

# Liberty & LAW

August 2010

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## IJ Returns to U.S. Supreme Court In Landmark School Choice Case

By Chip Mellor

When the U.S. Supreme Court considers *Garriott v. Winn* next term, it will mark IJ's fourth appearance before the Court in only eight years. The Court will decide the constitutionality of Arizona's individual tax credit program through which more than 27,000 children attend private schools. Having four cases before the Supreme Court in such a short time is further endorsement of IJ's strategic approach to public interest law. The fact that we have reached this pinnacle in three of our four mission areas (school choice, property rights and economic liberty) makes the accomplishment all the more notable.

This case also underscores the importance of IJ having the ability to stand toe-to-toe with our adversaries and never blink. The Arizona school choice fight

began more than 10 years ago when the teachers' union filed suit in state court. Eventually they lost when the Arizona Supreme Court upheld the program. The ACLU then filed a new challenge in federal court that went all the way through the Ninth U.S. Circuit Court of Appeals before recently being accepted by the U.S. Supreme Court. The Institute for Justice has been involved every step of the way representing the interests of parents, children and the scholarship organizations that make use of the tax credits.

After a three-judge panel of the Ninth Circuit ruled against us, we asked the full court to reconsider its decision. It refused in a sharply divided opinion that prompted a stinging dissent by eight judges. The majority held that the program violated

**Winn to U.S.S.C.** continued on page 9

# Fight for Freedom Focuses on Farms



Lake Elmo prohibits farmers like IJ client **Dick Bergmann** from importing goods from out of state.

By Anthony Sanders

As most schoolchildren are taught, one of the primary reasons for the Constitution is to protect free trade among the states. Trade wars between the 13 original states threatened our nation under the Articles of Confederation. To prevent these destructive practices, the Framers gave Congress the authority to regulate

But after 220-plus years, some politicians still don't get it.

In a case of localism run amok, the city of Lake Elmo, Minn., makes it a crime for a farm to sell agricultural products if the products were grown outside city limits. Businesses on commercially zoned properties can sell out-of-town products, but farms can only sell items grown in the city. That is true even if the farms' owners grow the items on land they own nearby but outside Lake Elmo's city limits. The new law is wreaking havoc on the town's farm economy.

To challenge this unconstitutional restriction on free trade, the Institute for Justice filed suit in federal court in May 2010 on behalf of the Bergmann family of Lake Elmo, which owns a farm there, and farmers in Nebraska, North Carolina and Wisconsin who sell their products to the Bergmanns.

The Bergmanns have sold products grown in other states for decades. This includes pumpkins grown on their own land in nearby Wisconsin and Christmas trees purchased from growers all over

the country. Every fall thousands of visitors come to their farm to enjoy hayrides, a petting zoo and a haunted house and to purchase their Halloween pumpkins. A couple months later, many return for Christmas trees. This single farm illustrates the benefits of free trade among the states. The farm enriches not only the local community but also farmers halfway across the country as well. Like many farms that practice "agri-tourism"—the combination of farming, on-site retail sales and entertainment—the farm would go out of business if it could sell only products grown within Lake Elmo city limits.

But now the city government seeks to bar the Bergmanns from selling anything from outside Lake Elmo. In typical bureaucratic logic, the city claims allowing the sale of out-of-town pumpkins and Christmas trees would ruin Lake Elmo's "rural character." But this makes no sense—the *origin* of a pumpkin cannot ruin rural character. In fact, the policy may force farms out of business, damaging rural character far more than any foreign pumpkin could.

*Bergmann v. City of Lake Elmo* builds upon previous IJ free trade cases. This includes *Swedenburg v. Kelly*, which IJ won in the U.S. Supreme Court in 2005, vindicating our clients' right to sell wine across state lines. The fight in Lake Elmo is particularly interesting because it combines two of our pillars: economic liberty and property rights. Our legal challenge will free farmers in Minnesota and across the nation to sell wares from their own land free from local trade barriers. ♦



Watch the case video, "Freeing Small Farms: Minnesota Farms Fight Protectionism."

interstate commerce, taking away from states and local government the power to erect interstate barriers to trade. America is a national free-trade zone.

**Anthony Sanders** is an IJ Minnesota Chapter staff attorney.





# Activism in Action

## *Protecting Private Property on the Front Lines*

By Christina Walsh

June 23 marked the five-year anniversary of the death and re-birth of property rights in America. On that fateful morning five years ago, the U.S. Supreme Court handed down the *Kelo* decision and told tax-hungry government officials and land-hungry developers that they could take property that does not belong to them. Emboldened by the decision, the next day officials began seizing perfectly fine properties for redevelopment. Within one year of the *Kelo* ruling, the rate of these takings had tripled.

But that didn't last long—and what followed was an unprecedented citizen backlash.

*Kelo* angered Americans, who were universally shocked to learn that, in the “land of the free,” private property could be seized for luxury condos and upscale retail. Polls demonstrated that the overwhelming majority of Americans were opposed to eminent domain for private gain. Although eminent domain abuse was an ongoing problem before *Kelo* (as documented in IJ's *Public Power, Private Gain* report), this decision thrust the issue onto the front pages of newspapers nationwide and into every American's living room.

As soon as *Kelo* was handed down, IJ's Castle Coalition launched our Hands Off My Home campaign, dedicated to changing state laws. All told, IJ has helped guide 43 states to tighten their eminent domain laws to better protect property rights post-*Kelo*. In addition, nine state supreme courts have rejected the use of public power for private gain while only one has followed the decision.

With the launch of the campaign's activism component, we hit the road running and held training sessions across the country to better educate property owners and activists

to fight their own New London-style government Goliaths and illegitimate landgrabs. So far, IJ has held 67 workshops at the local, regional, state and national levels, training well over 1,000 community activists. Since *Kelo*, these activists have defeated 48 projects and proposals that threatened to use eminent domain for private development. These victories, seen as impossible prior to *Kelo*, have now become the norm.



Watch IJ's video, “Kelo: Five Years Later.”

Our most recent victory comes from California, where a group of property owners in San Pablo mobilized against the city's proposal to reauthorize the use of eminent domain on properties comprising more than 90 percent of the city. Local residents invited the Castle Coalition to speak at a community forum, and in the following weeks, they protested at public hearings, drawing hundreds of supporters. When the city could no longer take the heat, it tried to indefinitely postpone its vote; these activists would not stand for that. On the same night they planned to authorize the project, the city council voted instead to ban eminent domain for private development. This demonstrates the power of the grassroots in the wake of *Kelo*: Without setting foot in a courtroom, property owners

### Beyond Kelo By The Numbers

IJ has continued to work hard to protect private property owners since 2005. Here are just a few of the things we have accomplished in the wake of the *Kelo* decision:

**48**

Projects Defeated

**81**

Site Visits

**32**

Activist Groups Formed

**52**

Rallies and Press Conferences

**67**

Training Sessions

**1,149**

Activists and Property Owners Trained

can protect and keep what they have worked so hard to own.

These activists demonstrate that every single one of us has the power to mobilize a block, a neighborhood, a city, a state or even our nation to fight and defeat injustice.◆

**Christina Walsh** is the Institute's director of activism and coalitions.



# Campaign Finance: IJ's Long-Term Investment Pays Off

By Steve Simpson

This year is turning out to be one of the best yet for the First Amendment and the protection of free speech. And, as you may have come to expect, IJ is in the thick of it.

In January, the U.S. Supreme Court handed down *Citizens United v. FEC*, one of the most significant campaign finance decisions in decades. By the end of 2010, we may well see other Supreme Court victories protecting ordinary Americans' right to talk about politics—a right that just a few years ago seemed at risk of being washed away in a sea of regulation. And IJ is at the center of all of it. But it is not luck that has gotten us to this point. We are reaping the gains of an investment made years ago.

Our first campaign finance cases were a challenge to Arizona's misnamed "Clean Elections" Act and a Washington state case in which we represented a ballot issue campaign that failed to report as "contributions" the on-air commentary of two talk show hosts who supported the campaign's cause. In 2005, we made a conscious choice to focus significant institutional efforts in this area of the law and our campaign finance practice was born.

That same year, we took over the representation of the Independence Institute, a Colorado-based free market think tank, in a challenge to that state's onerous ballot-issue campaign financing laws. The next year, we followed with another Colorado case representing a group of neighbors who were sued by their political opponents under campaign

finance laws for having the temerity to speak about a ballot issue without first registering with the government. In 2007 IJ, along with co-counsel at the Center for Competitive Politics (CCP), began representing SpeechNow.org before the Federal Election Commission. SpeechNow.org—a group of individuals who wants to pool their resources and run ads against political candidates who are hostile to the First Amendment—was restricted from pursuing that campaign because of draconian campaign finance restrictions. Ultimately, IJ and CCP teamed up to file suit on behalf of SpeechNow.org in 2008 challenging these federal laws. Later that same year, we challenged laws in Florida that prevented small groups from effectively speaking out during elections.

In addition to winning several of these cases, we developed institutional expertise in the area of First Amendment litigation and contributed strategic research that has been cited in cases all the way up to the U.S. Supreme Court. All the while, IJ generated a flood of media attention about our efforts to transform the terms of the national debate in favor of freedom. In 2009, we thrust ourselves into the center of the debate about the *Citizens United* case and were there to defend the decision in 2010.

**2004:** IJ challenges Arizona Clean Elections Act and represents Independence Institute in a challenge to Colorado's campaign finance laws.

**2007:** IJ teams up with Center for Competitive Politics (CCP) to represent SpeechNow.org before the Federal Election Commission.

**2006:** IJ files suit in federal court on behalf of Parker North neighbors against the Colorado Secretary of State.



This past March, IJ won an important victory in the D.C. Circuit in our challenge to contribution limits in the SpeechNow.org case. (We lost on our challenge to the onerous administrative and reporting requirements that apply to the group, but we have appealed that portion of the case to the U.S. Supreme Court.) Recently, the Supreme Court halted distribution of matching funds to taxpayer-supported candidates in our Arizona Clean Elections challenge, which makes us very optimistic that the Court will accept the case for review when we appeal later this summer. And, as described on page 5 of this newsletter, we recently launched an outlet to showcase our First Amendment expertise with IJ's new First Amendment blog: *Congress Shall Make No Law*, which is located at [MakeNoLaw.org](http://MakeNoLaw.org).

The battle for free speech is by no means over. But we remain at the center of the fight over campaign finance restrictions and the future of the First Amendment. This investment will continue to pay dividends well into the future for all those who cherish free speech. ♦

**Steve Simpson** is an IJ senior attorney.





**2008:** IJ and CCP file suit on behalf of SpeechNow.org to protect the free speech rights of groups of individuals.

**2009:** IJ successfully challenged a Florida law that made it illegal for any group to mention a candidate or ballot issue without registering with the state.

**2010:** IJ takes center stage defending the *Citizens United* decision in the media and in numerous debates. IJ's challenge to Arizona's Clean Elections Act appealed to U.S. Supreme Court.

# 2010: IJ Launches Free Speech Blog: MakeNoLaw.org

By Bert Gall

On June 24, IJ launched its first major foray into the blogosphere with our *Congress Shall Make No Law* blog, which will examine First Amendment issues. Located at [MakeNoLaw.org](http://MakeNoLaw.org), the blog serves as a complement to the Institute for Justice's advocacy to defend freedom of speech against government encroachments—and particularly against limits on political speech in the guise of campaign finance restrictions.

IJ's First Amendment team saw the need to create the blog in the aftermath of the U.S. Supreme Court's landmark *Citizens United* decision, in which the Court struck down a law that severely restricted the ability of corporations and unions to spend money on speech criticizing candidates during an election.

The decision was a ringing endorsement of First Amendment principles and their important place in our society—yet it was swiftly and harshly denounced by many politicians, media outlets and pundits. President Obama accused the Court of reversing “a century of law” and “open[ing] the floodgates for special interests . . . to spend without limit in our elections.” *The New York Times*—itself a corporation—complained that the decision improperly extended First Amendment rights to corporations. MSNBC commentator Keith Olbermann hyperbolically called *Citizens United* the worst decision since *Dred Scott*.

The negative reaction to *Citizens United* among these and other prominent opinion leaders reveals that they view free speech as a

privilege to be tolerated at the pleasure of politicians, not an absolute right that must be respected. This domineering big-government view—which is at the heart of campaign finance restrictions—demands a swift, well-reasoned and entertaining response (particularly in the burgeoning blogosphere) from those who believe that when the Framers said, “Congress shall make no law . . . abridging the freedom of speech,” they meant just that.

And that's where IJ's new blog comes into play. With *Congress Shall Make No Law*, IJ now has a social media platform from which it will take the lead in providing the First Amendment the principled defense it deserves—one that begins with the recognition that free speech is a *right*. This right doesn't go away if the government doesn't like the individuals or groups, including corporations, who are doing the talking.

Through provocative and informative commentary on current events, *Congress Shall Make No Law* will demonstrate that the right to free speech must always prevail over campaign finance laws and other restrictions on free speech against which IJ litigates.

Please visit **[MakeNoLaw.org](http://MakeNoLaw.org)** and share it with others you think need to hear this message of freedom.◆

**Bert Gall** is an IJ senior attorney.



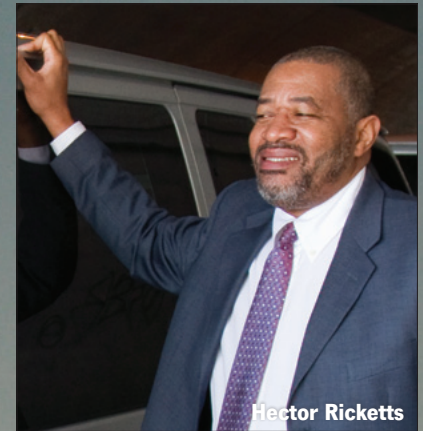




Kim Powers Bridges



Thane Hayhurst



Hector Ricketts

# The P

## By John E. Kramer

They are the industrious individuals who ensure your favorite bagel and cream cheese are ready for you first thing in the morning, who make your computers run like a top, who transport you to and from the office, or who ensure that the remains of loved ones who have passed away are buried with dignity and respect. They are American entrepreneurs, and despite all they do for us each day—and all they want to do to make our lives better through free enterprise—too often they find government-imposed roadblocks standing in their way.

To champion the cause of the entrepreneur, the Institute for Justice released in July a series of studies called *The Power of One Entrepreneur*. Expanding our work to humanize the issue of economic liberty—the right to pursue an honest living in the occupation of your choice free from needless government

regulation—the Institute for Justice hired seasoned journalists and policy writers to document the inspirational lives and impact of five entrepreneurs (all former or current IJ clients) to show how they improve individual lives and entire communities through honest enterprise. All the while, each of these slice-of-life narratives shows the reader the many bureaucratic barriers each of these entrepreneurs has faced, barriers with the potential to destroy an entrepreneur’s American Dream. One way or another—either through IJ-initiated litigation or by moving to a freer state—each of the featured entrepreneurs overcame these needless obstacles, but not without serious financial expense and opportunity costs in the form of delays and distractions that prevented them from putting even more people to work and improving the services we use each day.

These reports are an important part of the Institute for Justice’s three-year-long matching-grant campaign to expand our advocacy on behalf of entrepreneurs. For more information on how you can earn IJ a generous matching grant for your donation, visit: [www.ij.org/Power](http://www.ij.org/Power).

Those featured in the series of *Power of One Entrepreneur* reports are:

Funeral home and cemetery owner **Kim Powers Bridges** from Knoxville, Tenn., who battled bureaucrats in her home state of Oklahoma where she wanted to sell caskets online. Unsuccessful in that fight, she grew a brick-and-mortar business in Tennessee and now has holdings in nine states from the Gulf Coast to New Mexico and Colorado. Read about the dramatic lengths this entrepreneur went to in order to recover and restore the remains of those entrusted to her after Hurricane Katrina hit her newly purchased Mississippi cemetery.



Dennis Ballen



Melony Armstrong

Series of IJ Publications Document

# POWER of ONE Entrepreneur

High-tech entrepreneur **Thane Hayhurst** from Dallas not only helps businesses across the state keep their computers running at peak efficiency, he also places skilled high-tech workers from across the nation in hard-to-fill jobs in Texas and he volunteers for local community centers. Despite all this good work, the state of Texas is threatening to put him out of business under a new law that effectively requires anyone who conducts computer repair to become a licensed private investigator. Sound ridiculous? Well, that's because it is.

Seattle-area bagel businessman **Dennis Ballen** donates nearly as many bagels as he sells, supporting nonprofit organizations across his region. But Ballen's thriving enterprise was almost driven out of business by a local law that barred him from advertising his business. Read about how he joined with IJ to fight

**“They are American entrepreneurs, and despite all they do for us each day—and all they want to do to make our lives better through free enterprise—too often they find government-imposed roadblocks standing in their way.”**

for his First Amendment right and, in the process, secured a precedent that has since freed other businesses to advertise. And now he is the undisputed bagel king of the Northwest with 50 employees, including many individuals who would otherwise find it nearly impossible to secure a good job.

New York City commuter van owner **Hector Ricketts**, too, demonstrates the power of one entrepreneur. Ricketts' “dollar vans” have battled the politically powerful and heavily subsidized public buses for years. Despite overwhelming odds against him, Hector continues to grow his own business that puts people

to work as his vans take people to work, and he offers invaluable guidance, inspiration and mentoring to other fledgling small business owners across the Big Apple.

A model *Power of One Entrepreneur* released last year featured African hairbraider **Melony Armstrong** from Tupelo, Miss. Melony joined with IJ to successfully challenge an anti-competitive licensing law in her state and has since gone on to help create at least 300 jobs across the state through her advocacy and education, while also improving the lives of those around her by providing

**Entrepreneurs** continued on page 8



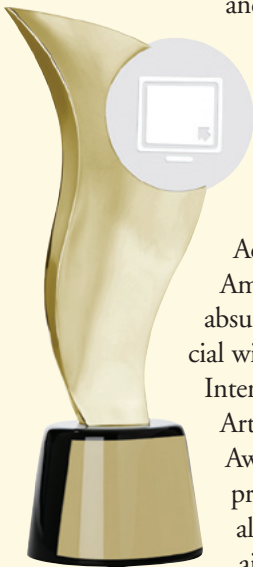


Watch the award-winning case video, “City of Dallas Bans Signs for Small Business.”

## IJ Wins Award For Dallas Sign-Ban Video

IJ has won many awards over the years for our sophisticated and strategic communications and public relations, earning plaudits from organizations ranging from the Public Relations Society of America to the American Society of Business Communicators as well as the Outdoor Advertising Association of America. Our video exposing the absurdity of Dallas’ ban on commercial window signs recently won the International Academy of the Visual Arts’ (IAVA) “Communicator Award.” IJ’s lighthearted video—produced entirely in-house, like all of our videos—comes to the aid of small businesses whose free speech rights are being violated by the city. This year, IAVA received more than 7,000 entries, making this quite an honor.

To learn more about this case and watch our award-winning video, visit: [www.ij.org/DallasSignBan](http://www.ij.org/DallasSignBan). ♦



Download copies of each report at [www.ij.org/Power](http://www.ij.org/Power).

**Entrepreneurs** continued from **page 7**

economic opportunity and demonstrating how an entrepreneur can succeed in the face of tremendous odds.

Each of these reports tells the story of one entrepreneur, a story that could be told and retold through the daily lives of countless other entrepreneurs in small towns and big cities nationwide.

IJ Director of Strategic Research Dick Carpenter, Ph.D., who authored the Melony Armstrong report, said, “If the impact of this one entrepreneur in a relatively small Mississippi community can be as wide and deep as documented in this report, imagine the transformation entire communities of unhampered entrepreneurs could create in America’s largest cities where hope and opportunity are in such great demand.”

Institute for Justice President and General Counsel Chip Mellor said, “The power of one entrepreneur is the key to helping our nation recover from this economic slump. It is a key to restoring our inner cities and countless lives through honest enterprise. IJ will use each of these reports to better motivate lawmakers, rally the public and educate the media about the negative consequences of more and more red tape imposed upon small-business owners.”

How can we create long-term, dynamic growth? That power lies where it always has in America: in the power of one entrepreneur. ♦

**John E. Kramer** is the Institute’s vice president for communications.







Parents **Glenn and Rhonda Dennard** with their children, (from left), **Glenn II, Joshua, Marché, Sarah, and Micah**. **Glenn II, Joshua, Marché** and **Sarah** attend Grace Community Christian School and **Micah** recently graduated from Xavier High School.

**“This case is most notable for what it does not involve: state action advancing religion. Arizona structured its tax credit program to be completely neutral with regard to religion.”**

**Winn to U.S.S.C.** continued from page 1

the Establishment Clause, even though the program is completely neutral with regard to religion and the tax credits are directed to scholarship organizations only through the private, independent choice of taxpayers. Those were the key hallmarks of the program at issue in *Zelman v. Simmons-Harris*, IJ’s Supreme Court case that upheld vouchers in Cleveland.

The Ninth Circuit, however, seized upon the fact that more taxpayers chose to give to religious organizations and most parents chose to use scholarships at religious schools to declare the program unconstitutional. It did this even though parents and donors have a free choice among scholarship organizations that provide scholarships to religious schools, others that provide nonreligious scholarships, and still others that provide both. In adopting this rationale, the Ninth Circuit simply ignored the admonition in *Zelman* that a dynamic program is not to be evaluated on a statistic that will change every year; so long as the government does not tilt the funding of the program for or against religious schools, it is presumptively constitutional.

Tim Keller, executive director of the IJ Arizona Chapter and IJ’s lead attorney on the case, explained why we are confident the program will be upheld: “This case is most notable for what it does not involve: state action advancing religion. Arizona structured its tax credit program to be completely neutral with regard to religion. Neither taxpayers nor parents have any financial incentive to donate to a religiously affiliated scholarship organization over a nonreligious scholarship organization or to select religious over nonreligious schools.”

This case comes at a propitious time for the national school choice movement. The fall elections could well bring changes to a number of state legislatures that will then be poised to consider new choice legislation next year. In the meantime, we will work tirelessly to prevail in court and to use the case to thrust school choice into the national limelight to an extent not seen since 2002, when IJ successfully defended the Cleveland voucher program. ♦

**Chip Mellor** is IJ’s President and General Counsel.



## Double or Triple Your Donation with Matching Gift Opportunities

Now your contributions in the fight for freedom can go even further!

With IJ’s matching-gift program, you can double or even triple your contribution. Thousands of companies offer employees and retirees—and sometimes even their spouses—the option of increasing their personal, tax-deductible donations through matching-gift programs. Many companies match dollar-for-dollar and some even do a two-for-one match. And, even if you have already sent in your contribution, it may not be too late to make that gift even more generous: A large number of companies will match your gift well after the day we receive it.

Visit [www.ij.org/MatchingGifts](http://www.ij.org/MatchingGifts) to find a list of companies with matching-gift programs. IJ’s search feature allows you to type in the name of your company. You may be able to access your company’s matching-gift form directly from the IJ website search. Otherwise, matching-gift forms are typically available from human resources departments. Generally, all you need to do is fill out a form and send it to us, and then we’ll do the rest.

It’s that simple!

If you have questions or need additional information, feel free to contact Nicole Barcic at (703) 682-9320 x230.

And thank you for your generosity! ♦

## IJ Continues to Knock Horse Sense Into Texas Bureaucrats



IJ attorneys, staff and our local counsel meet with IJ clients and supporters outside the Austin courthouse where the fight to protect the livelihoods of Texas horse teeth floaters continues.

### By Clark Neily

IJ's efforts to corral an out-of-control Texas bureaucracy have heated up again, as we continue our long-running battle to stop the Lone Star State's veterinary cartel from outlawing horse teeth floating. Before a packed Austin courtroom on Wednesday, June 30, lawyers from IJ's headquarters and our Austin-based state chapter launched a frontal assault on Texas bureaucrats' vision of judicial abdication.

As loyal *Liberty & Law* readers know, teeth "floating" is a common animal husbandry practice that involves filing down sharp enamel points that can develop on a horse's molars and prevent the horse from chewing its food properly. Horse teeth floaters have much in common with farriers, who not only shoe horses, but also trim and level their hooves.

For reasons that have nothing to do with public (or animal) welfare and everything to do with stifling fair competition, veterinary associations in various states, including Texas, have been clamoring for their friends on state vet boards to confine the practice of teeth floating to licensed veterinarians. Never mind the 2004 report by the Texas Board of Veterinary

Medical Examiners' Committee on Equine Dentistry, which found that "there are not enough veterinarians skilled in equine dentistry to meet the public's needs" and that "[m]ost veterinarians do not feel comfortable performing dental procedures."

So confident is the State Board of its ability to whitewash those findings and impose its will on horse owners in Texas, that it filed a motion this spring asking the judge to throw out IJ's legal challenge and declare that—no matter how harmful the Board's new policy on horse teeth floating might be, and no matter how obviously driven by the veterinary cartel—the courts can provide no meaningful check on the Board's arbitrary exercise of government power in shutting down teeth floaters.

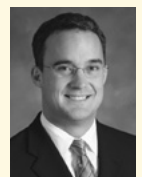
During a two-hour trial court hearing in June, we fought back against that perverse theory and explained that we—like the Texas Constitution—have a much different understanding of the role of the courts in protecting economic liberty. Our briefs and oral arguments documented in meticulous detail how the Board had simply ignored legal requirements that are specifically designed to ensure maximum public participation anytime state

agencies make significant changes in enforcement policy, as the Board tried to do with horse teeth floating in our case.

In response, the Board offered a hodgepodge of arguments ranging from the merely unpersuasive to the patently absurd. The Board's lawyers even tried to persuade the judge that although its campaign against horse teeth floaters is well into its third year, the Board actually has no generally applicable rule on horse teeth floating, and instead has been persecuting our clients and dozens of other teeth floaters on a purely "case-by-case" basis.

This did not appear to sit well with the trial court judge, who seemed to recognize a bureaucratic snow-job when she saw one. We are still awaiting a ruling on the state's motion for summary judgment and our cross-motion, and we remain optimistic that freedom, common sense and our clients will still be standing when the dust settles. ♦

**Clark Neily** is an IJ senior attorney.





Volume 19 Issue 4

**About the publication**

*Liberty & Law* is published bimonthly by the Institute for Justice, which, through strategic litigation, training, communication, activism and research, 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

## **CBS Evening News**



**IJ-AZ Executive Director Tim Keller:** “The U.S. Constitution protects every individual’s right to earn an honest living free from arbitrary government interference. And what could be more arbitrary than the government deciding who is and who is not qualified to sell and arrange flowers?”

## **The New York Times**

“William R. Maurer, a lawyer with the Institute for Justice, which represents challengers in the Arizona case, welcomed Tuesday’s order. ‘The Supreme Court’s decision today will allow the 2010 Arizona election to occur without the government placing its thumb on the scale in favor of those politicians who receive government subsidies,’ he said in a statement. ‘The purpose of this law was to limit individuals’ speech by limiting their spending. But the First Amendment does not permit the government to restrain Americans from robustly exercising the right of free speech.’”

## **The Economist**

“All states regulate professional lobbyists; that is, paid agents who communicate directly with politicians in the hope of swaying them. Fair enough. But a new report from the Institute for Justice, a libertarian group, reveals that 36 states also impose restrictions on ‘grassroots lobbying’. A few even threaten criminal sanctions for those who violate such rules: in Alabama, the maximum penalty is an incredible 20 years in jail. Because few things offend politicians more than the sight of citizens banding together to petition them with grievances.”

## **Mother Jones**

“Today I hold out the olive branch of comity to my libertarian friends. The Institute for Justice has just released a lengthy report on ‘civil asset forfeiture,’ the ability of state and federal agencies to seize property used in the commission of a crime even if no one has actually been convicted of a crime, and I recommend reading it. The practice is appalling all by itself, but it’s even worse than it sounds: In most states and under federal law, law enforcement can keep some or all of the proceeds from civil forfeitures. This incentive has led to concern that civil forfeiture encourages policing for profit, as agencies pursue forfeitures to boost their budgets at the expense of other policing priorities.”

**“[T]he Institute  
for Justice [is] ...  
a great champion  
of economic lib-  
erty and the rights  
of entrepreneurs.”**

*—National Review Online*



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NON-PROFIT ORG.  
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INSTITUTE FOR  
J U S T I C E



I saw a government-backed casket cartel overcharging grieving families.

I saw not only an injustice—I saw an opportunity to change things.

I now sell caskets in nine different states, saving  
people money while giving them peace of mind.

I am the power of one entrepreneur.

*I am IJ.*

*Kim Powers Bridges  
Knoxville, Tennessee*

[www.IJ.org](http://www.IJ.org)

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Economic liberty litigation*