

Liberty & LAW

December 2012

Volume 21 Issue 6

Inside This Issue

“Cutting-Edge”
Constitutional Litigation
Since 1991

2

A Victory for the
Louisiana Monks

3

Three School Choice
Cases Head to Court
In a Two-Week Period

4

IJ Transforms
Transportation Markets

6

Published Bimonthly by the
Institute for Justice

visit us online:
www.ij.org



FOOD FIGHT

IJ Initiative Challenges Protectionist Laws,
Seeks to Free Mobile Food Vendors in Chicago & Nationwide

Mobile food vendors, like IJ client and Cupcakes for Courage owner **Laura Pekarik**, create new culinary experiences and jobs which help create a more vibrant community.

By Robert Frommer

Just as mobile food vendors hit the road each day to satisfy the needs of hungry consumers, the Institute for Justice is hitting the road on behalf of these industrious entrepreneurs with groundbreaking new efforts in Chicago and across the nation.

In less than two years, IJ's National Street Vending Initiative has made us the leading national advocates protecting the economic liberty of street vendors. Our groundbreaking 2011 report, *Streets of Dreams*, documented the anticompetitive restrictions vendors face in America's 50 largest cities. Meanwhile, our litigation team brought suit against protectionist vending laws in cities across the country, including El Paso, Atlanta and Hialeah, Fla.

Now, the National Street Vending Initiative is gearing up for its greatest challenge yet: opening the streets of Chicago to mobile food vendors.

Chicago's nascent food truck entrepreneurs like Greg Burke embody that city's drive and persistence. Burke was laid off during the recent construction slump. After trying to find other jobs, Greg took a gamble. For years, he served schnitzel sandwiches at Chicago Bears tailgates to rave reviews from his friends, so Greg invested his life savings in a vintage Jeep with the dream of becoming Chicago's Schnitzel King. Together with his fiancée, Schnitzel Queen Kristin Casper, the two have created a small, thriving food truck business they can call their own.

Chicago Food Trucks continued on page 8

Honing the Cutting Edge In Constitutional Litigation

By Chip Mellor

When we launched IJ in 1991, we pledged that we would pursue “cutting-edge” constitutional litigation. Back then, the state of the law was so bad that merely trying to take on decades of adverse precedent with new and innovative tactics was indeed cutting edge.

Over the years, we made progress and refined our tactics. And we gained a crucial insight: No longer is it enough to aggressively challenge the status quo; we must also bring to that challenge sophistication and skill that is unmatched and constantly strive to improve. To take on cutting-edge cases, we must be on the cutting edge in all we do.

Here is what that means.

Our issues must be at that place in the constitutional debate where there is the perfect convergence of topic and timing. This occurs when an issue rises to national prominence with the constitutional question clearly and compellingly presented. That doesn’t happen often or easily.

To be in that place, we look at our core mission areas—economic liberty, property rights, school choice and free speech—and identify the constitutional issues that offer a new way to frame the issue so that courts will more readily appreciate the real-world impact of the principle involved, and be more open to reconsidering adverse precedent. That constitutional issue may seem at first a bit technical or nuanced, but if we pursue it right, we will blaze a trail into new constitutional territory. Our challenge to occupational licensing laws that abridge free speech is an example of this approach. These cases lie at

the intersection of economic liberty and the First Amendment. In our information-driven economy, these cases show how artificial and inappropriate it is to have different levels of constitutional protection for free speech and economic liberty. Free speech typically gets greater constitutional protection, but what if you earn your living by speaking, as is the case with our tour guide clients, for example.

Finding the issue is not enough. We pursue that issue creatively, applying every component of IJ. Our lawyers have to develop expertise on complex laws and voluminous

“Our issues must be at that place in the constitutional debate where there is the perfect convergence of topic and timing.”

case law. And while we still prefer facts that are relatively simple, we now routinely handle trials with expert testimony and a cascade of documents. Our strategic research breaks new ground regularly with impeccable analysis that withstands the scrutiny of our harshest opponents. As the traditional media has changed rapidly, so too has our communications program. Our communications program must adapt very quickly to this shifting environment. While long-established outlets like *The Wall Street Journal* and *USA Today* remain very important, we strive to excel with new media and as a result our communications work is reaching many new audiences and winning new awards. We continually find new ways to frame our issues in compelling and accessible ways for all of our audiences.

We focus these creative efforts on campaigns to raise issues to national prominence in conjunction with multiple cases. While the classic example of this was our work against

eminent domain abuse, you will notice that we now have such campaigns underway in civil asset forfeiture, street vending, urban transportation and citizen speech. These campaigns succeed because we mobilize our litigation, communications, activism and strategic research on multiple fronts simultaneously and for extended periods of time. There are not many organizations that can do this. No other organization does this more effectively.

With seven offices and 67 staff (34 of whom are lawyers), we constantly have competing, urgent deadlines across the nation. Our administration and information technologies teams maintain systems and

performance capabilities that enable us to set and meet such high goals. Our state-of-the-art video conferencing makes possible a “virtual hallway” environment that enhances team building and problem solving throughout IJ. Indeed, people have remarked that we make the impossible look easy. In recent years we have twice had two U.S. Supreme Court cases in the same term—a notable achievement for any law firm. We handled them without missing a beat on any of the other cases we were working on.

The stakes for liberty are so high that our best and most creative efforts must be brought to every task. That is challenging, but it is what makes working at IJ such a joy. ♦

Chip Mellor is the Institute’s president and general counsel.



Federal Appeals Court Victory: Putting the Nails in Louisiana's Coffin Cartel



IJ client **Abbot Justin Brown**, above, has a lot to smile about after Saint Joseph Abbey's economic liberty victory. The ruling clears the way for the monks of Saint Joseph to make and sell caskets without having to become government-licensed funeral directors. The monks and their supporters, top right, brought in a sample casket during the trial.



By Jeff Rows and Scott Bullock

The monks of Saint Joseph Abbey in Louisiana are hammering away with renewed purpose after another major legal victory for economic liberty. As *Liberty & Law* readers will remember, the brothers build simple wooden caskets to honor St. Benedict's rule that monks should put food on their table through the labor of their own hands. Unfortunately, this expression of faith and industriousness was a crime in Louisiana, which forbade anyone but a state-licensed funeral director from selling a casket.

On October 25, 2012, the 5th U.S. Circuit Court of Appeals ruled that Louisiana's five-year campaign to stop the brothers from selling their caskets was either unconstitutional or an abuse of power unauthorized by state law. This decision affirms the monks' July 2011 victory in the federal trial court.

Besides keeping the monks in business, this victory accomplished two strategic goals for the Institute for Justice that will affect constitutional law across the country. First, the court rejected Louisiana's primary constitutional argument that it is legitimate for the government to enact laws with no public purpose, but instead

simply to protect industry cartels such as funeral directors from competition. There is now a decisive disagreement on this important issue among the federal courts of appeal, making the monks' case the perfect vehicle for taking the question of illegitimate economic protectionism to the U.S. Supreme Court.

Second, the decision was a model of judicial engagement. For too long, courts considering economic liberty cases have been too deferential to government. In arguments in the trial court and before the court of appeals, Louisiana pointedly insisted that if the judges were not convinced by the government's arguments, then they were duty-bound to invent their own justifications for upholding the challenged law. But in ruling for the monks, the court of appeals expressly stated that there are limits to judicial deference, that evidence matters in economic liberty cases, and that citizens should prevail when they refute the government's case. This decision is a roadmap for other citizens and other courts in economic liberty challenges to come.

As significant as this decision is, the case is not yet over. In an unusual twist, the federal

court of appeals asked the Louisiana Supreme Court to answer a narrow question: Did the state funeral board actually have the legal authority to regulate the monks' casket sales in the first place? If the answer is no, then the monks win because the funeral board never had the power it claimed. If the funeral board did have the statutory power to regulate the monks, then the exercise of that power was unconstitutional. Either way, the monks win.

We expect the Louisiana Supreme Court to rule that the funeral board had the power it asserted for the past five years and thus the federal court will strike the law down. From there, Louisiana and its friends in the funeral industry may decide to take their cause to a higher power—the U.S. Supreme Court.

In the meantime, the monks will serve their higher power, and their customers, by crafting and selling some of the most beautiful caskets in Louisiana. ♦



Jeff Rows and **Scott Bullock** are IJ senior attorneys.



3 Cases, 3 Courts, 2 Weeks

Unprecedented Level of Courtroom Activity Defending School Choice Nationwide

By Tim Keller

The defense of liberty never takes a holiday. In the days leading up to Thanksgiving, and in the weeks that follow, IJ attorneys will be crisscrossing the country to defend a variety of school choice programs. In each case, IJ represents parents and children who have intervened in legal challenges brought by the defenders of the educational status quo, such as teachers' unions, school board associations and state affiliates of the ACLU. The education establishment's goal is to preserve the public school monopoly. IJ's goal is to protect the right of every parent to direct the education and upbringing of their children—including the right to choose the school that best suits each child's unique educational needs.

The action begins in Denver on Monday, November 19, when IJ Washington Chapter Senior Attorney Michael Bindas and I will be at counsel table for oral argument in front of the Colorado Court of Appeals. We seek to overturn a state trial court judge's eleventh-hour decision from August 2011, that blocked the Douglas County School District's Choice Scholarship Program from going into effect. The ruling followed a three-day hearing that included testimony from one of IJ's clients and

left nearly 500 students scrambling to find an educational placement. We will present a compelling argument for why the lower court decision must be overturned.

Two days later, IJ Senior Attorneys Bert Gall and Dick Komer will be in front of the Indiana Supreme Court to defend that state's Choice Scholarship Program. Indiana's state-wide program provides scholarships to low- and middle-income families. When it is fully implemented, more than 60 percent of Indiana's school children will be eligible to participate. Bert will share time at the podium with the state's solicitor general to explain why a recent lower court decision upholding the program should be affirmed.

The week after Thanksgiving, IJ-WA Executive Director Bill Maurer, IJ Senior Attorney Dick Komer and IJ-TX Attorney Arif Panju will travel to Baton Rouge for a multi-day trial to defend Louisiana's "Act 2," which expands opportunities for parents to choose the school that best meets each child's learning style. The response to Louisiana's school choice program has been overwhelmingly positive, with nearly 5,000 scholarships awarded, including 2,000 renewals from families participating in a similar, preexisting New Orleans program.

Meanwhile, in my home state of Arizona, Dick Komer and I await an oral argument date in the Arizona Court of Appeals in a case about Arizona's cutting-edge Empowerment Scholarship Account program. In January, a state trial court judge upheld Arizona's program, which permits eligible families to open a publicly funded education savings account and to use the funds deposited therein for a wide range of educational expenses, including any combination of tutors, private online education, private school tuition and even college tuition.

There has not been a single day in IJ's 21-year history when we have not been defending a school choice program somewhere in the nation. This holiday season is no exception. But in a testament to the growing popularity of school choice, this Thanksgiving we will be defending four programs at the same time—an IJ first. If we are as successful as we hope and expect, families all across this country will have a lot more to be grateful for: a quality education for more and more children. ♦

Tim Keller is executive director of IJ's Arizona Chapter.



November 19



Colorado Court of Appeals, defending the Anderson family and school choice options for 500 other students.

November 21



Indiana Supreme Court, defending the Coffy family as well as scholarships to 9,000 other children.

November 28



Louisiana Trial Court, defending the Evans family along with 7,000 other scholarship recipients.

Date TBA



Arizona Court of Appeals, defending the Weck family along with 100,000 children in failing schools who will be eligible for greater school choice next year.

IJ Clinic Helps Chicago Tour Guide Forge New Paths Across the Second City

By Beth Kregor

IJ Clinic on Entrepreneurship client Chicago Detours explores the hidden nooks and crannies of Chicago's buildings and history on its tours. These tours are for curious people. Tour groups navigate the mysterious underground passages of Chicago's Pedway with the help of a knowledgeable guide. Or they learn the ins and outs of prohibition politics as they pass through an old speakeasy on the Good Times Historic Bar Tour. The Jazz & Blues tour bus visits the old site of the Maxwell Street Market, the place where Southern-bred guitar players who came to Chicago in the Great Migration first plugged in and electrified the Blues. All the while, participants share iPads so they can study photos of long-gone buildings, view footage of Blues greats or hear first-hand accounts of the history they are learning.

Amanda Scotese, the founder of Chicago Detours, infuses her business with remarkable creativity. In addition to developing unusual and fascinating tours, she has designed a map of the Pedway's underground maze, sponsored an artist in residence, introduced inner-city school groups to downtown buildings that they always thought were off limits to them and dreamed up smartphone apps. The opportunities extend as far as her imagination.

"Amanda's story is a stark contrast to the story of IJ clients in Washington, D.C., and in New Orleans, who are not allowed to expose the hidden histories of their cities unless the government gives them licenses to do so."

With every new business opportunity that Amanda spots with her entrepreneurial eye, there are lots of questions for the University of Chicago law students and IJ attorneys working in the IJ Clinic. Students have drafted contracts for Amanda to use with customers, businesses where the tours visit, a bus company and others. We have researched how copyright applies to maps and whether it is legal to hand out ads for tours on the streets of Chicago. We have helped her strengthen her business in many ways.

Happily though—unlike in other cities where IJ is challenging the government licens-



The IJ Clinic will continue helping entrepreneurs like **Amanda Scotese**, who demonstrates just what creative people can build when they are free.

ing of tour guides—we did not have to help Chicago Detours get the city's permission before Amanda could research or tell the history of Chicago's (sometimes pockmarked) past. Amanda's story is a stark contrast to the story of IJ clients in Washington, D.C., and in New Orleans, who are not allowed to expose the hidden histories of their cities unless the government gives them licenses to do so. Segs in the City cannot talk about the Washington Monument without paying lots of fees and passing a lengthy test. Mary LaCoste can't give ghost tours in the French Quarter without passing

a history test and a drug test. Their governments are trying to censor them in an

effort to protect others who wield more political power. Meanwhile, Chicago enjoys the benefits of Amanda's creative freedom.

Chicago is lucky to have a resident who has built a business like Chicago Detours, which creates jobs for guides, drivers, web designers and others, even as it promotes the city to visitors and residents alike. Amanda has accomplished marvelous things with her freedom of speech and economic liberty. Other cities that restrict such entrepreneurship should reconsider their laws.

The IJ Clinic will continue helping entrepreneurs like Amanda Scotese, who demonstrate just what cre-



ative people can build when they are free to do so. And IJ will continue to fight in the courts for entrepreneurs like Segs in the City and Mary LaCoste, who are being shut down by the government before they can even begin to follow in Amanda's footsteps or, better yet, find a new path. We are working so that someday soon, tour guides may tell the tale of these entrepreneurs' courageous and historical fights for freedom of speech. ♦

Beth Kregor directs the IJ Clinic on Entrepreneurship at the University of Chicago Law School.



Driven to Success:

IJ Transforms Transportation Markets Nationwide



IJ is up against unrelenting opposition. For example, Milwaukee taxi cartel members retaliated against their drivers when they protested laws that kept new entrepreneurs out of the market.

By Robert McNamara

Many of IJ's first battles for economic liberty were fights for transportation freedom. From opening up taxi markets in Denver, Cincinnati and Indianapolis to taking on Las Vegas' limousine cartel, we have been on the front lines fighting for transportation entrepreneurs from day one.

We focused on transportation issues for two main reasons. First, businesses like taxi driving are tailor-made for the kind of

grassroots entrepreneurship that is at the heart of our economic liberty work; starting a taxi business does not take a lot of start-up capital or formal education. It just takes a practical business sense and an outstanding work ethic. And second, when IJ first opened its doors, transportation regulations in almost every American city were simply terrible. In city after city, it was illegal to start a taxi business. Even in the cities where new taxi businesses were not technically illegal, would-be entrepreneurs

faced a thicket of regulations that served no purpose beyond enriching the local established transportation cartel.

Faced with regulations as oppressive and outrageous as these, any IJ lawyer has only one option: Attack!

And so we have, including our ongoing fight to stop the cities of Nashville and Portland, Ore., from banning inexpensive car services by imposing minimum-fare laws that protect expensive limo companies. Meanwhile,



IJ client **Mike Porter** in Portland, Ore.



IJ client **Ghaleb Ibrahim** in Milwaukee, Wisc.

“Faced with regulations as oppressive and outrageous as [transportation laws], any IJ lawyer has only one option: Attack!”

we continue to press forward with a challenge to the city of Milwaukee’s 21-year-old prohibition on any new taxi businesses in a case that is directly modeled on the success of one of IJ’s very first economic liberty lawsuits in Denver. And all the while, IJ attorneys have also been hard at work on the legislative front, spearheading a national trend toward opening up taxi markets—most notably in Minneapolis, where the number of licenses has more than doubled since the city abandoned its protectionist taxi laws at IJ’s urging.

Our efforts, of course, do not stop there. We continually look for chances to make the world just a little bit freer for transportation entrepreneurs. Our lawyers are constantly working behind the scenes to advise activists, entrepreneurs and local officials everywhere from Washington, D.C., to Anchorage, Alaska. Most of these situations never find their way to

the pages of our newsletter, but we are continually advancing freedom in this area.

And sometimes this pays off in big ways. Take IJ’s most recent transportation client, Colorado’s Mile High Cab. In 2008, as part of the national wave of taxi reform, Colorado passed a law making it much easier for new taxi businesses to enter the market. After the state Public Utilities Commission tried to stifle this reform and rejected Mile High’s application to open a new taxi business, the company found itself with the opportunity to bring the first case testing the new law. The problem? They couldn’t afford a lawyer to take the case up. IJ’s team of transportation experts dove into action and, in November, we argued passionately in defense of the new statute and economic liberty in front of the Colorado Supreme

Court. Our vigilance not only made sure the first test case under the new statute did not

slip by unnoticed, it also allowed us to bring an economic liberty case to a state supreme court at a small fraction of the cost of our usual litigation.

To be sure, there is a long way to go before we reach true transportation freedom. But IJ is designed to overcome adversity, and when I compare the still-pervasive array of anticompetitive transportation regulations that remain in effect across this country with the team of litigators, experts and activists arrayed on our side, I know which team I’m betting on. ♦

Robert McNamara is an IJ senior attorney.



IJ client **Ali Bokari** in Nashville, Tenn.



Seventeen years ago, IJ helped a company called Freedom Cabs become the first new taxicab company since 1947 to enter the Denver market. IJ is back in court fighting Colorado’s taxi regulators.



Chicago food truck entrepreneurs, from left, **Laura Pekarik**, **Greg Burke** and **Kristin Casper** have teamed up with IJ to fight to overturn unconstitutional and protectionist laws.

“A food truck that now sets up too close to a restaurant can be fined up to \$2,000, but the fine for parking in front of a fire hydrant in Chicago is only \$100.”

Chicago Food Trucks continued from **page 1**

Chicago food truck entrepreneur Laura Pekarik shows how food trucks create jobs and are often stepping stones to bigger things. Pekarik owns the Cupcakes for Courage food truck. After her sister, Kathryn, was diagnosed with cancer, the two worked on cupcake recipes to keep their minds off Kathryn's illness. Once Kathryn recovered, Laura took those recipes and opened her food truck. Cupcakes for Courage's success has let Laura expand her business by opening a brick-and-mortar bakery in Elmhurst, Ill., this past September.

Chicago food truck owners were encouraged earlier this year when the city began

updating its out-of-date vending laws. (Chicago, for example, was the only major city in the nation to prohibit cooking on board a food truck.) But a few politically connected restaurateurs, including an influential alderman who owns several restaurants in the city, saw the new law as a way to distance themselves from their mobile counterparts. The law keeps food trucks from operating within 200 feet of any brick-and-mortar business that sells food, which, in effect, makes running a food truck nearly impossible in large swaths of the city, including The Loop—downtown Chicago. The law also imposes fines that lay bare its true anticompetitive intentions: A food truck that now sets up too close to a restaurant can be fined up to \$2,000, but the fine for parking in front of a fire hydrant in Chicago is only \$100. In an Orwellian twist, every food truck in Chicago must now be equipped with a GPS tracking device, which lets government officials spy on the truck to see if it is illegally competing.



As documented in IJ's new food truck *Myths and Realities* document, food trucks help, not hurt, the restaurant industry. In fact, food trucks often help increase restaurant sales by increasing foot traffic. And food trucks often collaborate with restaurants to offer customers new opportunities that would otherwise not be available. It is no surprise that many successful food truck owners go on to open restaurants, or that restaurateurs are launching food trucks as a way to reach customers and market their brands.

Represented by IJ, Greg, Kristin and Laura are now suing the city of Chicago in state court to strike down this law that does nothing more than unconstitutionally protect



Download the reports here: www.ij.org/vending

Victory Over Eminent Domain In Virginia



Watch IJ's video, "Game of Food Trucks."

avored businesses from competition.

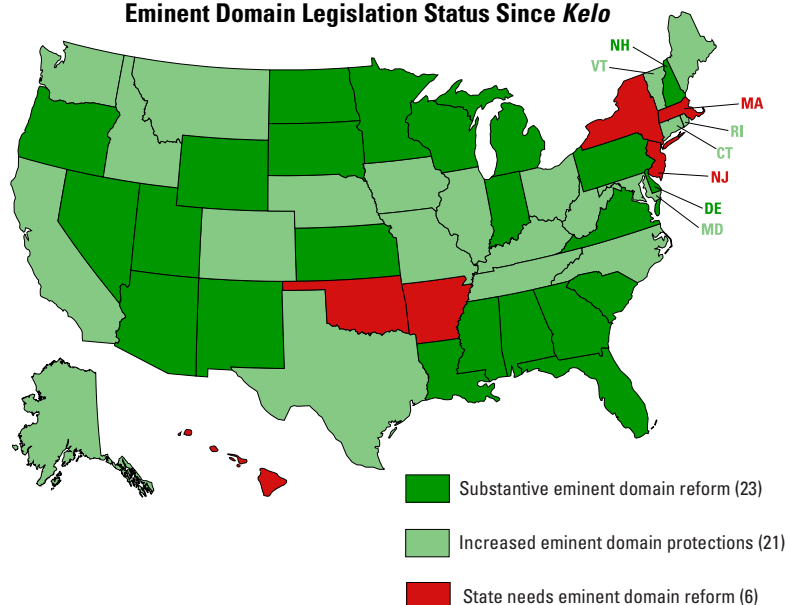
But IJ is doing more than just fighting bad food truck laws. Through its National Street Vending Initiative, IJ is providing a guide to other cities that want to pass good food truck laws. With our new report, *Food Truck Freedom: How to Build Better Food Truck Laws in Your City*, IJ identifies two general principles that are keys for good food truck policy. First, cities should not pass laws to protect preferred industries from competition. Second, cities should ensure that their laws are easy to understand, do not go any further than what is needed to deal with the problem at hand and give food trucks the freedom to come up with their own ways to solve issues when they arise.

Freed-up food vendors not only create jobs, they help transform their little corner of a city into places that are more exciting and fun places to live. In the months ahead, we will help Chicago and many other cities recognize these facts one good meal at a time. ♦

Robert Frommer is an IJ attorney.



Eminent Domain Legislation Status Since *Kelo*



By Steven Anderson

Property rights are the foundation of all our rights. It is difficult to imagine the freedom of religion without the right to own a church or the right to free speech without the right to own a printing press. With that critical principle in mind, amid the fuss and flurry of this year's presidential election, Virginians overwhelmingly passed—by a 3-1 margin—Question 1, a constitutional amendment designed to permanently end the abuse of eminent domain in the Commonwealth.

A fitting exclamation point as one of the final pieces of IJ's Hands Off My Home campaign—which began mere days after the U.S. Supreme Court's infamous *Kelo* decision—Question 1 protects the rights of homeowners and small business owners in several substantial ways. The amendment declares that property rights are fundamental, a clear signal to an engaged judiciary to take a critical look at government takings. It remedies a constitutional quirk by removing the General Assembly's power

to redefine public use from session to session, levels the playing field on compensation, explicitly rejects the *Kelo* rationale by stating economic development is not a public use, and requires the government to prove that an actual and legitimate public use exists. Since IJ's campaign began more than seven years ago, 44 states have changed their laws to better protect property. Virginia became the 12th state to ratify a constitutional amendment.

The victory caps off five years of work by IJ to promote this reform, working with a broad coalition of groups, including the state affiliates of the Farm Bureau and the National Federation of Independent Business. As a team, we met with newspaper editorial boards and the public to explain the virtues of the amendment—which now allows all Virginians to keep what they have worked so hard to own. ♦

Steven Anderson is the Institute's chief financial officer.



Reintroducing Liberty Into the Academic Debate

By Dick Carpenter

When IJ's strategic research initiative began six years ago, the primary goal was to create high-quality social science research that would show courts the real-world impacts of laws we challenge. When the Chief Justice of the U.S. Supreme Court cited our research in his opinion striking down Arizona's Clean Elections scheme, we knew we were making real progress in meeting that goal.

Meanwhile, a second goal was to interest other researchers in IJ's issues and generate additional studies, particularly in areas largely bereft of quality research. To do so, we regularly submit scholarly versions of our studies to peer-reviewed social science journals where they are most likely to be read by those in the research community.

To date, we and the researchers we have worked with have published 12 articles spanning all four of IJ's pillars: economic liberty, property rights, school choice and free speech. The journals have included *Urban Studies*, one of the world's leading urban affairs journals, and *Journal of Criminal Justice*, a top-tier journal in that field, as well as *Economic Development Quarterly*, *Journal of School Choice*, *Journal of Applied Business and Economics*, and *American Journal of Entrepreneurship*.

On two occasions our work fomented scholarly debate, which gave us opportunities to broaden our arguments and put even more of IJ's work before academic audiences. Even academics like to watch a colorful debate, and

perhaps particularly so. For example, a co-author and I published an article in *Urban Studies* on the disproportionate effects of eminent domain on poor and minority communities. A sociologist from Hofstra University penned a critical essay, focusing not on our methods, which he thought were sound, but on our emphasis on individual rather than "communitarian" rights.

"By engaging in such scholarly debate, we can bring a message of individual rights to an audience often unaccustomed to reading it in typical journals, and other measures show that strategy is paying off."

In our response, we drew on other IJ research, Castle Coalition work and IJ's unparalleled expertise in property rights to refute our critic's overestimation of the alleged benefits of eminent domain for private development. We pointed to real-world examples to puncture his naïve notion that so-called "community benefit agreements" can make amends for people losing their homes and livelihoods. While the conclusions we drew in our original research article needed to stick close to the specific findings, in our response we had latitude to make a full-throated defense of property rights:

[W]e believe that protecting the rights of individuals—including and especially their property rights—does more to protect against even more savage inequalities that come from marrying the inherently political processes of communitarian vehicles with the power of the state to take and

redistribute property to cronies, insiders, activists and the politically and socially connected. The ability to say 'no' without fear of the state taking what is yours is, ultimately, the great equalizer.

By engaging in such scholarly debate, we can bring a message of individual rights to an audience often un-

customed to reading it in typical academic journals, and other measures show that strategy is paying off. Much like citations in judicial decisions are a measure of influence, so too are citations in scholarly

articles. The number and diversity of citations of our work show we are making steady progress toward meeting our goal of building academic interest in IJ issues. Our work has been cited more than 70 times by other authors in journal articles, books, law reviews and even student theses, with disciplines ranging from economics to political science, education to public policy. Some examples include *Economic Affairs*, *Harvard Law Review*, *Public Choice* and *Supreme Court Economic Review*.

On a landscape of scholarship ambivalent if not outright hostile to liberty, we have a lot of ground to make up. That's why, with one article forthcoming, four others currently under review and two more on the cusp of submission, we have no intention of slowing down the pace. ♦

Dick Carpenter is a director of IJ's strategic research.



Volume 21 Issue 6

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.

Editor: John E. Kramer
Layout & Design: Don Wilson

How to reach us:

Institute for Justice
901 N. Glebe Road
Suite 900
Arlington, VA 22203

General Information (703) 682-9320

Extensions:

Donations 233
Media 205

Website: www.ij.org
E-mail: general@ij.org
Donate: www.ij.org/donate



facebook.com/instituteofjustice



youtube.com/instituteofjustice



twitter.com/ij

Quotable Quotes

George F. Will
The Washington Post

"North Carolina is giving Steve Cooksey some choices. He can stop speaking. Or he can get a Ph.D. in nutrition, or a medical degree, or a bachelor's degree in nutrition and then pass an examination after completing a 900-hour clinical internship. Or he can skip this onerous credentialing, keep speaking, and risk prosecution. He has chosen instead to get a lawyer. His case, argued by the libertarians at the Institute for Justice, will clarify the First Amendment's relevance to an ancient human behavior and a modern technology."

Fox News National

"The Institute for Justice, which is arguing the Courtneys' case in the 9th Circuit Court of Appeals, says [the government is violating] the 14th Amendment and the Founding Fathers' principle of economic liberty."



The Wall Street Journal

IJ President Chip Mellor: "Americans are job creators by their very nature. Today, as always, untold entrepreneurs stand ready to start their economic engines—if only government officials would relinquish the keys."

Bloomberg News

"A study released in May by the libertarian Institute for Justice makes a compelling case that occupational licensing requirements in many states have run amok. Some licensees, including EMTs, have life-or-death responsibility. Others handle hazardous chemicals. Too many, however, are in occupations for which a natural inclination and a short apprenticeship should provide more than sufficient preparation. Why, for example, do florists, funeral attendants or shampooers need a license to work?"

The Washington Times

IJ Attorney Larry Salzman: "Civil forfeiture laws that give police and prosecutors a financial stake in the property they seize should be repealed. Until that happens, the Supreme Court can protect innocent property owners by declaring that an unreliable 'alert' by a drug-sniffing dog—absent any other evidence—does not give authorities the probable cause they need to take your property."

**“For decades, the
Institute for Justice
has been success-
fully bringing suit
against egregious
taxi regulations.”**

—Walter Williams



Institute for Justice
901 N. Glebe Road
Suite 900
Arlington, VA 22203

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

Find out how you can support IJ through your will or trust. Defend Freedom. Support IJ through the Four Pillars Society.

We believe people should be free to control their own destinies, now and in the future.

We are leaving a legacy of liberty by including IJ in our will.

We are investing in freedom.

We are IJ.



*Will & Rita Olschewski
Four Pillars Society members*

www.IJ.org

*Institute for Justice
Litigating for Liberty*