

December 2009

Volume 18 Issue 6

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Published Bimonthly by the  
Institute for Justice

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# Liberty & LAW

## SAVING LIVES



**Doreen Flynn** must find bone marrow donor matches for her daughters, but a federal law bans compensating donors, thereby worsening the nationwide shortage of donors.

### IJ Challenges the Federal Ban On Compensating Bone Marrow Donors

By Jeff Rowes

Doreen Flynn's three young daughters have Fanconi anemia, which causes leukemia, a deadly blood cancer. Sometime in the next few years, the girls will need bone marrow transplants, but, as with most patients, no one in their family is a compatible donor. Doreen's greatest fear is that her girls will share the fate of tens of thousands of Americans who died because they could not find a donor. Tragically, a federal law has seriously worsened the shortage of potentially life-saving bone marrow donors.

That is why on October 26, 2009, IJ joined Doreen, other families facing cancer, a renowned bone marrow specialist, and a California nonprofit to file suit against the U.S. Attorney General to strike down the bone marrow provision of the National Organ Transplant Act (NOTA). NOTA makes it a felony to do the one thing that would have a dramatic impact on the current shortage of unrelated marrow donors: Compensate them.

Doreen and IJ's other clients want to increase marrow donations with a \$3,000 scholarship, a housing allowance or a gift to the donor's favorite

**Bone Marrow** continued on page 10



Dee and Rachael Apodaca



Margaret and Skyler Hamilton

# A Victory for Educational Choice

By Lisa Knepper

In October, the Institute for Justice scored an important victory over the state of Washington's Blaine Amendment when the state's Superintendent of Public Instruction repealed a ban on special education services at religious schools. For years, the state's senseless ban had forced parents like IJ clients Shari DeBoom, Margaret Hamilton and Dee Apodaca into an impossible choice: Forgo either the school they believe is best for their child or the services their child needs to learn.

Under the federal Individuals with Disabilities Education Act (IDEA), the federal government gives funds to the states to provide special education to children with disabilities. The IDEA requires that school districts spend a portion of these funds on services for children whose parents choose private schools—including religious schools—and it expects the services to be provided at the child's school, where they will be of greatest benefit to the child.

For years, however, Washington prohibited school districts from providing IDEA services on the campuses of religious schools. Children enrolled at public and non-religious private schools could receive services onsite, but children whose parents chose

religious schools were forced to travel offsite to some "nonsectarian" location in order to access the help they needed.

Not only was this stigmatizing for children with special needs, it rendered some services completely useless. For example, Shari DeBoom's son, Michael, was eligible for services under the IDEA, including a specially equipped laptop for note-taking, but under the old regulations, he was not allowed use it at the school his parents had chosen for him, Lynden Christian, simply because it is a religious school. Yet a laptop for taking notes is only useful in the classroom where notes must be taken.

Likewise, Margaret Hamilton's 10-year-old son, Skyler, in remission from brain cancer, and Dee Apodaca's daughter, Rachael, who has Down syndrome, were eligible for IDEA services but could not access them at Lynden Christian.

Washington's discriminatory ban was a stark example of the perverse modern-day effects of Blaine Amendments, the infamous relics of 19th-century anti-Catholic and anti-immigrant bigotry found in Washington's and 36 other states' constitutions—and used by teachers' unions and others to attack school choice programs in court.

Last year, the IJ Washington Chapter (IJ-WA) joined with the DeBooms, Hamiltons and Apodacas to chal-

lenge the ban as a violation of the religious freedom guarantees of the First Amendment, which demand government neutrality toward religion—neither favoring nor disfavoring those who freely choose religious options.

Soon after, the state superintendent's office announced that it would reconsider the policy and, earlier this year, proposed regulations to repeal the ban. IJ-WA led an all-out effort to back the proposal, drawing support from the Washington State Catholic Conference and Archdiocese of Seattle, Jewish Federation of Greater Seattle, Washington Federation of Independent Schools, Washington Policy Center and other groups and families, all of whom testified at a public hearing in support of repealing the ban. Finally, on October 1, the ban was ended.

"This is a victory not only for children with special needs but also for educational liberty," said Michael Bindas, the IJ-WA attorney who spearheaded the case and the effort to repeal the ban. "The Institute for Justice is rolling back the prejudice and restrictions on individual liberty imposed by Blaine Amendments. This is important for anyone who wants greater parental choice in education."

Freeing families across Washington like the DeBooms, Hamiltons and Apodacas to choose their child's school without sacrificing the tools that help their child learn makes this IJ victory special indeed. ♦

**Lisa Knepper** is the Institute's director of strategic research marketing.



Michael and Shari DeBoom





# Making luck while making history

By Chip Mellor

IJ finds itself at the center of major legal and social issues with surprising regularity for an organization of our relatively modest size. That comes in significant part from having identified issues that go to the heart of what is required for a society of free and responsible individuals to flourish, issues where the threat to such a society is all too real and the status quo favors the government. We chose these issues—economic liberty, property rights, free speech and school choice—before IJ was launched more than 18 years ago and have been pursuing them ever since.

But there is another reason why we are so often in the midst of historic struggles: We make our own luck.

This often puts us in the right place at the right time. We do this by being in the position to seize opportunities and take calculated risks while pursuing a long-term strategy in a principled way. We cannot always predict just how or when an issue will come to a head, but what we have seen time and again is that when a break happens, we are there to make the most of it. Two recent examples illustrate this.

After several years of protecting free speech from campaign finance regulations, we were suddenly thrust into the national spotlight when the U.S. Supreme Court unexpectedly decided to hear a case this term that is central to the McCain-Feingold law. Because of the years we spent establishing our expertise coupled with our quick response, we were able to seize this opportunity and become the primary source to educate the public about the problems with campaign finance laws. Our message was carried by such outlets as *The New York Times*, *The Wall Street Journal*, *National Review*, *ABC News 20/20* and *C-SPAN*, and our views were promoted before the

Court through our amicus brief. It also meant that cases we have in court, like *SpeechNow.org v. FEC*, are well-positioned for precedent-setting victories.

Since our founding, IJ has sought to revitalize the Privileges or Immunities Clause of the 14th Amendment to protect economic liberty. Because the U.S. Supreme Court precedent we are challenging—*The Slaughterhouse Cases*—was decided in 1873, this seemed for some a particularly daunting goal. But suddenly last month, the Court took up *McDonald v. City of Chicago*, a case dealing with gun control at the state level. In doing so the Court deliberately and unexpectedly put the Privileges or Immunities Clause in play. Although the case does not address economic liberty directly, it offers the first opportunity in more than 100 years to urge the Court to look critically at *Slaughterhouse* and recognize that it was wrongly decided. We quickly mobilized a public education campaign and national speaking tour at law schools and other venues across the country. There will no doubt be others who file amicus briefs in this case, but because of the long-term principled pursuit of our goal, none will speak with more authority or expertise than IJ.

In hindsight, history may seem like the unfolding of inevitable events, but of course it never is. The unexpected happens. That is when IJ's approach pays off and positions us to be uniquely effective, reaping the benefits of years of tenacious pursuit of our mission. Through our proven approach that vindicates the principles of liberty, we will continue to make our own luck as we make history. ♦

**Chip Mellor** is IJ's president and general counsel.



**“But there is another reason why we are so often in the midst of historic struggles: We make our own luck.”**

# Rotten Law Spoiling Produce Entrepreneur's Right to Earn an Honest Living

By Michael Bindas

You would think that in this economy, government would be trying to eliminate—not erect—barriers to entrepreneurs. Not so in San Juan County, Wash., where the local government recently passed an ordinance designed to force certain sidewalk vendors out of business.

But one San Juan entrepreneur is fighting back.

On September 16, produce vendor Gary Franco teamed up with the IJ Washington Chapter (IJ-WA) to challenge the anti-vending ordinance and vindicate his right—and the right of all Washingtonians—to earn an honest living.

Gary has sold produce in and around San Juan since the 1970s. He grows some of his produce himself but purchases most of it from other local farmers. All the produce Gary sells is Washington-grown and usually picked fresh the morning he sells it. Gary's produce is typically half the price of that in local grocery stores.

While Gary's customers love the products and service he offers, others seek to shut him down. Unhappy with the competition that vending presents, a few brick-and-mortar business owners lobbied the county council for a law to eliminate vendors like Gary.

The ordinance, adopted in July, requires vendors in public places to obtain a permit and pay \$50 for each day they wish to sell—that is, \$50 per day for the right to earn a living. As bad as that is, a vendor can only obtain the permit if he receives the written consent of all businesses within 25 feet of where he plans to sell. In other words, the ordinance gives business owners the power to veto their competitors.

The council claimed the ordinance was needed to protect public health and safety, but

the real motivation—economic protectionism of some businesses at the expense of others—is clear. During the hearing on the ordinance, the county sheriff testified that he had received numerous calls from brick-and-mortar business owners complaining that vending was “peeling off some of their own business,” and a councilmember explained that written consent of brick-and-mortar businesses would be required to vend because “the business owners are the people who are really concerned about this.”

Of course, there are some vendors the county likes. To protect them the same way it protected the brick-and-mortar folks, the council included a number of exemptions for vending by the Lions Club, Kiwanis, Girl Scouts, farmers selling their own produce and ice cream trucks. The council offered no explanation for these inconsistencies, and they lay bare the ordinance's real goal: Protecting businesses the county likes at the expense of those it does not.

Gary and IJ-WA's challenge to the ordinance is simple: The Washington Constitution—specifically, its Privileges or Immunities Clause—protects the right to earn an honest living, especially against the kind of economic protectionism at play here. A victory for Gary will be a victory for the overwhelming majority of Americans who believe in the right to earn an honest living and who recognize that freedom for entrepreneurs is the key to economic recovery. ♦

Michael Bindas is an IJ staff attorney.



IJ client **Gary Franco** is challenging a law that quashes competition by street vendors.



IJ Attorney **Michael Bindas** joins IJ client **Gary Franco** and IJ Washington Executive Director **Bill Maurer** at the launch of our case to vindicate Franco's right to earn an honest living.

# Help IJ Make the Most of Our Historic Challenge

By Beth Stevens

IJ received an extraordinary opportunity last year thanks to longtime donor Robert W. Wilson, who issued a three-year, multi-million-dollar challenge grant to help make IJ the nation's premier force for liberty. He challenged IJ to do more of our strategic litigation and do it better than ever.

There are two components to the challenge grant. *The Campaign to Revitalize the Constitution* is aimed at enhancing IJ's overall capacity in property rights, free speech, economic liberty and school choice—our four pillars of litigation—while the *Campaign for Economic Liberty* will do for economic liberty what we have done for the issue of eminent domain abuse: Propel it onto the front pages of the nation's newspapers, to the forefront of constitutional jurisprudence and ultimately to the U.S. Supreme Court.

So far, both campaigns are off to a great start. IJ donors from 26 states have donated more than \$3.2 million and pledged an additional \$3.7 million over the next two years. This generosity has made it possible for IJ to not simply maintain but to build our momentum at a time when our work is more important than ever.

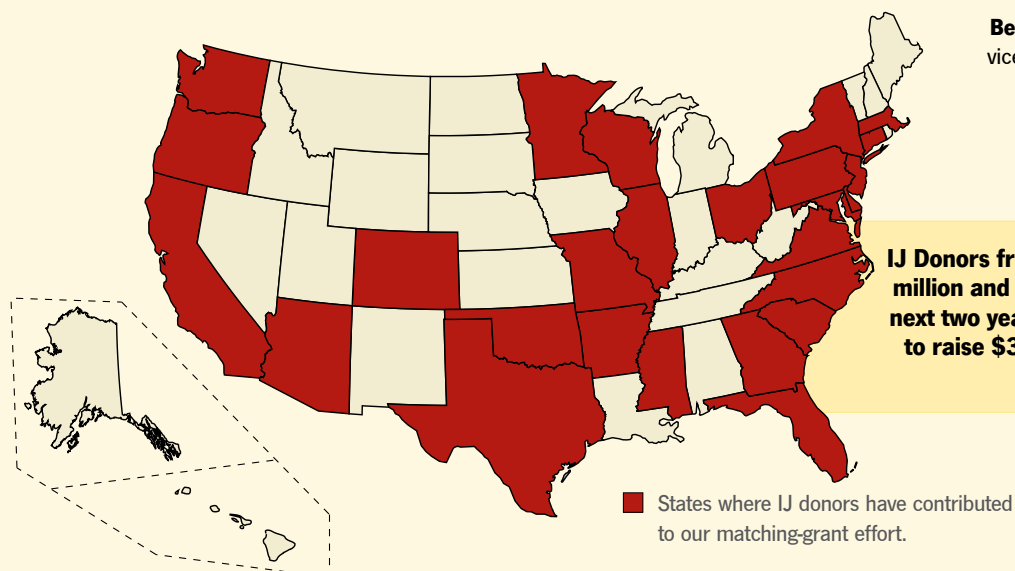
In the past 12 months alone, we have launched 10 new cases and won 12 others. Victories ranged from striking down a Florida law that imposed the nation's broadest restrictions on free speech in elections to vindicating our clients' property rights in New York and New Jersey—two of the worst abusers of eminent domain the country. In our campaign for economic liberty, we secured two new federal appeals court victories.

But much more remains to be done.

Between now and June 2011, we need to raise \$3 million in order to earn the remainder of Robert Wilson's challenge grant. Under the challenge, Mr. Wilson will provide one dollar for every two dollars in new or increased support of \$5,000 or more. There are a number of ways you can participate in the campaign, not all of which involve giving \$5,000 in one lump sum. Furthermore, the challenge grant favors multi-year pledges of at least \$5,000, and all such pledges will be eligible for matching. For a personalized illustration, please contact me at (703) 682-9320 ext 233 or [bstevens@ij.org](mailto:bstevens@ij.org).

Consider the stakes for liberty today and you will see why there has never been a better time to invest in IJ. Please help us make the most of this historic opportunity. ♦

**Beth Stevens** is the Institute's vice president for development.



**IJ Donors from 26 states have donated more than \$3.2 million and pledged an additional \$3.7 million over the next two years. Between now and June 2011, we need to raise \$3 million in order to meet the remainder of Robert Wilson's challenge.**

**“Under the challenge, Robert Wilson will provide one dollar for every two dollars in new or increased support of \$5,000 or more. Multi-year pledges of at least \$5,000 will be eligible for matching.”**



# 7 *Big Misconceptions About Campaign Finance Laws*

By Bill Maurer

IJ litigates campaign finance cases because laws that govern campaign finance frequently stifle free speech and penalize participation in the democratic process. These laws are proliferating at the federal, state and local level as well. Regardless of the locale, the same misconceptions drive support for campaign finance laws. Here are seven misconceptions underlying campaign finance regulations, along with the reasons they are inconsistent with a free society.

**1 Misconception:** Private political contributions undermine democratic elections.

**The Truth:** Privately financed political campaigns allow citizens to participate in the political and democratic processes and are a manifestation of a free society, not a problem undermining it. Restricting the ability of Americans to support political causes does not promote democracy, it destroys freedom.

**2 Misconception:** Campaign finance laws are needed to prevent politicians from trading favors for contributions.

**The Truth:** Campaign finance laws treat a symptom—corruption—instead of the disease, which is that the government spends too much and that it has grown far beyond its constitutional bounds. Politicians would rather declare, “Stop us before we sell out again” and limit political speech and participation than act within constitutional limits. Elected officials lose their ability to dispense favors when we limit the size, scope and purse of the government.

**3 Misconception:** Without campaign finance reform, special interests will manipulate the process to ensure that government benefits go to them.

**The Truth:** Every interest that is not your own is a “special interest.” As long as we have expansive government, people will try to affect what the government does and reap the rewards. That is their right under the Constitution. If we are unhappy with a government that distributes benefits to favored constituencies, the solution is to limit what government can do, not to destroy the right of free speech, freedom of association and the right to petition the government.

**4 Misconception:** Campaign finance laws will spare members of Congress from the “money chase” of raising funds for their campaigns.

**The Truth:** Politicians should have to spend time convincing the public to financially support their candidacies, just as they should spend time convincing the public to vote for them. Working hard to generate support is one of the few aspects of our political system left where politicians must personally interact with the public. Eliminating this system will isolate elected officials even more from the people they purport to represent.

**5 Misconception:** There is too much money in political elections.

**The Truth:** Campaigns raise and spend money to communicate with voters. America is a huge country with millions of people. When less money is spent in elections, it leaves the voters with less political information with which to make important decisions.

**6 Misconception:** Big donors and corporations buy elections with all of that campaign spending.

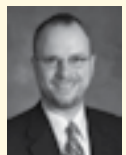
**The Truth:** Campaign contributors buy speech with all of that campaign spending. Citizens can then decide whether they agree with that speech or not, and act accordingly. Big money does not buy elections any more than it buys market share in commercial advertising. If it did, Ross Perot would have been president, and we would all be watching the XFL while drinking New Coke and Pepsi Clear.

**7 Misconception:** Campaign finance regulations are necessary to prevent undue influence on government decision-making.

**The Truth:** Giving government the ability to determine what an “undue influence” is gives it the license to suppress voices it does not like because no one has ever explained what “due” influence is. A free society does not give government the power to decide who is speaking too much and who is speaking too little.

The Framers gave us an effective and simple way to prevent corruption and the appearance of corruption among our elected leaders: a system of limited government with strong constitutional checks on its power. IJ will continue to work tirelessly to restore that system while protecting our fundamental First Amendment rights. ♦

**Bill Maurer** is executive director of the Institute for Justice Washington Chapter.





## Victory for Long Branch Homeowners as Eminent Domain Nightmare Ends

By Scott Bullock

The Long Branch, N.J., property owners are finally safe at home for good. On September 15, 2009, an order negotiated by the Institute for Justice was entered in court that both dismissed the eminent domain actions filed against the homeowners and ensured that the city and the developer must work to restore a neighborhood damaged by eminent domain abuse. The city is also barred from taking the homes in the future under the current or any subsequent redevelopment plan.

In August 2008, a three-judge panel of the New Jersey Appellate Division unanimously reversed a lower court decision that allowed Long Branch to condemn this charming seaside neighborhood to make way for a luxury condominium development. After the case was sent back to the trial court and the city announced that it was willing to drop the eminent domain actions, the parties began discussing how to resolve the remaining issues in the case.

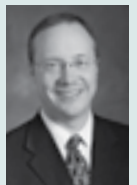
Importantly, in addition to removing the current and future threat of eminent domain, the agreement imposes obligations on the city and the

developer to improve conditions in a neighborhood that the city neglected for so long. The city must now repave all the streets in the neighborhood and repair the street lights.

The developer must also clean up the damage it caused to the neighborhood. Developer-owned homes in the neighborhood were abandoned and boarded-up, causing decline and posing both safety and crime problems. Under the agreement, the developer must immediately start the work of demolishing its abandoned homes, with all its homes being demolished by April 2, 2010. The developer may eventually build new homes on those parcels.

Just a few weeks after the agreement was concluded, the property owners joined with the Institute for Justice and other supporters for a victory party right in the heart of the formerly threatened area, celebrating that—at long last—they can get their homes, their lives and their neighborhood back. ♦

**Scott Bullock** is an IJ senior attorney.





*New IJ Study Documents*

# The POWER of ONE Entrepreneur

By John E. Kramer

Let's face it: America could use some entrepreneurial heroes right about now. And the good news is, they are out there.

A recently released Institute for Justice report documents how one entrepreneur can transform not only her industry, but also the lives of those around her.

*The Power of One Entrepreneur: Melony Armstrong, African Hairbraider* ([www.ij.org/Power](http://www.ij.org/Power)) explains how a lone hairbraider from Tupelo, Miss., helped create at least 300 jobs across the state through her advocacy and education, while also improving the lives and lot of those around her by providing economic opportunity and demonstrating how an entrepreneur can succeed in the face of tremendous odds. Although this report tells the story of one entrepreneur—Melony Armstrong—it is a story that can be told and retold through countless other entrepreneurs like her in small towns and big cities nationwide.

IJ Director of Strategic Research Dick Carpenter, Ph.D., the report's co-author, 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."

The Melony Armstrong report is the first in a series of profiles on former IJ clients that the Institute for Justice is creating under the title, *The Power of One Entrepreneur*. Other entrepreneurs





to be featured in reports released early next year will be in different industries and in different regions across the nation.

In Tupelo, Miss., for example, Melony Armstrong demonstrates the power of one entrepreneur. A petite, 40-year-old African-American mother of four who owns Naturally Speaking, a hairbraiding salon in Tupelo, Melony has grown into an inspiring economic force bringing needed hope and opportunity to her community and her state.

But first—like too many entrepreneurs nationwide—Melony had to overcome regulatory barriers that kept her from pursuing her occupation, employing others, teaching her craft and mentoring other aspiring entrepreneurs. These regulations, seen in industries as diverse as taxicabs and funeral services, are typically supported or even enforced by industry insiders on state regulatory boards and do little more than keep out competition and suppress consumer choice.

To open her doors as a hairbraider, Mississippi law required Melony to spend 300 hours in cosmetology classes, none of which covered hairbraiding, to earn a “wigology” license. Then, to teach others how to braid hair, Mississippi required Melony to spend another 3,200 hours in classes (again, with no instruction in hairbraiding) to obtain a cosmetology license and a cosmetology instructor’s license—hours she could use more productively running her business, teaching others about braiding, volunteering in her community or nurturing her family.

Melony joined with the Institute for Justice in August 2004 to challenge these onerous government regulations. Weekly, she travelled seven hours round-trip to the state Capitol to convince legislators to do away with Mississippi’s senseless regulation of hairbraiding. In April 2005,

Mississippi’s governor signed a new law that did just that, requiring only basic health-and-safety regulations for braiders.

Since the restrictions were lifted, more than 300 individuals have registered hairbraiding businesses in Mississippi, taking once-underground businesses “legit” (moving from the informal into the formal economy) and opening new enterprises in places where customer demand was once unmet. And because of the change in Mississippi’s laws, aspiring braiders are moving there from neighboring states.



Braiders **Chervy Lesure**, left, **Melony Armstrong**, **Jackie Spates**, and **Francheska Trice**.

The regulatory change has also freed Melony to hire other stylists to work in her busy salon, thus unleashing her entrepreneurial potential and her economic and social impact on the broader community. She has taught more than 125 individuals how to braid and employed 25 women in her salon. For many, this job represents their first steady paycheck and a way to support themselves and their families.

“The results of the lawsuit have given an opportunity to people who had the talent to braid but couldn’t and were on public assistance,” said Chervy Lesure, a hairbraider who trained under Melony and worked in her salon before opening her own salon with her sister.

“Small-business entrepreneurs like Melony and those she has trained and inspired represent the backbone of the American economy,” said IJ Research Associate John Ross, the report’s co-author.

Institute for Justice President and General Counsel Chip Mellor said, “Individuals like Melony offer a key part of the answer to the questions, ‘How can America recover from its current economic downturn? How can we create long-term, sustainable growth?’ That power lies where it always has in America: Not in needless government red tape, but in the power of one entrepreneur.” ♦

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



**“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 impact entire communities of unhampered entrepreneurs could create in America’s largest cities where hope and opportunity are in such great demand.”**



**Melony Armstrong**, left, braiding a client’s hair in her Tupelo, Miss., salon. **Chervy Lesure** trained with Melony and learned skills to open her own salon.





IJ President and General Counsel **Chip Mellor**, left, announces the launch of IJ's federal challenge to the ban on compensating bone marrow donors. IJ Senior Attorney **Jeff Rowes** is joined by IJ client **Doreen Flynn**.

**Bone Marrow** continued from **page 1**  
charity. But using a modest scholarship to save lives is a major crime and everyone involved—doctors, nurses, donors and patients—can get up to five years in prison.

That makes no sense. Congress passed NOTA in 1984 to outlaw kidney markets. Congress did not like that kidney surgery is invasive, that a donated kidney does not grow back, and that organs would flow from the poor to the rich.

Those concerns do not apply to marrow. Marrow is just immature blood inside the bones, not an organ. Donating marrow is safe—most donations use the same equipment for blood donation—and marrow replenishes itself after donation like blood. In fact, the evidence is overwhelming that Congress included marrow in NOTA by mistake.

Even though our clients intend to harness market-like incentives, there will not be actual markets in marrow. Matching marrow donors and recipients is vastly more complex than doing so in the blood context. Doctors find matches by searching a national registry that has the genetic profiles of millions of potential donors. If a match is found, the donation occurs anonymously.

No potential donor could auction off her marrow on Ebay, for example, because the odds of finding a buyer in immediate need of that exact marrow type are infinitesimal.

Furthermore, compensation for donors will come from philanthropists, not patients receiving a transplant. Thus, markets in marrow would not arise.

Compensation could save thousands of lives and give hope to families across the country. African-Americans, for example, have only a 25 percent chance of finding an unrelated donor. Asians and Hispanics have less than a 50 percent chance. Even Caucasians, who have the best chance, will find an unrelated donor only 75 percent of the time.

The constitutional problem is straightforward. The government cannot throw doctors and donors into prison for five years for the compensated donation of renewable bone marrow when it is perfectly



**“The government cannot throw doctors and donors into prison for five years for the compensated donation of renewable bone marrow when it is perfectly legal to compensate someone for donating renewable blood.”**

legal to compensate someone for donating renewable blood. That arbitrary distinction violates equal protection. In addition, NOTA violates the substantive due process right to participate in safe, accepted, lifesaving and otherwise legal medical treatment.

This case falls squarely within IJ's strategic mission to protect individual liberty. As in IJ's economic liberty and property cases, our challenge to NOTA will be litigated under the “rational basis test,” which, as you may



President of MoreMarrowDonors.org **Shaka Mitchell**, above, and IJ client and leukemia survivor **Akiim DeShay**.

recall from other newsletter articles, is a major obstacle to liberty. In a nutshell, the rational basis test currently allows judges to uphold a law if there is nothing more than a “conceivable” reason for it, even if the evidence shows that the actual reason, such as trying to suppress the right to earn an honest living, is illegitimate. Our victory in the bone marrow case will not only save lives, but also create “rational basis” law that will protect freedom in other contexts.

Doreen took on this fight for her daughters and thousands of others like them. We are proud to join her and demonstrate yet again that liberty remains the best solution for the challenges we face. ♦

**Jeff Rowes** is an IJ senior attorney.



## *Leave a Legacy of Liberty with IJ*

Three years ago, the Institute for Justice launched an exciting new program called the Four Pillars Society as a way to honor our friends and supporters who have chosen to include IJ in their will or other long-term financial plans.

Since 2006, membership in the Four Pillars Society has grown five-fold. Every year, dozens of IJ donors inform us that they have chosen to leave a legacy of liberty by helping us advance freedom in economic liberty, private property rights, school choice and free speech. Members of the Society help provide us with the financial support essential to achieving our strategic goals and implementing larger-scale programs than the demands of our year-to-year budget allow.

A number of different gifts qualify you for membership in the Four Pillars Society. The simplest include naming the Institute for Justice in your will or living trust, and making IJ a beneficiary of your retirement plan or life insurance policy. We also work with donors to set up “life-income” plans, including charitable gift annuities.

If you are interested in more information about these or other ways to support the Institute for Justice or if you have already included IJ in your plans, please contact Melanie Hildreth at (703) 682-9320 ext 222 or [mhildreth@ij.org](mailto:mhildreth@ij.org) so that we can thank you properly. ♦

*The greatest threat to liberty today is not from any particular government official or action. The greatest threat is the despair they create.*

*IJ is an antidote to that despair.*

## *Good news in your inbox!*

Don't wait for *Liberty & Law* to read the latest about how IJ has advanced liberty; learn about important IJ victories as soon as they happen with an email alert. Sign up today and you will also learn about critical developments in our cases in your state, and about any IJ events happening in your neck of the woods.

To sign up, send an e-mail to Melanie Hildreth, IJ's director of donor relations, at [mhildreth@ij.org](mailto:mhildreth@ij.org). ♦





1926 - 2009

## *Gerrit Wormhoudt: A Gentleman & a Champion of Liberty*

**By Chip Mellor**

I met Gerrit Wormhoudt 25 years ago when I was struggling to figure out how to create a public interest law firm that would restore constitutional protection for rights at the heart of the American Dream—economic liberty, property rights, free speech and parental rights in education. This would involve challenging not only entrenched legal precedents, but also a prevailing orthodoxy in the legal profession that viewed such a quest as at best hopelessly naïve, and at worst, a threat to established order.

To succeed, I thought the effort needed to be grounded on individual natural rights. The

problem was, I was a neophyte in my thinking and it seemed no prominent attorney in private practice anywhere recognized, much less believed, that liberty starts with rights vested in the individual—inalienable rights, our Founders called them.

Then, I met Gerrit.

In his gentle, thoughtful way, he refined my thinking with questions, discourses on jurisprudence and suggestions of books to read. By the end of our first dinner together, it was as if a ray of light had pierced the uncertainty clouding my mind.

The inklings, hopes and aspirations I brought to the dinner were not so far-fetched. Indeed, there was a deep and rich tradi-

tion to draw on. And there was a man of obvious integrity steeped in these traditions. I was inspired to go forward and, with Gerrit as a founding Board member, we launched the Institute for Justice in 1991.

During the ensuing years, Gerrit's wisdom and kindness were indispensable as we took the Institute for Justice from a dream to what it is today. The lives of our Board members, staff and clients were enriched immeasurably by his counsel and the example he set. ♦

**Chip Mellor** is the  
Institute's president and  
general counsel.



# Activism in Action

By Christina Walsh

The Castle Coalition's multifaceted approach to defeating eminent domain abuse through outreach, organizing and activism continues to prove successful, ensuring hard-working property owners get to keep what they have worked so hard to own.

Each day, we are contacted by property owners facing the loss of their homes, their small businesses or their land at the hands of bureaucrats. Kevin and Valerie Holler contacted the Castle Coalition when they found out that the property they rent out to two families and their abutting business were on an acquisition list for a new library in northern Minneapolis. Although libraries are a "public use," the county was taking an unnecessary and excessive amount of land.

We sent the Hollers our *Eminent Domain Abuse Survival Guide*—which we created to teach people how to fight for their land using IJ's tactics—and anti-eminent domain abuse posters. Using the techniques detailed in the guide, and with help from IJ Minnesota Chapter Executive Director Lee McGrath, the Hollers won. They convinced the county that taking their property was not necessary, and the commission even rescinded their prior grant of authority to use eminent domain to take any additional property for its construction.

Our *Survival Guide* directs property owners through the process of becoming effective activists and serves as a critical tool citizens use to fight land-hungry developers and tax-hungry governments. Often, simply educating neighbors about a threatened land grab, showing up at city council meetings and posting signs in windows is sufficient to make the municipality back down from seizing land. Other times, it is essential that IJ staff travel to the targeted community and help guide and organize citizens to ensure they are properly prepared to fight the powers that be.

On the North Side of St. Louis, developer Paul McKee has been purchasing properties for the past five years and letting them fall into disrepair. Unbeknownst to the remaining property owners until recently, the developer has plans for their land, too: McKee submitted an application for tax increment financing and the power of eminent domain to the city, asking for more than \$400 million and the authority to acquire privately owned properties on his list of more than 4,500 parcels.

Just as the Hollers had done, area resident Romona Taylor Williams contacted the Castle Coalition for help. Romona is an activist with whom IJ worked to defeat a land grab disguised as urban renewal in Charleston, W.V.

The North Side is an African-American community, scarred by ill-conceived urban renewal attempts of the 1950s and 1960s.



Pastor and activist **Bennie Thompson** is fighting to save his church, Shining Light Pentecostal, from eminent domain abuse in St. Louis.

In August, I spoke to a community meeting of concerned citizens at the Shining Light Pentecostal Church, which is on McKee's acquisition list. Pastor Bennie Thompson's beautiful church has been at its location for more than 70 years, and he has no plans to leave. Before a packed house of local residents, activists and the media, I discussed eminent domain abuse and helped them develop an action plan to ensure they can keep what they have worked so hard to own. Fired up, the group soon thereafter hosted a petition drive at the church where property owners stopped by and filled out forms demanding the city remove them from McKee's acquisition list. The evening before the first hearing on the proposal, the group held a successful "Save Our Community" rally, and we are currently planning a North Side Harvest Festival to raise awareness about what is going on and the need for eminent domain reform in Missouri.

From sending the *Survival Guide* and its companion DVD, *Not for Sale*, to hands-on in-person training, the Castle Coalition continues to empower homeowners, small businesses and churches to fight for their land and keep their share of the American Dream. ♦

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





## D.C. Opportunity Scholarship Program



On September 30, IJ joined children, parents, teachers and activists from around the country in a rally at the U.S. Capitol to save the Washington D.C. Opportunity Scholarship Program (OSP). Since 2004, this program has provided an educational lifeline to thousands of low-income families in the nation's capital. It has been a huge success: Parents are so desperate to get their kids out of the failing D.C. public schools that four applications have been submitted for every spot available.

OSP is helping more than 1,700 kids, and children in the program are making real academic strides. This summer, 216 additional families were thrilled to find out that their children would receive scholarships for this academic year. But just a few weeks later, those families learned that Congress decided to kill the Opportunity Scholarship Program, and so their kids would not get scholarships after all.

Editorial boards, radio hosts, activists and families across the country were shocked to hear that such a successful program that helped so many needy children would be shut down simply to placate powerful special interests.

The rally at the Capitol was one important step in making sure that Congress hears the voices of D.C. children in need of a better education. We will not rest until Congress reauthorizes the Opportunity Scholarship Program. ♦



**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

**ABA Journal**

**Spotlights 50 innovators, mavericks and pathfinders of the legal profession**

"Not every attorney keeps a tombstone in his office. But Chip Mellor is not your average attorney . . . . As founder of the Institute for Justice, which claims to be the nation's only libertarian public interest law firm, Mellor keeps the headstone as a reminder of the fight he waged on behalf of a Tennessee pastor who wanted to sell caskets, but was blocked by local morticians and a state law . . . . Mellor's typical client is someone who lacks the means to fight in court . . . . In a David and Goliath fight, Mellor sees himself as the equalizer. 'They are all uphill fights,' he says. 'They are all considered lost causes.' The institute takes on cases across the nation free of charge."



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**Dr. Nancy MSNBC**

**IJ Senior Attorney Jeff Rowes:** "The Institute for Justice and its clients, like Akiim, filed suit against the U.S. Attorney General to strike down the bone marrow provision of the National Organ Transplant Act because that is a law that makes it a serious crime to do the one thing that would have a dramatic impact on the shortage of donors, and that's compensate them."

**National Law Journal**

"We can make some predictions . . . [the] Washington-area lawyers profiled here will play a major role in the legal community of the nation's capital—and therefore of the nation—for years to come. At the Institute for Justice, a libertarian public interest group, Bert Gall, 36, has been on the front lines of the fight against the abuse of eminent domain . . . . [H]is practice also includes multiple campaign finance cases."

**“I’m a big fan of the  
Institute for Justice,  
which fights the good  
fight on issues like  
economic liberty and  
eminent domain. Today  
they’re launching what  
may be their biggest case  
ever: a fight to allow  
compensation for bone  
marrow donors.”**

—Megan McArdle, *The Atlantic*



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NON-PROFIT ORG.  
U.S. POSTAGE  
P A I D  
INSTITUTE FOR  
J U S T I C E

My neighbors and I wanted to speak out about a local political issue.

But an activist on the other side sued us  
under the state’s campaign finance laws.

These laws silence speech through red tape  
and invite lawsuits to intimidate political opponents.

I am fighting to restore the First Amendment  
right to speak freely about politics.

*I am IJ.*



*Karen Sampson  
Parker North, Colorado*

**www.IJ.org**

*Institute for Justice  
First Amendment litigation*