007, Pinal County Superior Court Judge William O'Neil presided over the first hearing in IJ-AZ's challenge to the county's absurd ban on outdoor dancing. Before adjourning the hearing, Judge O'Neil granted IJ-AZ's request for a stay of fines. With this victory, Dale, owner of San Tan Flat, a country/western steakhouse, may continue allowing his patrons to dance without the fear of crippling fines. Without the stay, Dale could have lost either his business, due to mounting daily fines accruing to almost \$200,000 per year, or his dream if forced to change the character of his business to avoid the threat of fines. Judge O'Neil's decision keeps Dale's American Dream intact while he seeks vindication of his economic liberties.

San Tan Flat opened its doors in 2005 after Dale spent two years jumping through bureaucratic hoops and literally building his business with his own hands. The steakhouse is a resounding success, but it raised the ire of government officials. The county started harassing Dale by, among other things, passing a strict new noise ordinance and sending deputies to San Tan Flat to take readings up to three times every night. San Tan Flat never violated the noise ordinance, so the county cited Dale in September 2005 for running a forbidden out-

door "dance hall" merely because his patrons are inspired to dance to the restaurant's live music.

In January 2006, a Pinal County Hearing Officer imposed fines of \$700 per day because Dale refused to stop his patrons from dancing outside, finding that the dancing somehow changed the restaurant into a dance hall. Dale appealed the ruling to the Pinal County Board of Supervisors, and the county did not enforce the fines during that process.

Judge O'Neil acknowledged that Dale faced significant potential harm from the daily fines including the possible loss of his business, while the county presented no corresponding potential harm to any legitimate government interest, underscoring a crucial issue in this case: Allowing outdoor dancing at San Tan Flat does not present any public health or safety threat.

So is this prosecution really about dancing outdoors?

Certainly not.

Pinal County recently acknowledged its real goal is to stop Dale's live, amplified, outdoor music, absurdly (and falsely) claiming Dale provided no notice that he planned to offer outdoor music. In reality, Dale submitted site plans to the county with a clearly marked stage that was obviously intended for live music. (Ridiculously, opposing counsel speculated it could have been for mimes and puppeteers.) Additionally, the



IJ Arizona Chapter client **Dale Bell** simply wants to run his business without government interference.

"dance hall" ordinance does not ban outdoor music. The county's reliance on it to stop Dale's music reveals the extent of government abuse at issue: Unable to find a bona fide noise ordinance violation, the county is throwing vast taxpayer resources into litigating against Dale for allowing outdoor dancing.

The October 9 hearing presented an additional key issue for Judge O'Neil's consideration—whether Dale should have the opportunity to present his case in a jury trial. The judge has not yet ruled on this question.

This hearing was merely the opening skirmish in IJ-AZ's battle for Dale Bell's economic liberty, and it concluded with a resounding victory. More work remains, but the Institute for Justice is proud to vindicate the rights of this entrepreneur and others across our nation. ♦

Jennifer Perkins is an IJ Arizona Chapter staff attorney.





IJ Washington Chapter Executive Director **William Maurer**, left, speaks to the media and a rally of citizens who oppose eminent domain abuse and support **Jim Roos'** mural, right, and his right to free speech.

Sign of the Times: *IJ Defends Intertwined Rights of Property & Speech*

By William R. Maurer

As *Liberty & Law* readers know, local governments regularly use regulations of signs and other forms of outdoor communication to restrict speech. The courts largely let governments get away with burdensome restrictions on signs, which often amount to near-total bans on outdoor advertising. Tragically, in the hands of the government, regulating signs often conceals efforts to quash messages with which bureaucrats disagree. That is exactly what is happening in St. Louis, where the city is trying to shut down a protest against eminent domain abuse.

Missouri has one of the worst records in the nation regarding eminent domain abuse, and after the Supreme Court's decision in *Kelo*, local governments in Missouri went on an eminent domain abuse bender, seizing homes for private development at an alarming rate. (For an example, see page 12.)

Jim Roos knows Missouri's appalling record in this area all too well. In the 1970s, Jim started an inner-city property management company called Neighborhood Enterprises, Inc. (NEI). NEI's purpose is to provide low-income residents of St. Louis with

decent, affordable housing. Then, in 1990, Jim formed Sanctuary In The Ordinary (SITO), a non-profit housing and community development corporation. SITO purchases apartment houses and rents well-maintained units to low-income residents seeking affordable housing. The idea behind SITO is to provide a "sanctuary"—a safe place for people of modest means to call home.

To Jim and his wife Judy, their effort to bring decent housing to St. Louis' poor is a ministry, a way to give something to their fellow man. Instead of receiving support from the city, however, properties owned by SITO or managed by NEI have consistently been the target of eminent domain abuse by the municipal government in St. Louis.

Having been on the receiving end of this abuse too many times, Jim had a large anti-eminent domain abuse mural painted on a building threatened with condemnation in St. Louis. The city told him the mural required a permit and then denied his request for one. It then told him his sign had to come down.

Thankfully, however, Jim takes neither abuse of property rights nor petty censorship lying down. Jim fought back and, with the

Institute for Justice's help, took the city to court to vindicate his right to free speech. Jim's ordeal shows that when the government has the ability to regulate and restrict speech, it inevitably ends up restricting speech that it finds inconvenient or disagreeable.

Jim's case also demonstrates that all our constitutional rights are intertwined—when one right is weakened, the others start to fall. Having largely dispensed with the right to own private property, governments in Missouri are now seeking to further chip away at protections for free speech. It is now up to a federal court in St. Louis to hold the city accountable. Our goal is to strengthen free speech as Jim fights the demise of his property rights. As Jefferson understood, free speech is a bedrock of our Constitution and essential for the eventual restoration of property rights. ♦

William R. Maurer is executive director of the Institute for Justice Washington Chapter.



RED TAPE

Building a Campaign Against Campaign Finance “Reform”

By Lisa Knepper



Constitutional rights do not often disappear overnight. They yield gradually to mounting regulation backed by calculated efforts from those who favor more government and less freedom.

So-called campaign finance “reform” is a classic example. For the past 30 years, the speech police have piled regulation upon regulation at the federal, state and local levels, restricting nearly all speech that might influence how citizens vote. Today, outside the press, the government determines who may speak, when they may do so, what they may say, and how much they spend to say it.

Campaign Finance Red Tape: Strangling Free Speech & Political

Debate, a new Institute for Justice strategic research report by economist and campaign-finance expert Jeffrey Milyo, shows the consequences of eroding our First Amendment rights.

Milyo asked 255 people to fill out the actual paperwork required for a grassroots group to speak about ballot issues in Colorado, California or Missouri. All 24 states that permit ballot issue elections impose similar requirements.

These reports are available on the IJ website:
www.ij.org/publications/other

Milyo asked participants to register a hypothetical citizens’ group as a “political committee” and report its contributions and expenditures. The group was modeled after IJ’s clients in Parker North, Colo., who were sued for failing to register as a political committee when they used yard signs, flyers and meetings to oppose the annexation of their neighborhood.

The result? Failing grades across the board. No one completed the forms correctly, and the average score was just 41 percent. People were frustrated, calling the process “Worse than the IRS!” and commenting, “Seriously, a person needs a lawyer to do this correctly.”

In the real world, all 255 participants could be subject to fines and, like those in Parker North, politically motivated litigation for their mistakes. Nearly 90 percent agreed that this red tape and the specter of penalties would deter citizens from political activity.

In an earlier report, *Disclosure Costs: Unintended Consequences of Campaign Finance Reform*, IJ’s Director of Strategic Research Dick Carpenter polled citizens and found out that few pay any attention to the information all this red tape is designed to produce.





IJ attorneys and clients from Parker North, Colo., at the filing of *Sampson v. Dennis* in federal district court in Denver.

Two other IJ cases make clear how ballot issue disclosure laws thwart everyday speech. In Colorado, we represent a policy group, the Independence Institute, sued for speaking out against two tax-raising referenda. In Washington, even after the state supreme court ruled that talk-radio commentary is exempt from regulation, our battle continues to fully vindicate the First Amendment rights of a ballot issue campaign wrongfully prosecuted for failing to report speech over the airwaves as an “in-kind” contribution.

Together, IJ’s strategic research and litigation show that any benefits of ballot issue disclosure laws are tiny, while the costs are huge. They also refocus the campaign-finance debate where it belongs: on the effects of speech regulations on ordinary citizens.

In short, we are fighting the erosion of our rights through campaign finance “reform” with a campaign of our own: pioneering research and cutting-edge litigation designed to restore real protections for the political freedoms enshrined by the First Amendment. ♦

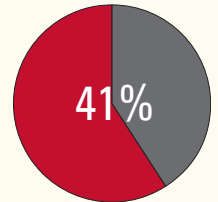
Lisa Knepper is IJ’s director of communications.



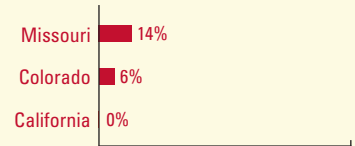
Did You Know?

Ordinary citizens are thoroughly flummoxed by the government red tape imposed on even the most basic grassroots political activity surrounding a ballot issue. On average, the 255 participants in Jeffrey Milyo’s experiment could not complete even half the required tasks correctly.

Percentage of correctly completed tasks



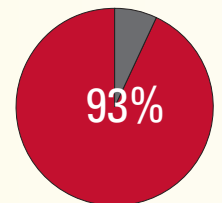
Several tasks common to grassroots campaigns proved especially challenging. For example, no more than 14 percent of participants managed to correctly report an in-kind donation of t-shirts.



Percent who correctly reported t-shirt donation

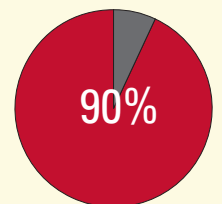
Worse still, most people had no idea they needed to register with the state and file various forms to speak about a ballot issue. Like IJ’s clients in Parker North, they would break the law without even knowing it.

Percent who did not know about ballot issue disclosure laws



Mistakes like these expose ordinary citizens to fines and other legal penalties, as well as the threat of politically motivated litigation. The overwhelming majority of participants said the red tape and specter of penalties would deter political activity. ♦

Percent who said red tape and penalties would deter political activity



Fighting THE INTERIOR DESIGN CARTEL The IJ Way

By Chip Mellor

Practicing cutting-edge litigation means taking on tough cases. It also means tackling issues that may not yet have gained great visibility in the legal community or the general public. As a result, we must wage strategic campaigns to make clear to all the importance of our issues and the legal rulings we seek. We did this, for instance, with eminent domain abuse.

Our recent work to secure economic liberty offers another great case study in just what it means to practice strategic litigation the IJ Way.

The occupation this time is interior design. Of course, interior design would seem to most people to be an innocuous practice that results in people having nice places to live. Not so, thanks to the American Society of Interior Design (ASID), which is conducting a nationwide lobbying campaign to erect statutory barriers to entry in the interior design profession.

ASID's efforts would create in each state an interior design cartel that would determine who could practice interior design. To date, they have been successful in passing laws in 26 states, most of which are so-called "title acts," which only limit who may use the terms "interior designer," "certified interior designer," and the like, but three of which are full-blown "practice acts," which dictate who may actually practice interior design—the ultimate goal of all such legislative efforts. When we learned of this, we recognized three things.

First, these laws—utterly lacking in any conceivable health and safety rationale—offered a great vehicle to challenge the legal standard that allows such cartelization (the "rational basis test"). Victory here could set precedent that would help open up other arbitrarily licensed occupations.

Second, the scope of ASID's effort presented a chance to educate the public about how cartelizing activity actually works.

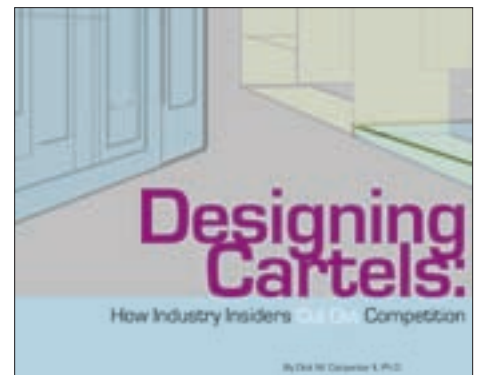
Third, since there was so much legislative activity in so many states, we would need to train activists to stop the ASID juggernaut.

IJ Senior Attorney Clark Neily led our team and quickly engaged Director of Strategic Research Dick Carpenter who produced a hard-hitting study, *Designing Cartels*, that documented and explained the self-serving nature of ASID's campaign.

Neily and Jennifer Perkins, a staff attorney from our Arizona Chapter, launched litigation in New Mexico and Texas. In New Mexico, the legislature amended the statute to cure the constitutional defect in response to our case. In Texas, we are in the thick of litigation.

Meanwhile, syndicated columnist George F. Will cited our New Mexico litigation in a nationally syndicated column. The column was then cited by Indiana Governor Mitch Daniels when he vetoed legislation that would have created an interior design cartel in his state.

In anticipation of the upcoming legislative sessions, we organized a conference attended by designers from across the nation to, in part,



Above, IJ attorneys, New Mexico interior designer clients and our director of strategic research. *Designing Cartels: How Industry Insiders Cut Out Competition* is available at www.ij.org/publications/other.

train and equip them with the tools to defeat ASID-backed legislation. Shortly thereafter, conference speaker and Granite State activist Patti Morrow successfully led the charge in killing the latest New Hampshire interior design legislation. Patti's campaign included three successful radio appearances and crucial coverage in the local newspapers, all of which paid off when the bill was withdrawn in October. In November, con-

IJ IS FIGHTING A NATIONWIDE LOBBYING CAMPAIGN TO ERECT STATUTORY BARRIERS TO ENTRY IN THE INTERIOR DESIGN PROFESSION.



IJ Senior Attorney **Clark Neily** addressed more than 40 interior designers from all over the country at our national conference in September in Virginia.

ference attendee and Washington state activist Leslie Jensen arranged town hall meetings in Seattle and Tacoma to train local designers in opposing anticipated legislation based on the lessons she learned from IJ. Leslie invited Washington Chapter Staff Attorney Michael Bindas to provide the IJ perspective on economic liberty and interior design legislation. Finally, Arizona activist Robert Lashua took the lessons learned at IJ's conference—along with the confidence gained by coming together with like-minded designers—and on October 25, 2007, gave a 90-minute presentation on economic liberty and interior design regulations to the International Furnishings and Design Association's board of directors and its council of presidents.

We have more work to do to secure economic liberty for designers and others seeking their share of the American Dream. But as you read about our cases in the future, take heart in the fact that they are being pursued in this strategic way. No single case stands in isolation; litigation alone is never enough.

With this approach, we can take on long odds and make history.◆

Chip Mellor is IJ's president and general counsel.



Free-Market Reforms Stay in Place in Minneapolis



Taxi company owner **Luis Paucar** is working with the IJ Minnesota Chapter to keep open the Minneapolis taxi market.

Taxi Entrepreneurs continued from **page 1** were once able to obtain for their licenses.

If successful, the cartel's argument would have worked a radical change in American law. Under its theory, any time the government sought to ease entry into a business or profession, it would be financially liable to those entities that profited from the artificial barriers once protecting industry insiders. As a result, the regulatory status quo would forever be maintained, no matter how onerous or irrational the scheme had become.

The cartel was essentially using the law to quash competition from entrepreneurs like Luis. Thankfully, the judge completely rejected the cartel's arguments. As he noted in his recommendation, there is no "taking"; the license holders maintained their licenses and were still able to operate

their cabs. But, the judge noted, the law "does not guarantee that the City would indefinitely limit the number of licenses issued. . . .

[T]he taxicab vehicle license holders do not have a constitutionally protected freedom from competition."

The cartel violated the civil rights of entrepreneurs like Luis. IJ-MN got involved in the case to defend the city's free-market reforms because taxicab entrepreneurs have the right to earn an honest living in the occupation of their choice free from the anti-competitive barriers to entry that the taxi cartel wants to preserve.

If the cartel appeals, we will stand by Luis until economic liberty is finally the rule, not the exception.◆

Scott Bullock is an IJ senior attorney who argued the case on behalf of Luis Paucar.



The IJ Moment

The Institute for Justice is a special place to work. *Washingtonian* magazine even named IJ one of the best places to work in the D.C. metro region. Something that makes the Institute for Justice stand out are those magic moments that crystallize not only why IJ is such a wonderful and unique place, but why our clients and our staff have such a special connection to our organization. We call these “IJ moments,” and we asked some of our staff to share their IJ moments with you.

Michael Bindas
Staff Attorney



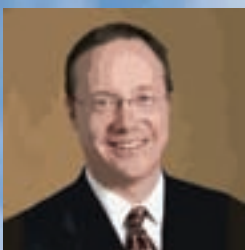
My IJ moment came courtesy of Kwan Fong, who worked with us to fight eminent domain abuse in Washington state. Kwan agreed to address a group of politicians and the media about Seattle’s plan to “blight” his neighborhood and make way for private development. I thought I had an appreciation for property rights until I heard this courageous gentleman, who fled Communist China in the 1970s, explain how important his property was to him and his family and how wrong it was that, in America of all places, the government would try to take it away. In the end, we were able to defeat Seattle’s plan, and Kwan was able to hold on to his piece of the American Dream.

Paul Sherman
Staff Attorney



My first IJ moment happened when I met Errol Tyler, an IJ economic liberty client who for years has been trying to get a government license to start a tour business in Cambridge, Mass. I was overwhelmed by the enthusiasm and pride with which Errol described his future business, and I felt privileged to work for a group that helps make the dreams of entrepreneurs like Errol Tyler a reality. But what capped off this IJ moment was when Errol told us that he had settled on a name for his first tour vehicle: “The Institute for Justice.” I had always known intellectually that entrepreneurship was a good thing, but this was the first time I felt it in my gut and was proud to be part of an organization that made economic liberty a reality for so many.

Scott Bullock
Senior Attorney



The scene: a hot Mississippi June evening inside an African-American church.

The people: local parishioners; a civil rights activist who was Jesse Jackson's state campaign manager in the 1980s; Martin Luther King III, the son of the storied civil rights leader; the Archie family of Canton, Miss.; and three libertarian lawyers from Washington, D.C. (Chip Mellor, Dana Berliner and me).

The event: a prayer vigil the night before a court hearing that would decide whether the state of Mississippi could use eminent domain not for a public use but to take the land and homes of the Archie family to give them to Nissan to build an automobile plant.

After several talks, prayers and hymns, my colleagues and I joined hands with the Archies, the parishioners, Mr. King and others, and sang the civil rights anthem: "We Shall Overcome."

Another IJ moment in this case was when I called Andrew Archie, the patriarch of the Archie family, to tell him that he and his family could stay on the land they had owned since the 1940s, the first land the family had ever owned. IJ moments do not get much sweeter than that!

Valerie Bayham
Staff Attorney



IJ Senior Attorney Steve Simpson and I arrived in Parker North, Colo., to meet with our clients—six neighbors who had been sued for having the audacity to engage in political speech. They were sued for violating Colorado's complex and burdensome campaign finance laws by expressing their opposition to the annexation of their neighborhood. As we walked up the driveway of one of our clients, one of their kids was playing basketball. He stopped, ran to the door, and hollered, "Mom, Dad! The cavalry's here!" That's IJ—we ride in to save the day for folks who would never be able to stand up to the injustices they face without our—and your—support.

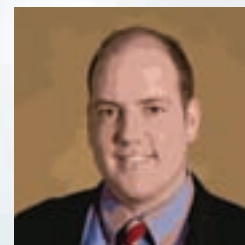
Tim Keller
Executive Director of
the IJ Arizona Chapter



The night we won Randy Bailey's case. It was just about time to close the office when we received a call from the Court of Appeals' Clerk's office telling us that a decision had been filed. After alerting HQ, I sped over to the court with our law clerk Jennifer Wright. We received the decision from the clerk in a sealed envelope and quickly moved outside to open it on the courthouse steps. As we started to rip open the envelope, Judge Cecil Patterson, one of the three judges in front of whom I had argued the case, walked out and gave us a friendly grin. At that moment I knew we had won—and indeed we had. While zipping back to the office to get out a news release, I immediately called Randy, who was stunned and overjoyed.

Soon, the news trucks were rolling out to Bailey's Brake Service, and I drove out there, too. When I arrived, Randy, who is a big guy, embraced me in a bear hug that lifted me off the ground and cracked my back. As I like to say when I tell others about that night, I'm lucky to be able to stand while telling the story.

Bert Gall
Senior Attorney



Immediately after the *Kelo* argument before the U.S.

Supreme Court in February 2005, we and our New London clients gathered together in our conference room to celebrate taking their case to the highest court in the land. I confess to being a bit distracted: the homes and businesses of our clients in our Norwood, Ohio, eminent domain case were in danger of being torn down any day unless the Ohio Supreme Court granted an emergency motion we had filed to block the demolitions. If the properties were demolished, it was likely that we would never be able to present the merits of the case to the court; thus, the stakes could not have been higher. The motion was a true "Hail Mary" pass; two lower courts had already denied it, and we faced very difficult legal obstacles. Suddenly, John Kramer, our vice president for communications, burst into the conference room to announce that I needed to take a call from the Associated Press regarding the court's granting of our motion. Cheers and applause erupted. For me, that moment best illustrates how IJ's "never say die" attitude really can produce miracles. ♦



Dr. John T. Wenders, 1935 - 2006

“I have never understood why, in a nation founded on market competition and where monopolies are abhorred, we continue to embrace monopoly for our public schools.”

—Dr. John T. Wenders

Thank you, Jack!

By **Melanie Hildreth**

Liberty lost a friend when Dr. John T. Wenders passed away last November. This fall, IJ was honored to receive a very generous gift from Dr. Wenders, who preferred to go by Jack. Jack shared our commitment to advancing individual liberty, and he made IJ a beneficiary of his individual retirement account, giving us vital resources to keep fighting for the fundamental freedoms he valued.

A gifted economist and researcher, Jack spent more than 30 years as a professor of economics. He was an ardent proponent of free markets and individual rights, writing a regular column for his local paper in Idaho, the *Moscow-Pullman Daily News*. His columns often focused on the problems of government and the importance of individual freedom. After retiring from teaching at the University of Idaho, Jack worked with a variety of people and organizations to advance educational choice in Idaho.

He wrote, “I have never understood why, in a nation founded on market competition and where monopolies are abhorred, we continue to embrace monopoly for our public schools—arguably our most important industry The time has come to break the monopoly and the solution is very simple: scholarships for students that parents can spend at any school, public or private, instead of subsidi-

dies to monopoly schools. If schools didn’t perform, parents and students would vote with their feet and take their scholarships elsewhere.”

Because Jack’s students were some of the greatest beneficiaries of his time and talent, the Institute for Justice has established the Jack Wenders Scholar Award as a tribute to the values Jack embodied for many years and as a memorial to his generosity. As you may know, each year, a group of the nation’s best and brightest law students come to IJ’s headquarters to learn how we practice public interest law and extend the benefits of freedom to those whose full enjoyment of liberty is denied by the government. The Jack Wenders Scholar Award will recognize the one student each year who best demonstrates a commitment to pursuing and embodying the ideals that Jack and IJ shared, and who does it the “IJ Way”—with an attitude that is positive and open, resilient, principled, entrepreneurial, and committed to achieving real-world results.

The Institute for Justice is honored to further Jack’s legacy of liberty and will continue to strive to make his goals of choice in education and expanded individual freedom a reality.◆

Melanie Hildreth directs IJ’s Four Pillars Society.





Dana Berliner: *One of Nation's Best Lawyers*

By Chip Mellor

IJ attorneys have been distinguished with awards over the years proclaiming them “Super Lawyers,” “Outstanding Young Lawyers” and the like, but we have perhaps the best new superlative to add to that list: Institute for Justice Senior Attorney Dana Berliner has now been named among a select group of “Best Lawyers” by a publication of the same name.

Best Lawyers is the oldest and most respected peer-review publication in the legal profession. For a quarter century, the publication has helped lawyers and clients find legal counsel in unfamiliar jurisdictions or unfamiliar specialties. *Best Lawyers* compiles lists of outstanding attorneys by conducting exhaustive peer-review surveys in which thousands of leading lawyers confidentially evaluate their professional peers. The current edition of *The Best Lawyers in America* is based on more than two million detailed evaluations of lawyers by other lawyers.

Congratulations, Dana!◆

Chip Mellor is IJ's president and general counsel.



Congress passed a law we like!

Yes, you read that right.

The Pension Protection Act of 2006 permits traditional and Roth individual retirement account (IRA) owners who are at least age 70½ on the date of the distribution to transfer up to \$100,000 tax-free **until December 31, 2007**, to charitable organizations like the Institute for Justice. This allows you to fulfill all or part of your required minimum distribution without increasing your taxable income and to reduce your taxable estate.

Making a donation through the Pension Protection Act, or including IJ in your estate plans in some other way, qualifies you for membership in our Four Pillars Society, named for IJ's four pillars of litigation—economic liberty, property rights, free speech and school choice. This society is a special group of IJ friends who have chosen to provide us with financial support beyond their lifetimes.

If you would like more information about how to leave a legacy of liberty, please call or email Melanie Hildreth at (703) 682-9320 ext. 222 or mhildreth@ij.org, or visit www.ij.planyourlegacy.org.◆

If you are 70½ or better and this type of gift sounds right for you, here are the things you'll need to know when you contact your IRA administrator:

- The Institute for Justice is a 501(c)(3) organization under the IRS code.
- Our tax ID number is 52-1744337.
- Our legal name (for the distribution check) is Institute for Justice.
- Please ask them to include your name with your generous donation.

SHOW-ME Eminent Domain Abuse

By Scott Bullock

In the 1920s, Penelope Marth's grandfather built several homes on her street in Sugar Creek, Mo., a small town located between Kansas City and Independence. She lives in one of the homes, the same one in which her mother was raised. Up the street from Penelope live two widows. Josie Webster, a charming lady struggling with health problems but still maintaining her upbeat spirit, has lived in her home for more than 20 years. Eleanor Miller raised five children in her immaculately maintained ranch home where she has lived for 48 years. Down the street from Penelope is Jerry McGinnis, a dump truck driver who enjoys restoring classic American cars in his large attached garage.

Penelope, Josie, Eleanor, Jerry and their neighbors may lose their cherished homes, though, because their town has made a deal with a private developer that would replace their block and several acres surrounding them with the Sugarland Center, a new, big-box retail complex.

Fortunately for these homeowners, a case currently before the Missouri Supreme Court, *City of Arnold v. Tourkakis*, could stop Sugar Creek from this abuse of eminent domain. The specific issue in the case is what

“The Show-Me state is one of the worst abusers of eminent domain in the nation. A favorable decision in the *Tourkakis* case would end many of these abuses.”

type of city has the ability to use eminent domain in so-called blighted areas. The Missouri Constitution permits the use of eminent domain for the removal of blight, but limits that power to “constitutionally chartered” cities. Constitutionally chartered cities are basically the large cities in Missouri, such as Kansas City and St. Louis. This power was granted because, at the time of the approval of the blight provision in the 1940s, the concern was to engage in blight removal and “slum clearance” in large urban areas (often with disastrous results). Now, how-



IJ Senior Attorney **Scott Bullock**, right, speaks with **Eleanor Miller**, a resident of Sugar Creek, Mo., who could be forced from her home to make way for private development.

photo courtesy The Examiner/Hugh S. Welsh

ever, cities across the state, including small towns such as Arnold and Sugar Creek (third- and fourth-class cities, respectively, under Missouri law), are using eminent domain not because they are genuinely concerned about blight but because they want to gain the tax dollars generated by private commercial development.

IJ is active in both the case before the Missouri Supreme Court and the brewing controversy in Sugar Creek. We will file a brief in the *Tourkakis* case, and we are working with the homeowners in Sugar Creek to stop the threatened use of eminent domain. After visiting the neighborhood in October and meeting with the residents, we sent a letter to Sugar Creek putting them on notice that any attempt to condemn the homes in this area while the *Tourkakis* case is pending before the Supreme Court would subject the city to an immediate action for injunctive relief.

As Bill Maurer mentioned on page 3 of this newsletter, the Show-Me State is one of the worst abusers of eminent domain in the nation. A favorable decision in the *Tourkakis* case would end many of these abuses. The Sugar Creek residents' homes—and the homes and small businesses of people across Missouri—hang in the balance.◆

Scott Bullock is an IJ senior attorney.



IJ Travel Clock



Eminent Domain Abuse Survival Guide and DVD



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www.CastleCoalition.org Wins 2007 W³ Silver Award

The Institute for Justice is proud to announce that our Castle Coalition website has won another award!

Our www.CastleCoalition.org site received the 2007 W³ Silver Award, which honors creative excellence on the Web, and recognizes the creative and marketing professionals behind award-winning sites, marketing programs and video work created for the Internet. This year, IJ competed with more than 2,700 entries to earn its W³ Award.

Among those at IJ who were especially involved in earning this recognition were Production and Design Coordinator Isaac Reese, Castle Coalition Director Steven Anderson, Castle Coalition Coordinator Christina Walsh and Castle Coalition Writer Chris Grodecki.

Last year, CastleCoalition.org received a WebAward for outstanding achievement in website development. ♦

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About the publication

Liberty & Law is published bimonthly by the Institute for Justice, which, through strategic litigation, training, communication and outreach, advances a rule of law under which individuals can control their destinies as free and responsible members of society. IJ litigates to secure economic liberty, school choice, private property rights, freedom of speech and other vital individual liberties, and to restore constitutional limits on the power of government. In addition, IJ trains law students, lawyers and policy activists in the tactics of public interest litigation.

Through these activities, IJ challenges the ideology of the welfare state and illustrates and extends the benefits of freedom to those whose full enjoyment of liberty is denied by government.

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Quotable Quotes

The Economist

"[T]he Institute for Justice . . . fights affronts to economic freedom, such as licensing rules designed to protect incumbents from competition."

San Diego Union-Tribune

"The Institute for Justice [is a] libertarian, Virginia-based public interest law firm known for promoting free speech and property rights."

Chicago Tribune

"A father and son who operate a nonprofit boxing gym for kids in suburban San Diego are fighting their town for the right to stay where they are. Ultimately, their battle to hold onto their property could help decide your right to hold onto yours. . . . A suit has been filed on the Barragans' behalf by the Institute for Justice, a libertarian Virginia-based public interest law firm that has fought property rights battles all the way to the U.S. Supreme Court."

Washington Post

"A federal judge yesterday struck down a Maryland law that barred companies incorporated since 1945 from owning funeral homes in the state. . . . 'The judge was very critical of the law,' said Clark Neily, senior attorney at the Institute for Justice, which represented the group. 'He made it very clear that he felt both that the law discriminates against out-of-state companies in a way that is unconstitutional and also drives up the costs of funerals in Maryland.'"

New York Post

"The debate over campaign-finance 'reform' has ignored the rights of ordinary citizens to voice their views, and now those rights are slipping away. As citizens exercise their right to vote this Election Day and attention turns to an even bigger election in one year, it is time to revive another fundamental political freedom—the right to free speech." *Jeffrey Milyo author of the Institute for Justice's report: "Campaign-Finance Red Tape: Strangling Free Speech and Political Debate."*

The government wanted to take
my family's third-generation business
for fancy condominiums.

My business was not for sale.

Along with other owners
and activists, I fought back.

And I won.

I am IJ.



*Scott Mahan
Ardmore, Pennsylvania*

www.IJ.org

*Institute for Justice
Castle Coalition activism*

**“[T]he Institute
for Justice—the
country’s premier
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property rights”**

—Pittsburgh Tribune-Review



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