



Liberty & LAW

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IJ SCORES A MAJOR FREE SPEECH VICTORY



U.S. Supreme Court Strikes Down Arizona's "Clean Elections" Act

IJ Washington Chapter Executive Director **Bill Maurer** addresses the media outside of the U.S. Supreme Court after arguing against Arizona's so-called "Clean Elections" Act.

By Bill Maurer

On June 27, the Institute for Justice scored a major victory for free speech and political participation when the U.S. Supreme Court ruled that the "matching funds" provision of Arizona's so-called "Clean Elections" Act is unconstitutional. This ruling brought an end to a system that manipulated election speech to favor candidates who participated in a public funding system over those who

chose to forgo taxpayer dollars and instead raise funds through voluntary contributions. The ruling in *Arizona Free Enterprise Club's Freedom Club PAC v. Bennett* also brought to an end a case first filed by IJ more than seven years ago—our very first campaign finance case.

IJ represented independent political groups and traditionally funded political candidates that

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IJ: 20 Years of Changing Clients' Lives

By John E. Kramer

At the Institute for Justice, we change the law, but we also do something more subtle and yet profound: We change lives.

Throughout the past 20 years, IJ has won a series of victories extending the boundaries of individual liberty by rolling back the power of government. In so doing, we helped clients recognize they aren't alone; we helped other clients save their lifelong dreams; and we not only transformed our clients' lives, but we also created opportunities through freedom that will play out for years to come.

"IJ gave definition to our struggle."

The Institute for Justice's very first client, Taalib-Din Uqdah, wasn't seeking a new life's mission when he first approached IJ for legal help. He merely wanted to braid hair in the District of Columbia, but was blocked from doing so under a local law that required him to become a government-licensed cosmetologist. To get the license, he would have had to spend thousands of dollars and months of his life studying how to do everything except braid hair because D.C.'s cosmetology curriculum did not teach hairbraiding.

As Uqdah and his wife Pamela worked with the Institute for Justice, they realized how

important the principles they were fighting for were, not just for themselves, but for others, too.

"IJ gave definition to our struggle," he said. "Prior to coming into contact with IJ, we knew that we were right and the city was wrong, but we were never able to define that until we heard two words: economic liberty. And then it all started to make sense. The most interesting part of this was from those two little words, a whole new world opened up for us. Once we were taught, we went out as teachers and became little IJs in empowering people to stand up for what it is that they believe in."

Through IJ's legal advocacy and strategic media relations, including a landmark television feature by John Stossel on ABC's *20/20* called, "Rules, Rules, Stupid Rules," the D.C. City Council capitulated and allowed Uqdah and Pamela to get back in business without

a government-issued license. The couple went on to build one of the nation's most successful hairbraiding businesses, employing hundreds of braiders over the years, dozens of whom have gone on to grow the economic

pie by starting their own hairbraiding businesses. Uqdah and Pamela went on to become national advocates for economic liberty, founding the American Hairbraiders & Natural Haircare Association, which has effectively advocated for the deregulation of hairbraiding in many states.

"There is no going back," Uqdah said. "And besides, what would I be going back to? Who would prefer to be ignorant?"

The beauty of that growth and development is that it continues. We don't rest on our laurels. That moves the human race forward. I am a contributing factor in the growth of human development."



IJ's first clients **Pamela Ferrell and Taalib-Din Uqdah** demonstrated excessive government-imposed licensing on a safe and uncomplicated practice, such as hairbraiding, was both outrageous and unconstitutional.



IJ clients **Jim and JoAnn Saleet** were determined to save their home from eminent domain abuse, and with IJ's help, they did.

“IJ showed us how to fight.”

Jim and JoAnn Saleet had a simple dream: They merely wanted to enjoy the home they worked so hard to own, to stay there for the rest of their days and maybe someday pass that home on to one of their children. The mayor and city council members in their little town of Lakewood, Ohio, however, had other plans. City officials wanted to take the Saleets' home, and the homes of their neighbors, and give that land to a politically powerful developer for an upscale mall and high-end condos whose inhabitants would enjoy the spectacular views across the Rocky River Gorge that first attracted Jim and JoAnn decades earlier to their dream home.

Jim and JoAnn were determined to fight, but they didn't know how they could win.

“There was no way that we could have afforded to fight the development plan, and the folks trying to put us out of our home knew that,” JoAnn said. “Then IJ sought us out and helped us in every which way. IJ showed us how to fight.”

Jim and JoAnn were reluctant leaders in the successful effort to save their neighborhood from eminent domain abuse. Their granddaughter, a toddler, was battling cancer and they didn't want to do anything to take their focus off of her needs. But neighbor after neighbor showed up on the Saleets' porch worried about the city's latest threat to kick them out and leave them with nothing if they dared to fight. Finally, Jim and JoAnn had seen enough of the city's bullying and they divided their time between their family's needs and this epic battle. They would fight the city's abuse of eminent domain with everything they had.

Jim and JoAnn fought and won. After a bout with cancer, Jim got his wish of spending his last days in the home he loved so much—a home that his sons renovated to suit their father's needs in his last days . . . a home Jim and JoAnn's daughter, Judy, and her family of seven kids now share with JoAnn, who has set up her own upholstery studio in the basement.

Jim and JoAnn had a simple dream. And as JoAnn recently told us, “None of this would exist—our home wouldn't exist—without IJ. Thanks to IJ, we've lived the life we hoped to live.”

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IJ in Top One Percent Of U.S. Charities

Your financial support of the Institute for Justice continues to be a sound investment in liberty. In June, for the *tenth consecutive year*, IJ received Charity Navigator's coveted 4-star rating for sound fiscal management—the rating institution's highest ranking. Charity Navigator is the nation's premier charity evaluator, profiling more than 10 times more charities than its nearest competitor.

Less than 1 percent of the 5,500 charities Charity Navigator rates have received at least 10 consecutive 4-star evaluations. According to the organization, this indicates that IJ “consistently executes its mission in a fiscally responsible way and outperforms most other charities in America.”

For more information, you can find Charity Navigator on the Web at www.CharityNavigator.org.

We are grateful to the thousands of people nationwide who make our work possible and thus share in this recognition. ♦





IJ Suit Seeks to End Campaign Finance Restrictions In Washington Recall Elections

IJ client **Robin Farris** (above) and *pro bono* attorneys Oldfield & Helsdon seek to vindicate First Amendment rights by showing that government limits on contributions to recall campaigns are unconstitutional limits on political speech and participation.

By Paul Avelar

Robin Farris is a retired U.S. Naval officer living in Washington state who had never before been involved in politics. But when she learned about the antics of Pierce County Assessor-Treasurer Dale Washam—the subject of multiple lawsuits and investigations regarding his alleged abuse of office, employees and the public trust—she started a grassroots campaign to recall him from office. This is her right under the Washington Constitution.

Under Washington law, Robin had to file charges against Washam and convince a court that the charges constituted a recallable offense. Because this is complicated litigation, Farris accepted the help of two lawyers, Tom Oldfield and Jeff Helsdon, who volunteered their time, and together they made a strong enough case for the courts to let the recall go forward.

But the Washington Public Disclosure Commission (PDC)—the group of unelected bureaucrats in charge of administering Washington’s vast web of restrictions on political speech—took notice of Farris’ success. They threatened to fine her for accepting volun-

teer legal services because the value of those services exceeded Washington’s low \$800 limit on contributions to recall campaigns.

In other words, Washington not only requires substantial litigation to start a recall, but it essentially prohibits people from getting *pro bono* legal help to engage in that government-mandated litigation—even if the lawyers refuse to be paid for their help. This means that only Washingtonians with the means to hire their own attorneys enjoy the right of recall. Washingtonians of ordinary means, like Robin, are left out.

Worse yet, even though ordinary citizens are subject to this low contribution limit, the law permits insiders like political parties and their committees to give tens or hundreds of thousands of dollars in a recall. Washington’s campaign finance law thus serves to entrench the power of political parties and other political insiders against “outsider” citizen groups—also known as ordinary people who dare to exercise their rights.

Washington’s restrictions on recall committees are not permissible under our Constitution. The U.S. Supreme Court has

repeatedly held that government restrictions on political speech and spending are unconstitutional unless they are closely related to stopping a politician from trading his vote for cash. But there is *no threat of corruption from contributions to a recall campaign because there is no candidate to corrupt*. Indeed, a recall campaign is the opposite of corruption—there’s no danger that a politician will do favors for someone who donates to his recall campaign; indeed, quite the opposite. Even the Ninth U.S. Circuit Court of Appeals—one of the courts most favorable to laws restricting political speech—has recognized that recall contributions are not corrupting. Yet Washington persists in enforcing unconstitutional laws.

As the U.S. Supreme Court reminded us in IJ’s recent victory over Arizona’s “Clean Elections” Act, “[W]hen it comes to [political] speech, the guiding principle is freedom.” That is why IJ has teamed with Robin and her *pro bono* attorneys to challenge Washington’s restrictions. Campaign finance laws limit political speech and participation and interfere with the ability of the people to bring about necessary and important political change. All Washingtonians—not just the wealthy or the politically connected—have the right to free speech and to recall abusive officials from office. ♦

Paul Avelar is an IJ Arizona Chapter staff attorney.



Georgia Law Enforcement “Fesses Up”

IJ Lawsuit Forces Compliance With Forfeiture Reporting Law

By Scott Bullock and Anthony Sanders

The people of Georgia suddenly know a lot more about the civil forfeiture activities of local law enforcement agencies. Just two months after IJ filed suit on behalf of five Fulton County taxpayers in an effort to shine a light on the state’s egregious civil forfeiture laws, the Atlanta Police Department, Fulton County Police Department and Fulton County Sheriff all cried “uncle” and admitted they had illegally failed to report the property they had seized through civil forfeiture. All three of these law enforcement agencies then produced detailed reports documenting the cash and property they had taken for each of the past three years, and what they did with it. Not only that, but they promised in court to do so in the future and to have the reports made publicly available on the Internet, as state law now requires.

One thing we learned from the reports is that many, if not most, forfeitures are less than \$1,000. Police are often not focusing their efforts on “drug kingpins,” but on small-time drug possession cases and those cases where individuals lack the resources to defend their property.

Generally, Georgia has terrible civil forfeiture laws. Among other unconstitutional outrages, law enforcement retains up to 100 percent of the proceeds of civil forfeiture for its own use. Further, innocent owners have huge barriers placed in their way when they try to retrieve their property. After law enforcement seizes property that they allege is connected to a crime, the burden is on the property owner to prove his innocence; a perversion, of course, of Anglo-American jurisprudence, but par for the course in many states. Georgia, however, does have a good forfeiture reporting law, requiring annual reporting of forfeiture practices. In the face of this, the law enforcement agencies we sued simply had no defense for their failure to report.

Although the police surrendered without a struggle, the judge assigned to the case hinted at what “might have been” had the government decided to fight. After signing the consent decree the Fulton County defendants previously agreed to, he said, “It looks like you have got their attention.”

Indeed, the judge was right. The lawsuit made a big impression among law enforcement not just in the three departments IJ sued, but across Georgia. As we reported in the last issue of *Liberty & Law*, the case arose out of a report our strategic research department issued, documenting widespread failure to follow the forfeiture reporting law. The media reported on our research just as heavily as our lawsuit, raising the issue of whether other law enforcement agencies were following the law. Hours after the case was filed we received phone calls from various police departments asking if we had found whether they were in compliance. If governments are calling the Institute for Justice to see whether they are complying with their own law, you know they think there might be a problem.

Our victory in court only affects the three police departments in Fulton County, but the word has now gotten out across the state that if local law enforcement agencies do not begin annually reporting their forfeiture activities, then either IJ, a member of the IJ-trained Human Action Network, or another enterprising litigator for liberty might come knocking on their door. ♦



Scott Bullock is an IJ senior attorney and **Anthony Sanders** is an IJ Minnesota Chapter staff attorney.



“Just two months after IJ filed suit on behalf of five Fulton County taxpayers . . . the Atlanta Police Department, Fulton County Police Department and Fulton County Sheriff . . . admitted they had illegally failed to report the property they had seized through civil forfeiture.”

Threaders Show Their Pluck In Arizona Legal Challenge

By Tim Keller

Juana Gutierrez works hard shaping the eyebrows of her clients as a means to support herself and her new baby. She works so hard, in fact, that she was back at work only a week after giving birth, working eight hour shifts and managing six different eyebrow “threading” kiosks in the Phoenix area. Juana is not looking for a government handout. She just wants the government to get out of her way so that she can pursue her own livelihood.

Eyebrow threading is a natural and safe method of hair removal that uses a single strand of cotton thread, wound tightly between the threader’s hands to form a loop that is then brushed along the customer’s skin to remove unwanted hair, most commonly from around the customer’s eyebrows. Threaders do not use any chemicals, dyes, hot wax or sharp objects. Threading is a centuries-old practice that originated in the Middle East and Asia but that is growing in popularity in the United States.

Threading is cheaper, faster and cleaner than the chemical and wax-based hair removal techniques taught in American cosmetology schools and practiced by state-licensed cosmetologists. It there-

fore creates vibrant competition with the members of the cosmetology cartel while expanding customer choice and keeping the price of beauty services low.

Of course, cartels hate competition. And when the cartel has the coercive power of the government at its disposal, it will often erect government-enforced regulatory barriers to keep out that competition. That is what is happening in Arizona, and that is why the IJ Arizona Chapter has filed its most recent lawsuit.

Despite the benefits of threading to entrepreneurs, workers and consumers, the Arizona Board of Cosmetology declared that all threaders must be government-licensed aestheticians or cosmetologists—and that they must work in licensed salons rather than the popu-



“Threaders do not need full-blown cosmetology training,” says IJ client **Juana Gutierrez**. “We don’t use wax or any chemicals. We don’t do facials. We just use a piece of thread to shape eyebrows.”



IJ client **Angel Martinez**



Threading is a natural and safe method of hair removal that simply uses a single strand of cotton thread glided over the skin.

lar kiosks where they currently work. The law did not change. Rather, the unelected members of the Board of Cosmetology took it upon themselves to regulate threaders.

To get a license, threaders must take a minimum of 600 hours of classroom instruction at a cost of more than \$10,000 even though not one single hour teaches threading. Threaders must then pass the Board's licensing exam—which tests neither an individual's knowledge of threading nor skill as a threader. The Board's decision cuts off the bottom rungs of the economic ladder for talented threaders, like Juana, who rely on their threading skills to support themselves and their families.

Threaders do not need full-blown cosmetology training. They just glide a single piece of cotton thread over the skin. The application of Arizona's licensing scheme does nothing to protect customers. Instead, it protects licensed cosmetologists from competition and puts more money in the cosmetology schools' hands.

Fortunately, the Arizona Constitution protects every individual's right to earn an honest living without first having to obtain a completely unnecessary license. Our goal is to restore the right to earn an honest living to its proper place as a fundamental right. And by strategically litigating this case, we intend to ensure that Arizona's courts do not leave one of our most precious civil rights dangling by a thread. ♦

Tim Keller is the IJ Arizona Chapter executive director.



The Monks Get Their Day in Court!

On June 6, the brothers of Saint Joseph Abbey in Covington, La., and IJ attorneys went to trial in federal court in New Orleans to vindicate the right to earn an honest living. The monks want to sell their handmade caskets to the public, but Louisiana allows only state-licensed funeral directors to sell caskets. In 2008 and 2010, the Abbey petitioned the legislature to reform the law, but the monks were twice thwarted by the funeral-director lobby, which mobilized to protect its lucrative monopoly.

The Abbey and IJ brought suit last summer to defend the economic liberty of entrepreneurs everywhere. This case has tremendous potential because there is disagreement among federal courts of appeal over the major issue at stake: May the government restrict economic liberty just to benefit industry insiders such as licensed funeral directors? Because the U.S. Supreme Court's main job is to resolve these sorts of disagreements, the Abbey's case is an ideal vehicle for taking the right to earn an honest living to the highest court in the land.

Our clients were front and center during the trial. Abbot Justin Brown—robed in his monastic habit—and Deacon Mark Coudrain took the stand to explain to the judge that selling Abbey caskets poses no danger to the public. For its part, the state of Louisiana argued that consumers, because they may be bereaved, cannot be trusted with the freedom to buy a casket without a government-licensed babysitter, i.e., a funeral director.

We expect to report a decision in the next issue of *Liberty & Law*. ♦

IJ Ventures to Colorado to Defend New School Choice Program

By Michael Bindas

The Douglas County, Colo., Board of Education wanted to save taxpayers money and improve the already-high quality of public education in their region, so they created a new school choice program that will allow 500 families to direct a portion of their share of education revenue to select the best school for their children. No sooner did the program go into effect than the ACLU, Americans United for Separation of Church and State, and other allied groups filed suit to block other people's educational options. Within days of the choice opponents' suit, however, the Institute for Justice moved to intervene to protect the rights of parents who want nothing more than to direct the education of their children.

The Douglas County school choice program is about education, and giving parents and kids the widest possible array of options to meet their educational needs; those with a political ax to grind have tried to make this about religion, but Douglas



IJ school choice parents **Mark and Jeanette Anderson** plan to send their son **Max** to a school with a math and science curriculum that better fits his interests and needs.

County's is a well-crafted, religiously neutral program that will withstand any close scrutiny in that regard. Through this program, it is parents—and not government officials—who are deciding what school a child attends. No educational money will be spent at any school through this program—be it secular or religious—without a parent making that free and independent choice. That is what makes this program constitutional.

And IJ knows a thing or two about

what constitutes a constitutional program: IJ has defended school choice programs from legal attack every single day from the time we opened our doors 20 years ago. We are confident the program passed in Douglas County will pass constitutional muster.

IJ represents four Douglas County families—the Doyles, Oakleys, Andersons, and Lynotts—who want to protect their interest in receiving the offered scholarships. Each family has one or more children who



“IJ believes that parents—not government—ought to make the choices concerning their children’s education. Douglas County’s program goes a long way to making that a reality.”

Donovan and Alexandra Doyle plan to go to a school with a college-prep program their parents feel is the best fit for them.

have received scholarships and have been accepted by a private school participating in the program. Each couple believes transferring their children to a private school is vital to providing their children an education best suited to them.

For example, Diana and Mark Oakley plan to use their scholarship to enroll their son Nate, who has Asperger’s Syndrome, in Humanex Academy, a private school that focuses on children with special needs. Flo and Derrick Doyle plan to send their children Donovan and Alexandra to Regis Jesuit High School, and Tim and Geri Lynott plan to do the same for their son Timothy Jr. The Doyles and Lynots believe Regis’ rigorous college-prep curriculum and religious grounding are best suited for their kids. And Jeanette and Mark Anderson plan to send their son Max, who has a keen interest in and aptitude for math and science, to Woodlands Academy, which has a particularly strong and unique math and science curriculum. Max spent two days sitting in on

classes at the school and described his first day there as “the best seven hours of my life” and “the best math class I ever had.”

Not only is the Douglas County school choice program constitutional, it also makes fiscal sense, saving taxpayers money they would otherwise have to spend to educate each child in the program. Under the program, parents are eligible to receive a scholarship of up to either 75 percent of per-pupil revenue for a student in Douglas County or the cost of tuition at the private school, whichever is lower. This year, the upper amount is expected to be \$4,575. The average cost of educating the same student in the Douglas County public schools is far greater. The scholarship families can apply to private schools participating in the program just as if they were using their own money, except they will receive a scholarship to help them defray the cost of attendance. The scholarship students will take the same state tests they would have taken had they remained enrolled in the Douglas County

public schools.

At least 27 private schools (both religious and non-religious) have asked to participate. And just as the program allows religious and non-religious schools alike to participate, two of the families IJ represents have chosen to attend a religious school with their scholarships, and two have chosen to attend non-religious schools.

As readers of *Liberty & Law* know well, IJ believes that parents—not government—ought to make the choices concerning their children’s education. Douglas County’s program goes a long way to making that a reality. IJ therefore looks forward to defending the program and to vindicating the right of all parents, in Douglas County and beyond, to choose the schools that are best for their kids. ♦

Michael Bindas is an IJ Washington Chapter senior attorney.



U.S. Supreme Court Strikes Down Arizona's "Clean Elections" Act

USSC Victory continued from page 1 had been subjected to a system in which every dollar they spent above a government-dictated amount resulted in the government giving additional funds to their electoral opponents. As the Court recognized, "That cash subsidy, conferred in response to political speech, penalizes speech." The matching funds provision was a bald attempt by the state to manipulate speech by forcing speakers to either trigger matching funds to their opponents, change their message, or refrain from speaking altogether. According to the Court, "forcing that choice . . . certainly contravenes 'the fundamental rule of protection under the First Amendment, that a speaker has the autonomy to choose the content of his own message.'"

This forced choice, the Court further recognized, had dire consequences. It had caused IJ's clients and others to fundamentally change how they participated in politics. And, quoting research by University of Rochester political scientist David Primo—author of original strategic research on the program and IJ's expert in the case—the Court recognized that the forced choice also caused "privately financed candidates facing the prospect of triggering matching funds [to change] the timing of their fundraising activities, the timing of their expenditures, and, thus, their overall campaign strategy" to avoid sending additional funds to opponents.

Moreover, the Court recognized that the end result of the matching funds was an overall reduction in political speech, for, "If the matching funds provision achieves its

professed goal and causes candidates to switch to public financing, . . . there will be less speech: no spending above the initial state-set amount by formerly privately financed candidates, and no associated matching funds for anyone. Not only that, the level of speech will depend on the State's judgment of the desirable amount, an amount tethered to available (and often scarce) state resources."

This victory is all the better because of the changes in the courts' treatment of campaign finance laws since this case was first launched. Back in 2004, courts were rarely engaged when litigants challenged campaign finance laws for violating their free speech and association rights—they would simply rubber-stamp whatever the government wanted. Indeed, the legal environment was so bad, IJ had to fight for three years just to get the courts to consider our case on the merits.

Now, in 2011, we have a U.S. Supreme Court victory that not only says that systems like Arizona's are unconstitutional, but also firmly establishes that the government is forbidden from attempting to achieve indirectly what it is constitutionally forbidden from achieving directly. The case also firmly establishes that courts, when considering free speech claims, must look past the government's justifications for a law and actually examine all the evidence to determine whether the law in question violates free speech.

Since we first brought this case, the



IJ clients, from left, **Rick Murphy, Shane Wikfors, Steve Voeller** and **Dean Martin**, have had their rights to political speech vindicated.

courts have recognized that they have to be engaged to protect the First Amendment from campaign finance laws—and IJ has been at the forefront of that change by bringing legal challenges across the country. *Freedom Club PAC* is now the most recent example of the trend of judicial engagement that IJ has advocated since our founding and a case that will have significant implications beyond campaign finance law. We will use this case as a national precedent to urge courts to take constitutionally enshrined individual rights more seriously not only in the area of free speech, but also across IJ's other pillars of litigation—property rights, economic liberty and school choice.

IJ will continue to fight against laws that reduce speech, silence disfavored speakers and viewpoints, and manipulate the marketplace of ideas. As the U.S. Supreme Court reminded us all, "[T]he whole point of the First Amendment is to protect speakers against unjustified restrictions on speech When it comes to protected speech, the speaker is sovereign." ♦

Bill Maurer is the IJ Washington Chapter executive director.



IJ Helps Take On Legal Cartel And Wins

In June, at the urging of the Institute for Justice, the Minnesota Supreme Court ended the American Bar Association's (ABA) stranglehold over legal education by changing the state's admission rules to allow licensed attorneys from other states to sit for the Minnesota bar examination even if they graduated from a non-ABA-accredited law school. The ruling is a victory not only for those who wish to practice law in the state, but also for consumers who will now enjoy greater choice among attorneys, and therefore can expect to pay lower prices for legal representation.

Before this stunning rebuke to Minnesota's legal establishment, anyone who wanted to become a licensed attorney in Minnesota had to earn a law degree from a law school accredited by the ABA. This meant that licensed lawyers who graduated from one of more than 40 state-accredited and registered law schools in the country could not practice in Minnesota.

This rule prohibited graduates of more affordable law schools from practicing because the ABA requires law schools to meet unnecessary requirements to be accredited, such as large law libraries, and does not recognize schools that offer primarily online or distance-learning programs.

"The ABA, State Bar Association and the Minnesota Board of Law Examiners fought against common sense reform at every turn," said Lee McGrath, executive director of the Institute for Justice Minnesota Chapter, which supported the petition to the Minnesota Supreme Court to change its rule. "But because of the court's decision, Minnesota consumers will have access to a wider range of qualified attorneys, including those willing to compete by offering more affordable rates. A competitive marketplace is the best regulator and serves consumers far better than a handful of overseers appointed by the industry itself."


Micah Stanley and three other licensed attorneys asked the court to reconsider the rule in 2009.

"I received an outstanding legal education and passed one of the toughest bar exams in the country—the California bar," said Stanley, a graduate of non-ABA-accredited Oak Brook College of Law and Government Policy. "I am thrilled that lawyers in similar situations will be permitted to work in Minnesota. Not only has the Minnesota Supreme Court finally opened the doors to alternative online education within the state's legal community, but it signaled to other high courts across the nation that the ABA's accreditation monopoly stands no more."

Minnesota's new rule is similar to a rule that the Wisconsin Supreme Court adopted in 1998. Approximately 30 attorneys who graduated from non-ABA-accredited laws schools have since become licensed to practice law in Wisconsin. Importantly, there is no evidence of increased malpractice, as none of those attorneys has been disciplined during the more than 12 years since the more liberal rule went into effect.

"This is just one example of a national problem in which industry cartels use government power to protect themselves from competition," said Chip Mellor, IJ's president and general counsel. "Protecting economic liberty and ending government-enforced cartels require judicial engagement—a willingness by the courts to confront what is often really going on when the government enacts licensing laws supposedly to protect the public. We are pleased that the Minnesota Supreme Court demonstrated its willingness to be engaged in this important issue of economic liberty."◆

"The ruling is a victory not only for those who wish to practice law in the state, but also for consumers who will now enjoy greater choice among attorneys, and therefore can expect to pay lower prices for legal representation."



IJ's Annual Law Student Conference Informs and Inspires Next-Gen Lawyers

By Krissy Keys

This June, 35 law students representing 28 law schools from across the country joined Institute for Justice summer interns, IJ staff and an attorney from Sweden's Centrum för Rättvisa at the Institute for Justice's 19th annual Law Student Conference held at The George Washington University in Washington, D.C.

The weekend crash-course in IJ's public interest law tactics included traditional conference presentations on the history of the Institute as well as our activism, coalitions and media relations. New to this year's conference were sessions on IJ's recently launched Center for Judicial Engagement and "The Road to the Supreme Court," detailing what goes into taking a case to the country's highest court.

The client panel gave attendees a firsthand account about what it is like for an ordinary American to stand up and fight for their constitutional rights. Clients from IJ's bone marrow, Nashville limos and D.C. tour guide cases spoke about their respective cases and the government's intrusion into their lives, putting a human face on IJ's work and reaffirming why limited government is so important to the lives of so many.

The conference also featured some of our nation's premier thinkers on constitutional law. Georgetown Law Center Professor Randy Barnett discussed the ongoing litigation surrounding ObamaCare, the Cato Institute's Roger Pilon enlightened attendees on career opportunities available after law school, and George Mason University School of Law Professor Todd Zywicki spoke on public choice theory and the law. On Saturday night, Chief Judge Royce C. Lamberth of the U.S. District Court for the District of Columbia gave a thought-provoking keynote on the judicial appointment process and steps that lawmakers should take to streamline the review and approval of federal judicial appointees.

At the conclusion of the conference, attendees became part of IJ's Human Action Network (HAN), which includes more than 1,000 conference alumni and past IJ clerks and interns.

IJ regularly calls on attorneys in our HAN to conduct legal research in support of ongoing litigation, serve as local counsel for IJ cases, or take on cases that IJ is not able to litigate. ♦

Krissy Keys is IJ's special projects manager.





IJ President and General Counsel **Chip Mellor** presents Chief Judge **Royce C. Lamberth** of the U.S. District Court for the District of Columbia an award of thanks for giving the keynote address at the conference. The Chief Judge spoke about the judicial appointment process and steps that lawmakers should take to streamline the review and approval of federal judicial appointees.

2011 Summer Clerks & Interns



Our 2011 headquarters summer clerks and interns provided excellent legal research for IJ. They are from left to right, **Mark Penner**, University of Alabama; **Greg Reed**, American University Washington College of Law; **Jonathan Sink**, University of North Carolina; **Patrick Cento**, Boston University School of Law; **Chelsea Walker**, University of North Carolina; **Kyle Matous**, Pepperdine University School of Law; **Brandon Pizzola**, College of William and Mary; **Samuel Eckman**, University of Chicago Law School; **Stephen Kenny**, Harvard University Law School; **Fernando Ferreira**, George Mason University; **Elyse Dorsey**, George Mason University School of Law; **Patrick McMillin**, University of Texas School of Law; **Hallee Morgan**, University of Virginia School of Law; **Eric Netcher**, University of Florida College of Law; **Craig Millward**, Siena College; **Ben Burningham**, George Washington University Law School.



IJ client and SpeechNow.org President **David Keating** set an important First Amendment precedent ending government-imposed restrictions on how individuals can participate in the political process.

“IJ’s work ensured that the Constitution will be respected.”

How many people can say that their work led to a wholesale change in the law, a change that left their fellow countrymen more free to speak and participate in the American political process? IJ client David Keating can say that.

David joined with a handful of others who sought to defend the First Amendment through an organization they launched called SpeechNow.org, which would allow them to pool their money and pay for political ads supporting political candidates who defended free speech and seeking to defeat those candidates whose votes harmed the First Amendment. There was one problem: When two or more people pooled their money in this way, they had to register with the government, which imposed restrictions that seriously limited the efficacy of their advocacy.

So David and the others joined with IJ to fight for their First Amendment rights. As a result of SpeechNow.org’s legal victory striking down most government-imposed restrictions on “independent expenditure groups” like SpeechNow.org, 26 new “Super PACs” were launched in the 2010 election cycle and tremendously influenced the outcome of the races in which they were involved. And even more are now in place gearing up for the 2012 election cycle, all thanks to David’s (and SpeechNow.org’s) victory. The Federal Election Commission lists 102 active independent expenditure committees on its website—a testimony to the impact of David’s victory over the government Goliath.

David said, “What we were able to do with SpeechNow.org finally liberated speech for all citizens. What surprised me most is how quickly the SpeechNow.org decision has had such a broad impact across the nation. IJ’s work ensured that the Constitution will be respected.” And that impact will be felt across the political spectrum for decades to come.

Our clients inspire us and through their courage affect the lives of so many others. Growing together during our litigation and even after it is complete is one of the most gratifying experiences we all have at the Institute for Justice.◆

John E. Kramer is IJ’s vice president for communications.



IJ Clinic Battles Laws in Chicago That Allow Farming on Rooftops But Not in Open Lots



IJ Clinic clients **Katie Williams** and **Molly Medhurst** saw a void that needed to be filled, while Chicago saw a business that did not fit neatly into the city's outdated licensing categories. Entrepreneurs should be able to adjust their businesses to the needs of their customers, instead of being forced to conform to the confusing regulations set by city bureaucrats.

By Brooke Fallon

You know the power of government officials has grown too great when they can pass laws to urge rooftop farming while banning much more commonsense farming in open lots throughout the city. Yet that is exactly what the city of Chicago is doing: saying you can take dirt, move it to a rooftop and “farm” there, but you are banned from farming where the dirt normally resides—in any of the many open lots throughout the city.

Across Chicago, some neighborhoods enjoy multiple grocery stores and weekly farmers markets while residents in other areas don't have convenient access to fresh fruit and vegetables. Politicians and community organizations have dedicated time and money to addressing this problem but have so far failed to solve it. Some entrepreneurs in Chicago have, however, offered a possible solution: Why not take vacant lots in the city and convert them into commercial gardens? These gardens could include farm stands—to sell what they grow—as well as “farm share” programs that would allow local residents to eat the fruit of their own handiwork, and sites that allow consumers to pick what they wish to purchase fresh from the field. All this would allow more communities local access

to fresh food while creating much-needed jobs and refurbishing the vacant lots that plague many of Chicago's low-income neighborhoods.

To most, this sounds like a great idea, but the city of Chicago prohibits street-level commercial gardens and farms. You can have one on a rooftop but not in the most natural place for farming—on the ground.

IJ Clinic client Chicago Patchwork Farms experienced firsthand the legal roadblocks created by the city's inconsistent municipal occupational licensing and zoning codes. Owners Katie Williams and Molly Medhurst were looking to start an urban farm in Chicago's Humboldt Park neighborhood, where they have resided for eight years. “We started Patchwork Farms as a way to earn a living doing work we love while meeting one of the most fundamental needs of our friends and neighbors—healthy food,” Katie explained.

So, Katie and Molly found a piece of unused land, got the owner's permission to farm there and then went to City Hall to find out how to make their dream a reality. What they found is that Chicago does not think about opportunities like entrepreneurs do. Where Katie and Molly saw a void that needed to be filled, Chicago saw a business

that did not fit neatly into the city's outdated licensing categories and simply told the problem-solving entrepreneurs to try something else. According to Katie and Molly, when they spoke with the city about their idea, they were told that the best they could do is to be licensed as “food peddlers,” selling (but not growing) fruits and vegetables from a wheeled cart (but not a motorized vehicle) and relocating every two hours. No land in the city is zoned for a farm, so the city deems it illegal.

Now the IJ Clinic is doing what it does best—navigating Katie and Molly through the murky waters of Chicago's complex licensing and zoning schemes.

Entrepreneurs like Katie and Molly should be able to adjust their business to the needs of their customers, instead of being forced to conform to the confusing regulations set forth by city bureaucrats. Urban farming is a fundamental example of entrepreneurship that can benefit an entire community. Humans have been farming for the past 12,000 years; it's time for Chicago's municipal code to catch up. ♦

Brooke Fallon is the office and community relations manager of the IJ Clinic on Entrepreneurship.



About the publication

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

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

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Quotable Quotes

ABC News

“In its first major campaign finance ruling since the case of *Citizens United*, a divided Supreme Court today struck down a key provision of an Arizona public financing law. ‘The court’s decision today, like other recent decisions, makes clear that the First Amendment is not an exception to campaign finance laws; it is the rule,’ said William R. Maurer, an attorney with the Institute for Justice, who represented the Arizona Free Enterprise Club, a political action committee that opposed the law. ‘As a result of today’s ruling, government can no longer use public funds to manipulate speech in campaigns to favor government-funded political candidates and turn the speech of traditionally funded candidates into the vehicle by which their entire political goals are undermined.’”

Philadelphia Inquirer

IJ President and General Counsel Chip Mellor: “In their quest to end so-called judicial activism—an empty term in today’s political rhetoric—many liberals and conservatives have worked to limit judicial review of overreaching congressional and executive acts. While both sides of the political spectrum are working from opposite ends under opposing rationales, they are reaching exactly the same end: expanded government power.”

The Wall Street Journal

Property Rights Knockout—A boxing gym beats a big developer on eminent domain: “According to the Institute for Justice, which represented [the gym], nearly 200 California development projects have used or threatened to use eminent domain laws for private developments, often on the grounds of economic improvement. The victims of the law are often minorities and economically disadvantaged residents, who are unable to protect their businesses and neighborhoods from politically connected developers.”

**Arizona Family Channel
KTUK-TV**



IJ Arizona Chapter Director Tim Keller: “There’s no need for the state to get involved [in regulating eyebrow threading]. The notion that individuals should have to obtain 600 hours of classroom instruction when not one hour teaches what that person actually does is outrageous and unconstitutional.”

“Over at the Institute for Justice, a libertarian public interest law firm, recent cases have been fought on behalf of DC tour guides, Florida interior designers, Louisiana casket makers, Nashville limo drivers, and Utah hair braiders keen on practicing their chosen professions without having to obtain a professional license.”

—Conor Friedersdorf
The Atlantic



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The city of El Paso told me I couldn't operate my food truck within 1,000 feet of any restaurant.
But government shouldn't pick winners and losers in the marketplace.
Along with other mobile vendors I fought back, and I won.

I am IJ.



*Maria Robledo
El Paso, Texas*

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