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Liberty & LAW



IJ's Supreme Victory For School Choice In Alabama

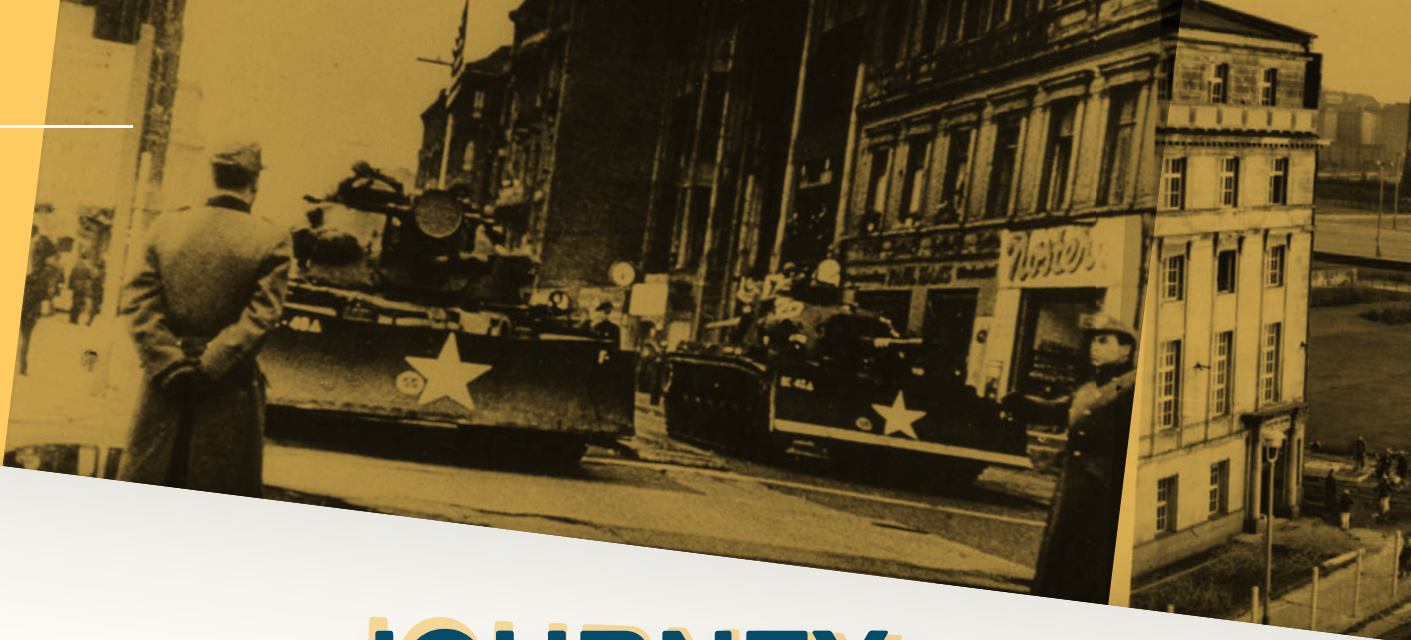


IJ client Dalphine Wilson

By Bert Gall

IJ has chalked up yet another major legal victory for school choice! On March 2, the Alabama Supreme Court—in an 8-1 decision—ruled in favor of families when it rejected the lawsuit that the Alabama and National Education Associations (AEA and NEA) had filed against the Alabama Accountability Act.

Alabama School Choice continued on page 7



JOURNEY *to* FREEDOM

IJ Announces Elfie Gallun Fellowship in Freedom and the Constitution

By Chip Mellor

Readers of *Liberty & Law* know that among the most powerful components of IJ's cases are the stories of our clients, who are motivated to fight government abuse not simply to improve their own lives, but also to secure freedom for others. They share a sincere and deeply felt understanding of the liberties that make America great.

As we fight for these brave individuals, we sometimes learn or are reminded that our friends and supporters also have amazing stories. There is no more inspirational story of overcoming obstacles in the pursuit of freedom than that of longtime IJ donor Elfie Gallun.

As a child, Elfie survived Hitler's Germany, only to be trapped in Stalin's East Germany. Separated from her family after the war and uncertain whether they

were even alive, she survived thanks to the kindness of a Jewish seamstress and Holocaust survivor who took her in, shared her small home and helped Elfie return to school. After graduating eighth grade, Elfie was reunited with her mother and labored for two years at an East German farm because her own family's property had been confiscated under Communist rule.

To escape the hard physical labor, she took a job in a Communist Party food store, forcing her to join the Communist youth organization. When the group arranged a trip to East Berlin, Elfie joined them, determined to see the free zone of West Berlin. But Party leaders saw her break the rules by traveling to West Berlin, a crime that exposed her, as a 19-year-old woman, to a sentence of 20 years'

hard labor. Warned by a friend and with minutes to spare, she fled to a town near the border of West Germany. With the help of kind strangers, she hid from police patrols and finally reached freedom by crawling across a river in the middle of the night on the narrow steel remains of a dismantled railroad bridge.

In the 1980s she wrote about her experience to President Ronald Reagan: "When I finally got through the border (across a river) I ran for about 50 yards...I wanted to shout, 'I am free, I am free,' but no words came from my lips because by then my heart was in my throat. There I stood in silence, having no one else to share that moment with me, and being lost in the wonder of Freedom."





Elfie and her husband Ned in 1955. In 1988, President Ronald Reagan wrote a letter to Mrs. Gallun, expressing his awe at her journey to freedom.

THE WHITE HOUSE
WASHINGTON

December 13, 1988

Dear Mrs. Gallun:

Your husband recently sent me a copy of a letter you had written some time back describing your journey to freedom from East to West Germany and finally to the United States of America. I just want to let you know how moved I was by it.

Those of us who were born free and have known freedom all our lives sometimes forget what a precious blessing it is. Your experience in a totalitarian country has given you a special appreciation of the God-given gift of freedom, an appreciation you can share with others. One look around the globe is enough to remind us how rare and fragile a thing freedom is and how each generation is called upon to make the necessary sacrifices to safeguard it. Examples like yours shine therefore as a beacon of hope for others. That path you followed from darkness to light is truly the way to the future for all mankind. I pray that someday soon all nations may travel it together.

Again, thank you for writing, and God bless you.

Sincerely,
Ronald Reagan

“When I finally got through the border (across a river) I ran for about 50 yards...I wanted to shout, ‘I am free, I am free,’ but no words came from my lips because by then my heart was in my throat. There I stood in silence, having no one else to share that moment with me, and being lost in the wonder of Freedom.”

Elfie’s experience gave her and her husband Ned an insight into the rare, precious and fragile nature of liberty that has been a defining part of their lives. They recognize IJ as a powerful force for securing freedom in America, and they are committed to our long-term growth and success. In 2014, they generously created a fellowship at IJ, named for Elfie, to be held by a young attorney here who will play a special role in conveying the optimism, grit and commitment to freedom that Elfie and all of us at IJ share.

Robert Everett Johnson is the first attorney to hold the Elfie Gallun Fellowship in Freedom and the Constitution. In addition to litigation work,

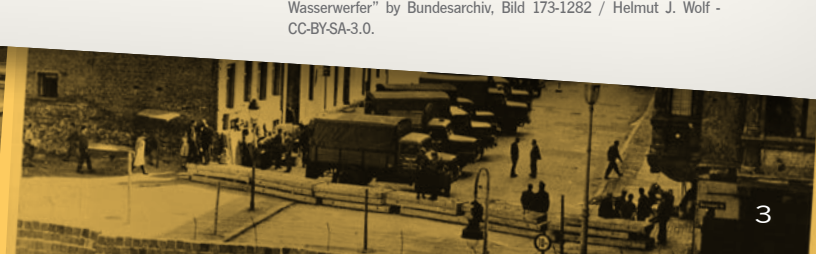
the position comes with an emphasis on publishing written materials and speaking to students and others about the vital role the U.S. Constitution plays in protecting our most precious freedoms. Rob is already actively involved on both fronts and has published pieces in *The Wall Street Journal*, *Politico*, *USA Today*, *The Washington Times* and *The Hill*.

This fellowship offers a new and special opportunity to tell Elfie’s story and the stories of our clients and to demonstrate again the stakes of the fight for liberty. We are deeply grateful to the Galluns for their friendship, inspiration and support. ♦

Chip Mellor is IJ’s president and general counsel.



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VICTORY

IN TEXAS

Hair Braider Untangles State's Licensing Scheme

By Arif Panju

Over the course of 18 years, IJ client Isis Brantley and her small hair braiding school in Dallas—the Institute of Ancestral Braiding—have been at the center of two battles for economic liberty.

The latest ended in January when a federal district court in Texas declared it unconstitutional

to force small African hair braiding schools to transform into fully equipped barber schools if they want to teach students to braid hair for a living.

Isis Brantley's first battle for economic liberty was in 1997, when seven police officers handcuffed and arrested her for braiding

hair without the government's permission. Braiders in Texas eventually were allowed to braid legally—without needing a 1,500-hour cosmetology license—if they completed a 35-hour state-approved braiding course. Isis led the fight to secure this legal change. Almost two decades later, Isis found herself again on the front lines for the right to earn an honest living—this time for the right to teach the next generation of African hair braiders.

Before allowing Isis to teach, Texas wanted Isis to convert the Institute of Ancestral Braiding into a fully equipped barber school. This meant spending time and money on expensive and unnecessary equipment. Texas wanted Isis to install a minimum of 10 barber chairs, even though she only has two students at a time and does not use barber chairs; expand the school to at least 2,000 square feet, even

if that extra space were to remain completely empty; and mount a minimum of five sinks, even though it is illegal in Texas for braiders to provide services using a sink. Braiders aren't barbers, but Texas was treating them the same.

These requirements were crippling. In fact, the state's requirements were so onerous and so disconnected from the realities of hair braiding that literally no one had successfully opened a hair braiding school in Texas. To eliminate these impossible burdens and vindicate Isis's right to economic liberty, IJ went to federal court to advance a straightforward argument: It is unconstitutional to force people to do useless things.

And we won. In an opinion that is a model of judicial engagement, a federal court found that there was no rational basis for applying any of these burdens to Isis.

Relying on the 5th U.S. Circuit Court of Appeals' ruling in another IJ case, our victory on behalf of the monks of Saint Joseph Abbey, the court rejected the state's invitation to rubber-stamp the state's regulations. Instead, the court engaged in a genuine search for the truth concerning the constitutionality of the government's ends and means on the basis of real evidence. The result is a victory for economic liberty.

IJ's latest win in federal court will help end Isis Brantley's decades-long battle for braiding freedom. But IJ, as it has for the past 24 years, will continue to fight for the right of hair braiders everywhere to earn an honest living. ♦

Arif Panju is an IJ attorney.





South Side of Chicago entrepreneur and IJ Clinic client **Damita McCoy** started her business after seeing a need in the community.

Growing a Successful Business In Chicago's Bureaucratic Weeds

By Beth Kregor

Many people never imagine themselves as an entrepreneur until they see an unmet need in their community and realize they can fill it. IJ Clinic on Entrepreneurship client Damita McCoy is one such person. After watching her mother slip into dementia, she realized how important thoughtful, respectful caregivers are for the elderly and their families. She was determined to fill that need for her fellow Chicagoans and leave a positive legacy behind. She fittingly called her business concept Service in Bloom. But Illinois has made it almost impossible for this small business dream to take root and blossom.

The startup capital required for a caregiver business like Service in Bloom—which offers companionship and non-medical assistance to the elderly in their own homes—is compassion, a strong work ethic and time. In fact, it seems like the perfect business for a poor person to start to create jobs for herself and others. Yet, in Illinois, you need a big budget, a law degree or both.

Since meeting with Damita in October 2012, teams of IJ Clinic students have devoted hundreds of hours to helping her navigate complex and confusing license requirements. The application itself took over a year to prepare and carried a nonrefundable

fee of \$1,500. When Damita finally sent it in, she called from the post office to celebrate the feat and wish us a Happy New Year 2014.

Then we waited and worked, providing more documents and answering odd questions every few months when we heard from the state. To prepare for the final step—a site visit—we scoured the regulations for every mandate. We prepared a pile of written policies that were specifically required by law. Even more ridiculous, Damita had to rent office space, even though the caregivers will work in customers' homes. So she lost even more money and time applying for her license instead of building her business.

Eventually, even the effervescent Damita began to question the wait and worry of the application process.

Finally, in December 2014, the big day came. Damita, an IJ Clinic student and I waited nervously in the rented office space. The auditor expressed surprise that Damita felt a need for legal assistance at all. "I should hope that's not necessary," she said. Then the audit lasted hours, as the auditor read and questioned every corporate record and policy we had written, asked about all of Damita's plans and scolded us because we did not have written policies describing every step



The city requires **Damita** to rent office space even though the caregivers will work in customers' homes.

the business would take.

The auditor spent an hour re-reading a contract that had been negotiated and approved months earlier and asked for meaningless changes. But she begrudgingly gave us the license in the end. Damita danced a jig (as soon as the auditor left), and I tried to recover my composure.

As Damita says at every meeting, "How could someone possibly do this without help from people like the IJ Clinic?" We are thrilled that Service in Bloom is now in bloom, and we cannot wait to pull some weeds out of the licensing process so it does not choke out other entrepreneurs like Damita. ♦

Beth Kregor is the director of the IJ Clinic on Entrepreneurship.



is suing the city along with Michelle.



FREE SPEECH

Victory for “Caveman” Blogger!

North Carolina tried to censor **Steve Cooksey** from giving advice online; he sued, and the state surrendered.

By Paul Sherman

IJ client Steve Cooksey is ready for a low-carb celebration! On February 9, the North Carolina Board of Dietetics/Nutrition issued new guidelines that will allow Steve and others like him to offer dietary advice and guidance without the threat of criminal punishment. The new guidelines bring to a close a First Amendment fight that had gone on for nearly three years.

Before Steve Cooksey started fighting for his First Amendment rights, he was fighting for his life. In 2009, Steve was rushed to the hospital in a near diabetic coma. He was diagnosed with Type II diabetes, the result of years of sedentary living and poor diet. When he was discharged from the hospital, he resolved to change his life.

After investigating his options, Steve decided to drastically cut his carbohydrate intake. He eventually transitioned to a “Paleolithic” diet of meats, fish, fats, nuts and vegetables, but no agricultural grains, sugars or junk foods. Combined with an intense exercise regimen, Steve lost 78 pounds, no longer requires drugs or insulin, and is healthier than ever.

“The board’s surrender lets Steve get back to speaking and represents an important victory in IJ’s fight to protect occupational speech from government censorship.”

Inspired to share his story with others, in 2010, Steve started a blog, www.diabetes-warrior.net, which now has thousands of regular readers. The following year he started answering questions from his readers in a Dear Abby-style advice column. He also started offering a paid life-coaching service, designed to help other people who were struggling with the transition to a low-carb diet.

That attracted the attention of the North Carolina Board of Dietetics/Nutrition, which sent Steve a 19-page printout of his website, indicating in red pen on a line-by-line basis what he could and could not say about diet without becoming a state-licensed dietician. Unwilling to be silenced, Steve joined with the Institute for Justice to fight for his First Amendment rights.

Like all IJ cases, Steve’s fight was an uphill battle against long odds. His case was initially dismissed by the trial court, which concluded that ordinary First Amendment principles don’t apply when the government suppresses speech through occupational licens-

ing. But the 4th U.S. Circuit Court of Appeals disagreed, concluding that Steve’s case must be allowed to go forward.

Following the 4th Circuit’s ruling, the North Carolina board waved the white flag and agreed to modify the guidelines for unlicensed speakers who want to offer dietary advice and guidance. The new guidelines make clear that people like Steve are free to offer such advice and guidance, for free or for pay, so long as they do not falsely claim to be state-licensed dietitians. The guidelines also contain a safe-harbor provision that makes clear that speakers who disclose that they are not licensed dietitians will not be considered to be engaged in the unlicensed practice of dietetics.

The board’s surrender lets Steve get back to speaking and represents an important victory in IJ’s fight to protect occupational speech from government censorship. That’s something worth celebrating. So fire up the grill and throw on a couple of steaks! But keep an eye on them—as Steve will tell you, a good steak, like government censorship, is best when rare. ♦

Paul Sherman is an IJ senior attorney.



IJ Secures 8-1 Victory for School Choice at the Alabama Supreme Court

Alabama School Choice continued from page 1

The act, Alabama's first school choice program, empowers the parents of children assigned to "failing" public schools to transfer their children to better-performing public or private schools.

Shortly after the act was signed into law in 2013, the AEA and NEA filed a lawsuit alleging that it violated the Alabama Constitution. Desperate to shut down school choice before it took root in Alabama, the unions employed a kitchen-sink strategy: They challenged everything from how the act was passed to whether it violated the Alabama Constitution's Blaine Amendments, which prohibit state support of private religious schools.

IJ quickly intervened in the lawsuit on behalf of parents who wanted to use the act to get their children out of their failing public schools. Although the trial court in Montgomery ruled in favor of the teachers' unions, it granted our and the state's motion to allow the act to remain in place while we appealed directly to the Alabama Supreme Court.

On the morning of the argument on December 3, I walked up the stairs to the Court's entrance and was greeted by almost 200 children—many of whom were already benefitting from school choice, and others who hoped to if it survived—who were there to watch the courtroom proceedings. Those kids, along with the children of our clients, were a powerful reminder of the stakes of the case. If we won, then thousands of children would finally have a shot at getting a quality education. If we lost, then the educational

futures of those children assigned to poorly performing public schools would remain bleak.

Inside the courtroom, I articulated those stakes to the justices, and then (alongside the attorney for the state) explained why the act is constitutional. The argument went very well for our side, so the other IJ lawyers working on the case—Dick Komer, Arif Panju and Greg Reed—and I were hopeful that we had won.

Just three months later, those hopes were realized. In a decision that relied heavily on the reasoning in our legal briefs, the court resoundingly rejected all 10 of the AEA and NEA's claims. The educational opportunities for Alabama's children have been preserved, and it is now beyond any doubt that school choice is constitutional in Alabama.

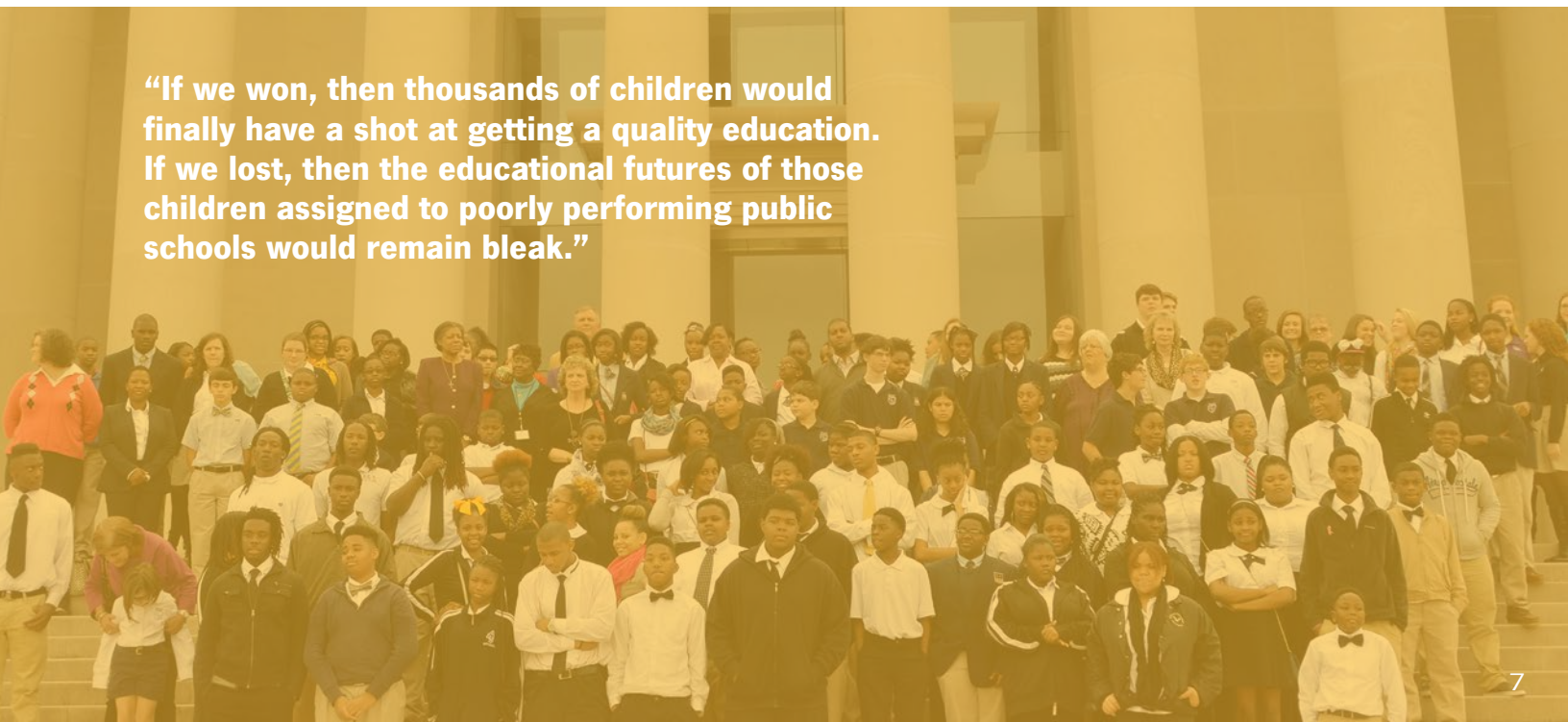
Furthermore, we now have another strong legal precedent in support of school choice that we can build upon in other cases. Indeed, the day after the decision was released, we bolstered our arguments in our Colorado and North Carolina school choice cases by citing the Alabama decision to those states' supreme courts, both of which we expect to issue decisions soon. We also sent a copy of the decision to the Georgia trial court that is considering our motion to dismiss a challenge to Georgia's tax credit program.

If these courts follow Alabama's lead, then more victories for school choice are on the way! ♦



Bert Gall is an IJ senior attorney.

“If we won, then thousands of children would finally have a shot at getting a quality education. If we lost, then the educational futures of those children assigned to poorly performing public schools would remain bleak.”



IJ Attorneys & Clients **TESTIFY** As Congress Takes Up Civil Forfeiture Reform

By Scott Bullock

The last issue of *Liberty & Law* summarized a series of victories that are helping build momentum to end civil forfeiture. And at IJ, we never rest on our laurels. In fact, we have been working hard to turn these victories into even bigger successes.

IJ drove civil forfeiture back before Capitol Hill in mid-February as the U.S. House of Representatives held two simultaneous hearings on the ability of the federal government to seize private property from innocent owners—15 years after lawmakers last addressed the issue.

In one hearing room, IJ Attorney Darpana Sheth testified before the House Subcommittee on Crime, Terrorism, Homeland Security and Investigations to address recent legislative reform proposals. There, she went toe-to-toe with the Deputy Assistant Attorney General for the U.S. Department of Justice's Criminal Division.

Not surprisingly, the Deputy Assistant Attorney General gave a vigorous defense of federal civil forfeiture laws, claiming they are a "critical legal tool." But Darpana directly challenged DOJ's misrepresentations of the law and facts

"No American should have to endure the treatment I received at the hands of the IRS."

—IJ CLIENT JEFF HIRSCH



“Civil forfeiture has treated countless ordinary Americans worse than criminals.”

—IJ ATTORNEY DARPANA SHETH

Since 2001, civil forfeiture has resulted in more than 61,000 cash seizures, totaling \$2.5 billion, through “highway interdictions” alone—all without any search warrants or indictments.

surrounding forfeiture. As Darpana noted to the subcommittee: “Contrary to [DOJ]’s written testimony, the process does in fact turn the presumption of innocence on its head.”

DOJ disingenuously claimed that federal forfeiture efforts were largely about such esoteric outliers as the seizure of Michael Vick’s pit pulls or rare dinosaur eggs. But, as Darpana countered, “Civil forfeiture has treated countless ordinary Americans worse than criminals.” *The Washington Post* found that, since 2001, civil forfeiture has resulted in more than 61,000 cash seizures, totaling \$2.5 billion, through “highway interdictions” alone—all without any search warrants or indictments.

Nearby, the Subcommittee on Oversight of the House Ways and Means Committee held a hearing examining the IRS’s abuse of small-business owners through application of structuring laws. Through this process (as *Seize First, Question Later*, our recent report on structuring documents, see page 14), the IRS has seized millions of dollars from thousands of Americans’ bank accounts without proof of any criminal wrongdoing. At this

hearing, the IRS Commissioner himself testified and was excoriated by members from across the political spectrum for what the agency did to small-business owners like IJ client Jeff Hirsch.

Following the IRS Commissioner’s testimony, Jeff testified about the nightmare his family endured when the IRS cleaned out his small business’s entire bank account based solely on the fact that the Hirsches made deposits of less than \$10,000 at their bank. As Jeff stated: “No American should have to endure the treatment I received at the hands of the IRS.”

Sitting beside Jeff and other victims of the IRS’s practices was IJ Attorney Robert Everett Johnson. Rob noted that due to IJ’s litigation and media work, the IRS now claims that it has changed its policies and will no longer use civil forfeiture to seize bank accounts from innocent Americans by simply claiming that the owners are structuring their deposits or withdrawals. But, as Rob reminded the committee members, that is just what the agency *claims*. Unless the statutes are changed, that policy has no force of law and could be modified or eliminated overnight with the stroke of a pen.

The hearings underscored the urgent need for reform of civil forfeiture laws. Thankfully, the U.S. Congress is not the only legislative arena where reform is being pursued. Legislatures in over a dozen states are now considering some type of change to civil forfeiture laws.

The struggle to reform forfeiture laws through legislative action will be very tough. Because law enforcement agencies financially benefit from so many of the laws, they are aggressive in their defense of them. Furthermore, these agencies have enormous political strength. But by building on our past legal and legislative victories and through future lawsuits, IJ attorneys and clients will be there at every turn to set the terms of the debate. And IJ will continue to expose the injustices of civil forfeiture laws and to remind legislators and judges that they have a duty to protect the constitutional rights of private property owners. ♦

Scott Bullock is an IJ senior attorney.



INSTITUTE FOR JUSTICE: 1
GOVERNMENT CENSORS: 0



Washington state went after IJ and **Robin Farris** for challenging the state's campaign-finance laws, but IJ went on the offense—and won.

Court Rules Free Legal Services Are Not a “Campaign Contribution”

By Paul Avelar

Americans have the right to sue the government when it violates their constitutional rights. And lawyers have the right to represent those people in court for free. Unfortunately, both of those rights were recently under attack in Washington state.

On February 20, IJ won the first round in a first-of-its-kind case when the Superior Court for Pierce County ruled that the government could not call IJ's legal representation a “campaign contribution” that could be regulated and limited by the government.

Since 2011, IJ has represented a small grassroots group founded by retired Navy officer Robin Farris called Recall Dale Washam (RDW) in a civil rights lawsuit challenging a Washington law that limited contributions to recall campaigns to \$800, later raised to \$950. Like all campaign-finance laws, this one restricts the ability of Americans to participate in the political process. Our goal was to overturn this unconstitutional limit on free speech. We accomplished that mission for RDW, all the while remaining neutral about the group's underlying purpose of recalling an elected official.

But this did not matter to the Washington agency in charge of regulating campaign speech—the Public Disclosure Commission (PDC)—which decided to call our work a campaign contribution to RDW. Calling our work a campaign contribution caused two immediate problems.

First, RDW faced hundreds of thousands of dollars in fines from the PDC for not including IJ's work in RDW's campaign-finance reports. Second, it put IJ in grave danger. IJ is a tax-exempt charitable organization; we do not charge clients for our services and instead accept tax-deductible donations. In order to do so, we cannot participate in candidate elections. If we were on record for making such

a large campaign contribution, our very existence as a charitable organization could be called into question. So, for the first time in IJ's history, we represented ourselves in a lawsuit to take on the PDC and its threat to pro bono representation in civil rights cases.

“So, for the first time in IJ's history, we represented ourselves in a lawsuit to take on the PDC and its threat to pro bono representation in civil rights cases.”

tation in civil rights cases.

Our argument was simple: First Amendment litigation is not a “campaign contribution.” People contribute to campaigns to help get messages out to voters and to associate with a particular viewpoint. What we do is represent people in challenging unconstitutional campaign-finance laws. We do so because we want to protect the constitutional rights of everyone—not just our clients—and because we want more speech. Americans' political speech and our work protecting that speech are at the heart of the First Amendment's protections.

In addition to the immediate problems, treating our work as a campaign contribution created a broader, even more nefarious consequence: The PDC could limit the amount of legal help people could receive. Campaign



Robin Farris is a retired Navy officer who just wanted to express her political opinion but was soon embroiled in a major First Amendment lawsuit.

contributions are strictly limited in Washington (and elsewhere). If free legal representation in a case to vindicate federal civil rights is treated as a contribution, then government could limit that representation as it does any other contribution. Thus, the PDC could actually prevent people from getting free legal representation in constitutional cases. IJ and other public-interest law firms like it could no longer help groups like RDW challenge campaign-finance laws. In other words, finding free legal help would be virtually impossible.

Thankfully, the First Amendment prohibits such censorship. The Superior Court agreed, vindicating the ability of lawyers and clients to work together to protect fundamental rights without the interference of government regulators. IJ will fight this case to the very end, even if the PDC appeals. We are right and, thanks to this victory, IJ will continue to fight for the First Amendment rights of all Washington speakers and of all Americans. ♦

Paul Avelar is an IJ attorney.



SHORT CIRCUIT
NEWSLETTER & PODCAST

Sign up at ij.org/short-circuit.

IJ THROWS THE SWITCH ON A NEW WEEKLY CIRCUIT COURT ROUNDUP

By **John Ross**

IJ's Center for Judicial Engagement (CJE) seeks to convince judges, the broader legal community and the public of the need for a properly engaged judiciary. Judges have an obligation to carefully weigh the facts of each case before them and enforce constitutional limits on government power. Too often, however, they abdicate that responsibility, bending over backwards to justify intrusive government policies—trampling constitutional rights in the process.

To promote judicial engagement, last month CJE launched Short Circuit, a weekly email newsletter and podcast series covering action in the federal appellate courts.

Every Friday afternoon, newsletter subscribers will receive summaries of interesting decisions handed down that week. In the podcasts, CJE Director Clark Neily and Assistant Director Evan Bernick will discuss several of the cases in more detail, focusing on particularly noteworthy examples of engagement and abdication.

Why the federal circuits? The U.S. Courts of Appeals hear tens of thousands of cases each year, of which only a handful will go on to the Supreme Court for further review. That means most constitutional cases—and the weighty questions they often present—are ultimately decided by appeals courts. And wherever the constitutional action is, that's where you can expect IJ to be. ♦

John Ross is the editor of Short Circuit.



Lights, Camera, Livestream!



Partners Club LIVE gives members a chance to get up close with IJ staff and clients.

By Caitlyn Healy

IJ is taking Partners Club members behind the scenes of the National Law Firm for Liberty in an exciting new way. Last summer, we debuted Partners Club LIVE, a series of livestream conversations that use a dynamic and interactive platform to give Partners a deeper understanding of how IJ turns donor support into major victories for liberty. Partners Club LIVE is streamed exclusively for Partners through IJ's website.

The most recent LIVE event with IJ Senior Attorney Bob McNamara tackled one of freedom's biggest courtroom nemeses: the rational basis test. If you have ever wondered why IJ's economic liberty cases tend to involve slightly off-beat occupations, you're not alone. Bob explained how these cases play an essential role in IJ's legal strategy for reclaiming the right to earn an honest living.

Former IJ client and horse-massage entrepreneur Mercedes Clemens joined Bob in the studio. Mercedes shared what it was like to do battle against not one, but two state licensing boards under a virtually impossible legal standard. "It was like being in a Kafka novel," she said. "Everybody else was using common sense, and this regulatory agency wasn't. We were forced to interact with their world in order to argue against it."

After enduring an 18-month legal battle, Mercedes also described what it felt like to beat the government in court. "We won!" she said with a big smile. "The great thing is that the Chiropractic Board backed off from enforcing [the regulation] with other chiropractors as well, so chiropractors in the state of Maryland are no longer being told not to touch animals."

Partners can submit questions that are answered live during each event. In July, Partners asked IJ President Chip Mellor how we select our cases, how IJ's annual budget is spent, and what new areas of litigation the Institute might target in the future.

We plan to host Partners Club LIVE several times throughout the year. If you are not a Partners Club member, consider joining so you do not miss the next LIVE event.

Partners Club LIVE is streamed from IJ's brand new media studio, which was part of the recent building expansion we completed to make room for our growing team. This upgraded facility will take IJ's video and media production capabilities to new levels of sophistication, helping us spread the message of freedom ever further. ♦

Caitlyn Healy is IJ's
Partners Club Manager



Partners Club members contribute \$1,000 or more to the Institute for Justice each year. To become a member, please visit ij.org/partnersclub, or contact Caitlyn Healy, Partners Club Manager: chealy@ij.org, 703-682-9320, ext. 221.



Maffucci Fellow **Javier Sosa** in the field organizing street vendors.

Not Your Typical Internship: *IJ's Maffucci Fellows Work Hard for Liberty*

By **Javier Sosa**

When people hear “internship,” menial tasks come to mind: making copies, getting coffee and answering mail. But the Maffucci Fellowship is anything but the typical internship—it is an opportunity to gain unique experience and start your career learning to do things “The IJ Way.” As a supporter of IJ’s mission, I was eager to get involved in its daily fight for individual liberty, but never did I think an intern would be given the opportunity to have such a direct and dramatic impact on the lives of people fighting for their piece of the American Dream—all while being treated like a peer by IJ staff.

Maffucci Fellows support IJ’s activism program, Liberty in Action. I have learned firsthand the power and effectiveness of IJ’s activism, which has an incredible way of leaving a lasting impression on communities and turning the people we help into lifelong friends. I have also learned how empowering people—like the homeowners I worked with in New Rochelle, N.Y., and the immigrant street vendors I met in Miami and Chicago—to stand up for their constitutional rights can make the biggest impact on their daily lives. Each group we help is composed of ordinary people embold-

ened by a common purpose: wanting to work without getting the government’s permission or live in their home free from the fear of the government taking it to give to a private developer.

The challenges we help people overcome are never small. Most involve a serious threat to their livelihood or their property. In Chicago, I had the chance to hit the streets and work with local street vendors, many of them immigrants, to rally support for a coalition we were forming to combat Chicago’s burdensome vending laws. Many come from countries where citizens have little say in the way they are ruled. As the son of Cuban exiles myself, the opportunity to explain to the vendors that here they can fight for the right to earn an honest living was an experience I will always remember. In Miami, I worked with members of our production team to create a short video documenting the daily struggle of being a street vendor as part of our outreach efforts. In addition to serving as our Spanish translator, I gained a unique experience by being on set and helping direct our “actors” as we made the documentary.

Although the fellowship is officially within the activism department, being at IJ means you are a part of the whole

team. I’ve worked alongside people from every department, from development to litigation.

Most notably, I worked with the litigation team to help combat Philadelphia’s civil forfeiture machine. As someone who wants to become an

Do you know a student or recent graduate with a passion for liberty? Encourage them to apply for a Maffucci Fellowship at ij.org/jobs.

attorney, being able to work directly with the attorneys on a project of such size has been invaluable. Through it all, the most striking aspect is the passion and dedication which all of IJ exudes when its efforts are turned to a project.

The Maffucci Fellowship is not the usual internship. It is a chance to be on the front lines in the never-ending fight for liberty and to work alongside an incredible and passionate group of people who continue to make a lasting impact in protecting our most important constitutional rights. I am extremely grateful to IJ for the experience and to the Maffucci family for making this fellowship possible. ♦

Javier Sosa is a Maffucci Fellow.

SEIZE FIRST, QUESTION LATER:

NEW REPORT SHINES LIGHT ON IRS FORFEITURE PRACTICES

By Dick Carpenter

The IRS has recently had some terrible, horrible, no good, very bad days.

The latest was in February, when IRS commissioner John Koskinen found himself in front of the U.S. House Ways and Means oversight subcommittee answering tough questions about the agency's use of forfeiture to seize money from bank accounts because of alleged "structuring" violations—breaking cash transactions into small amounts to evade reporting requirements. Committee members were armed with data about the agency's forfeiture practices from our newest strategic research report—*Seize First, Question Later: The IRS and Civil Forfeiture*, released just days before the hearing.

As readers of

Liberty & Law remember, IJ clients Terry Dehko, Sandy Thomas, Mark Zaniewski, Carole Hinders and Jeff Hirsch were caught in the IRS's forfeiture net, even though they were entirely innocent of any crime. But they were not alone.

As *Seize First, Question Later* documents, from 2005 to 2012, the IRS seized more than \$242 million for suspected structuring violations in more than 2,500 cases. During that time, the number of structuring-related seizures grew significantly: In 2012, the IRS initiated more than five times as many such seizures as it did in 2005, yielding a 166 percent increase in forfeiture revenue.

Particularly troublesome is a sizable and growing gap between what the agency seized and what

it later kept, suggesting the IRS snatched more than it could later justify. All together, of the \$242 million seized, nearly half—\$116 million—was not forfeited.

Despite the IRS's aggressive use of forfeiture, before September 2013, when we filed our first structuring-related forfeiture case on behalf of Terry Dehko and Sandy Thomas, few people knew of the practice. But after our five lawsuits against the IRS, a front-page *New York Times* story about the IRS's schemes featuring IJ clients Carole Hinders and Jeff Hirsch, an investigative story on CNN, and

the release of *Seize First, Question Later* with an accompanying *Washington Post* story, the IRS's practices vaulted to the attention of national lawmakers.

Rep. Peter Roskam, chair of the oversight committee, called the IRS's forfeiture practice

an "abuse," and other members heaped criticism upon the agency. Before the hearing ended, Koskinen was compelled to apologize but said the agency was just following the law. The tepid apology drew an admonishment from Rep. Charles Rangel: "Whether or not it is within the law, it is wrong to, without any criminal evidence, seize somebody's property."

We couldn't agree more. And until the law changes, we plan to ensure more bad days for the IRS in order to realize good days for freedom. ♦

Dick Carpenter is an IJ director of strategic research.



In several important ways, the experiences of our clients were emblematic of what our research discovered about the IRS's actions overall:

- Our clients waited a year or more to see the return of their money; although the IRS data did not indicate how long people fought to get their money back, it took the IRS about a year to win its forfeiture cases, suggesting successful challenges take about as long.
- Our clients were suspected of nothing more than engaging in transactions less than \$10,000; at least a third of the IRS's structuring-related seizures originated for the same reason—no other criminal activity, such as fraud, money laundering or smuggling was alleged.
- The government pursued civil rather than criminal procedures against our clients; from 2006 to 2013, nearly four out of five of all IRS forfeitures for suspected structuring were civil.

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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 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

CNN

"[Civil forfeiture] violates due process for Americans," said Larry Salzman, an attorney for the [Institute for Justice]. "It's wrong. It's a simple premise that the government should not be taking money from people who have done nothing wrong. It shouldn't be taking money from people who have not been charged, let alone convicted, of any crime."



Washington Post

IJ Attorney Diana Simpson: "No one doubts that Americans are capable of considering anonymous speech in all other realms of life. There is no reason to assume we are less capable when it comes to elections. Doing so is insulting to voters and unfair to speakers, who have every right to convey messages as they see fit."

New York Times

"Professional organizations that push for licenses can't say, 'We want to erect a fence around our occupation,' so they say it is to protect public health and safety," said Dick M. Carpenter II, research director at the Institute for Justice. "It is an assertion with zero evidence."

**Wall Street Journal
(Editorial)**

"Campaign-finance reformers claim to oppose 'big money' in politics, but more often small citizen groups get caught in the webs that regulate political speech. That's what has happened in Arizona, where a federal court recently formalized a decision striking down the state's byzantine definition of a 'political committee.' The court's decision invalidates many of the Arizona campaign laws that depend on that definition.

Campaign-finance laws have become a trap for citizens least likely to know the rules, leaving political speech to groups that can afford fleets of lawyers to defend their rights. Kudos to Judge Teilborg for ending Arizona's campaign-finance bondage, and other judges should take up the call."

**“The most florid tales
of licensing excess ...
come courtesy of the
Institute for Justice, a
public-interest nonprof-
it that’s been fighting
such rules for years.”**

—Boston Globe



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Charlie Birnbaum
Atlantic City, New Jersey

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