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Free to Speak for a Living

Victory for Charleston Tour Guides

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contents

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About the publication: *Liberty & Law* is published bimonthly by the Institute for Justice, which, through strategic litigation, training, communication, activism, and research, advances a rule of law under which individuals can control their destinies as free and responsible members of society. IJ litigates to secure economic liberty, educational choice, private property rights, freedom of speech, and other vital individual liberties, and to restore constitutional limits on the power of government. In addition, IJ trains law students, lawyers, and activists in the tactics of public interest litigation. Through these activities, IJ challenges the ideology of the welfare state and illustrates and extends the benefits of freedom to those whose full enjoyment of liberty is denied by government.

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IJ clients **Kim Billups** (right), **Michael Nolan** (top), and **Mike Warfield** (bottom) are free to tell stories about their beloved city after a federal judge ruled that Charleston's tour guide licensing scheme violated the First Amendment.

FREE TO SPEAK FOR A LIVING

Victory for Charleston Tour Guides Vindicates IJ's Strategic Approach

BY ROBERT MCNAMARA

Charleston, South Carolina—and the whole country—got a little bit freer this August when a federal judge struck down that city's licensing requirement for tour guides.

Before IJ got involved in Charleston, people who were paid to tell stories to tourists could be thrown in jail for a month unless they first passed a 200-question test on topics city officials deemed important. After a four-day, 14-witness trial held this past spring, the court ruled that these burdens on speech violate the First Amendment.

The ruling is a massive victory for IJ's clients like Kim Billups, who is now free to give in-character tours in her authentic ante-bellum costume. It is also a powerful illustration of what we mean when we talk about IJ's "strategic litigation"—and why that strategy matters so much.

The Charleston case, like our other tour guide cases, is part of IJ's yearslong effort to protect the rights of people who speak for a living. Thanks in part to the internet, more and more people are earning their living by communicating their knowledge or advice. (You can read about a few of these people on page 13, in the story about IJ's new case in Mississippi.) Predictably, government officials have responded by cracking down on these people, arguing that so-called professional speech is unprotected by the First Amendment. And, outside of IJ cases, courts have largely agreed, finding that this kind of speech is, at best, less protected than ordinary speech. Our mission is to convince courts that the First Amendment applies to *all* speech—no matter what the government calls it.

As readers of *Liberty & Law* know, our efforts have led to many courtroom victories. Each of those victories has also been a building block, designed both to move the law in our direction and to vividly illustrate the dangers of allowing government to wield this kind of power, especially when it's used on behalf of entrenched interests, which is so often the case.

In this case, capitalizing on our strategic investment meant a battle on many fronts: Even as we started gearing up for our trial in Charleston, we were simultaneously writing a friend-of-the-court brief to the U.S. Supreme Court in a case called *NIFLA v. Becerra*. That brief asked the Court to reject the lower courts' approach and instead hold that professional speech is protected by the First Amendment, using IJ cases to illustrate why that principle is so important.

From the perspective of our opponents in Charleston, the ruling probably seemed like a lucky break for us. But it was a lucky break 10 strategic years in the making.

Just a week before our pretrial conference in Charleston, the Supreme Court heard argument in the *NIFLA* case, and lawyers for the government faced sharp questions from the Justices that specifically invoked IJ's arguments and our past cases. And only a few weeks after trial—a trial during which Charleston's lawyers repeatedly stressed that tour guides were "professionals" and thus operating outside the First Amendment—the Supreme Court issued an opinion resoundingly adopting IJ's arguments and holding that the First Amendment protects "professionals" just as much as it does anyone else.

From the perspective of our opponents in Charleston, the ruling probably seemed like a lucky break for us. But it was a lucky break 10 strategic years in the making.

We are already moving aggressively to put the Court's *NIFLA* decision to use in ongoing cases and in litigation in development. Making luck of the sort that helped win our case in Charleston is strategic public interest litigation in action.◆

Robert McNamara is an IJ senior attorney.

North Carolina CONs
Doctors and Patients

BY JOSH WINDHAM

Most Americans agree the health care industry faces enormous challenges. Providers are increasingly bound by red tape, costs just keep going up for patients, and lawmakers appear more interested in posturing than in policy. Under these conditions, it can be almost impossible to do a good deed—something Dr. Gajendra Singh knows all too well.

Dr. Singh is a general surgeon based in Winston-Salem, North Carolina. As part of his practice, Dr. Singh sometimes requires patients to obtain scans for diagnosis and treatment. But increasingly in recent years, patients report struggling with the exorbitant costs and lack of transparency of imaging services in the area.

So, in 2017, Dr. Singh decided to do something about it. He opened Forsyth Imaging Center to provide high-quality, low-cost imaging services with transparent prices. Dr. Singh's goal was to help patients by offering scans at a fraction of the cost of nearby providers. Since opening the center, he has acquired all the equipment he needs to do exactly that—except one machine.

Dr. Singh is allowed to have an X-ray machine, an ultrasound machine, and a CT scanner. But under North Carolina's certificate of need (CON) law, he is banned from purchasing an MRI scanner because the hospital down the street already has one. So Dr. Singh is teaming up with IJ to challenge the law in state court and vindicate his right to provide these much-needed scans.

Readers of *Liberty & Law* may already be familiar with CON laws from IJ's challenges in Virginia and Iowa. A CON is a government permission slip to provide certain health care services. In most states, a provider must demonstrate that a new service is "needed" before obtaining a CON. This can be difficult enough—but in North Carolina, it gets even worse.

Under North Carolina's law, a provider cannot even *apply* for a CON to provide certain services unless state planners predetermine a "need" for those services—based on the number of providers already operating. Not only that, the application process can cost hundreds of thousands of dollars and gives established providers an opportunity to contest new applications at every turn.

In 2018, state planners did not project a "need" for a new MRI scanner, meaning Dr. Singh is categorically banned

NC CON continued on page 18

A board of medical insiders prevents **Dr. Gajendra Singh** from even applying to purchase an MRI scanner under North Carolina's certificate of need law. IJ and Dr. Singh are teaming up to strike down this unconstitutional burden on entrepreneurship and innovation.

Dr. Singh is allowed to have an X-ray machine, an ultrasound machine, and a CT scanner. But under North Carolina's certificate of need law, he is banned from purchasing an MRI scanner because the hospital down the street already has one.

Why Certificate of Need Laws Must Go

IJ's challenge to North Carolina's certificate of need (CON) law marks our third challenge to these kinds of state health care regulations.

Taking on CON laws is a key facet of IJ's strategy to protect economic liberty and strike down regulations that serve only to protect incumbent businesses from competition. Indeed, we have already secured a significant federal court decision in our challenge to Iowa's CON law, which held that "naked economic protectionism is an illegitimate state interest."

These cases allow us to urge courts to not simply defer to the government on economic regulation, and they provide IJ with yet another context in which to take on state restrictions of medical autonomy. (IJ's case representing Georgia lactation consultants (see page 8) is another example of our efforts on this front.) Meanwhile, these cases are fertile ground to reinvigorate state constitutional protections against monopolies, as our North Carolina challenge demonstrates.

Finally, CON lawsuits enable IJ to build precedent striking down regulatory schemes that have become downright irrational given changed circumstances. CON laws were originally justified as a way to keep the costs of public investment in health care down. Today, however, the way the federal government reimburses for health care has fundamentally changed. What's more, CON laws apply even to health care investments that are entirely privately financed.

CON laws stand in the way of making health care more accessible and affordable. Fourteen states have already eliminated their CON requirements, and IJ's litigation will make sure the states where these laws remain in place follow suit.◆

Georgia Lactation Consultants Sue to Keep Their Jobs—and Keep Helping Moms and Babies

BY JAIMIE CAVANAUGH

Despite popular perception, breastfeeding is an acquired skill, and many moms, first-time and veteran alike, benefit from working with lactation consultants who offer assessment, guidance, and support. That's why it is so important that IJ is teaming up with lactation consultants in Georgia to challenge a new law that threatens to put more than 800 qualified lactation consultants out of business with the stroke of a pen.

One of these lactation consultants is IJ client Mary Jackson, a certified lactation counselor (CLC), who has worked with hundreds of families over the past three decades. Mary also co-founded Reaching Our Sisters Everywhere (ROSE), a nonprofit that seeks to raise awareness of breastfeeding and offer breastfeeding support to communities of color.

CLCs like Mary become certified by taking a 45-hour course and passing an exam. A second kind of private certification also exists: Becoming an International Board Certified Lactation Consultant (IBCLC) involves approximately two years of college-level courses, 90 hours of breastfeeding-specific education, and at least 300 unpaid clinical hours. Unsurprisingly, practicing CLCs outnumber IBCLCs in Georgia three to one.

There is zero evidence that unlicensed lactation care has ever harmed anyone, anywhere. Nonetheless, Georgia ignored the recommendation of its own Occupational Licensing Review Council and created a new license requiring anyone who makes a living helping new mothers learn to breastfeed to become an IBCLC.

Georgia's new law forces nearly 75 percent of the state's lactation consultants out of work. They simply will not be able to bear the huge burdens of time and expense it would take to meet the new licensing requirements. This includes CLCs who, like Mary, have taught physicians around the country breastfeeding best practices. Moreover, it creates a huge deficit in care for the 2,500 babies born in Georgia each week—all to solve a problem that doesn't exist.

IJ moved swiftly to stop the law from taking effect, pulling our case together in a matter of weeks. We won a first-round victory just days after filing suit when Georgia agreed to stop enforcing the law during litigation. That means Mary and hundreds of other CLCs can continue working until IJ strikes down this unjust and unnecessary licensing law once and for all.◆

Jaimie Cavanaugh is an IJ attorney.

TEACHING VIRGINIA BUREAUCRATS

A LESSON IN FREE SPEECH

BY PAUL SHERMAN

Jon McGlothian of Virginia Beach, Virginia, is an Army veteran and an all-star project management instructor. His wife, Tracy, owns a successful sewing business and wants to teach her skills to others. But Jon and Tracy's entrepreneurial dreams became a bureaucratic nightmare when they encountered the State Council of Higher Education for Virginia (SCHEV).

As it turns out, in Virginia you can teach anyone anything—except how to earn an honest living. That's because it's illegal to teach job skills to Virginians without SCHEV's approval.

Getting permission to teach isn't cheap or easy. Just applying costs $2,500. Worse, SCHEV won't license any school until it has inspected the school's facilities, meaning that applicants must lease teaching space before they even know whether they will be approved to operate.

And the burdens aren't merely financial—schools must also convince SCHEV their speech is worth allowing. This requires explaining how their courses are of the "quality, content, and length" necessary to achieve their "stated objective," submitting evaluations of courses' effectiveness, and proving to SCHEV that their instructors are qualified.

Jon and Tracy tried to meet these requirements. They spent thousands of dollars and dozens of hours putting together a heavy binder to prove their fitness to teach, but they were repeatedly rejected and asked to provide more information.

Fed up with these delays, Jon and Tracy are fighting back. The government couldn't regulate Jon and Tracy if they wrote books about project management or sewing—and under the First Amendment, their in-person instruction should enjoy the same protection. That's why Jon and Tracy joined with IJ this summer to challenge the constitutionality of Virginia's vocational school requirements in federal court.

This is the second time IJ has challenged Virginia's requirements for vocational schools. In 2009, IJ sued on behalf of schools that train yoga instructors. But the Virginia General Assembly amended the law to exclude schools that teach people to earn a living by teaching hobbies like yoga. That was a victory for our clients, but it didn't protect the majority of vocational schools.

Now we're ready to finish what we started nearly a decade ago. Teaching is speech and, under the First Amendment, decisions about what to teach and from whom to learn are left to teachers and students—not government bureaucrats. If SCHEV can't see that, we'll be happy to teach it a lesson.◆

Paul Sherman is an IJ senior attorney.

Educational Choice Victories Keep Coming

BY ERICA SMITH

IJ's educational choice team closed out the summer with a bang. In the last issue of *Liberty & Law*, we described IJ's defense of a brand new educational scholarship program in Puerto Rico. Since then, IJ won that case at the Puerto Rico Supreme Court—setting a record for our fastest high court victory! Thanks to this victory, 10,000 children will be able to go to schools that meet their individual needs.

Our success in Puerto Rico could not have come fast enough. Puerto Rico's public schools are the worst in the country—filled with violence, demoralized teachers, and dismal test scores. Twenty-six percent of students report carrying a weapon to school, and only 7 percent are proficient in math. Add last year's hurricanes into the mix, and the school system was on the verge of collapse. Responding to the pleas of desperate parents, Puerto Rico's Legislature enacted a voucher program in March. Every year, the program will award 10,000 scholarships to low-income parents, giving them the ability to enroll their children in the private or public school of their choice.

There was one hitch. Back in 1994, Puerto Rico's Supreme Court declared school choice unconstitutional. According to that opinion, choice programs violate the Puerto Rico Constitution's prohibition on using public funds to "support" private schools. Wielding that opinion as their sword, the teachers' unions immediately sued to shut down the new program.

But just as quickly, IJ jumped into the fray, and we pushed the case to the Puerto Rico Supreme Court in just three months. We dug historical evidence out of the archives to show that the drafters of the 1952 Puerto Rico Constitution intended to allow school choice. We also relied on our educational choice victories over the last 24 years to convince the Court that its 1994 decision was now outdated and wrong on the law. The Court agreed and upheld the program on August 9. When we shared the news with our client, mother Jessica Ñeco, she cried tears of gratitude.

Thanks to this victory, 10,000 children will be able to go to schools that meet their individual needs.

This case is the 11th state or territory supreme court victory IJ has secured for educational choice—and we may have 12 very soon. Any day now, we expect a decision from the Montana Supreme Court in IJ's case defending Montana's new tax-credit scholarship program. IJ also launched two new cases in August that seek to uproot a longstanding legal obstacle preventing the spread of educational choice.

We will keep filing and winning cases on behalf of parents and children until *every* family has the freedom to choose the best school for its children, regardless of income or ZIP code.◆

Erica Smith is an IJ attorney.

We will keep filing and winning cases on behalf of parents and children until *every* family has the freedom to choose the best school for its children, regardless of income or ZIP code.

Students like **Saadia Ñeco** (above) and **Jacob Muñoz** (right) are free to attend the public or private school that meets their needs thanks to an IJ victory at the Puerto Rico Supreme Court earlier this summer.

VICTORY!

Louisiana's Eyebrow Threaders Are Back to Work

BY RENÉE FLAHERTY

Two years ago, IJ sued Louisiana's cosmetology board on behalf of eyebrow threaders who were forced to obtain an expensive, unnecessary esthetician's license to practice their craft. Now IJ's clients—and threaders like them across the state—are back to work doing what they love.

That is because the board, facing the prospect of a long and losing legal battle, created a specialty permit for eyebrow threaders that simply requires registration with the state and a 15-question test on sanitation techniques. This is a far cry from the 750 hours of cosmetology school and thousands of dollars required to obtain an esthetician's license under the old law.

Threaders across Louisiana, including **Lata Jagtiani**, are back to work after successfully challenging the state's burdensome licensing scheme.

Eyebrow threading is an ancient grooming technique that originated in South Asia and the Middle East. The technique is simple: A single piece of cotton thread is used to lift unwanted facial hair from the follicle. Since its arrival in the United States, threading's popularity has soared, offering threaders opportunities for entrepreneurship and a shot at the American Dream.

But instead of encouraging people to earn an honest living practicing an in-demand, safe skill, Louisiana placed barriers in the path of businesses and people like IJ's clients: Lata Jagtiani, owner of the Threading Studio & Spa, and two of the threaders who work for her, Ushaben Chudasama and Panna Shah.

Liberty & Law readers will recall that, in 2015, IJ won a nearly identical eyebrow threading case just across the border in Texas. In light of that precedent, and after the court denied its motion to dismiss IJ's lawsuit, the Louisiana board backed down and created a simple new permitting system for threaders.

Lata, Ushaben, and Panna are delighted that the board finally realized fighting IJ was a losing proposition. All three passed the sanitation exam with flying colors and received their threading permits this summer. Since then, Lata has been able to rehire Ushaben and Panna, plus even more threaders, and her business is prospering.◆

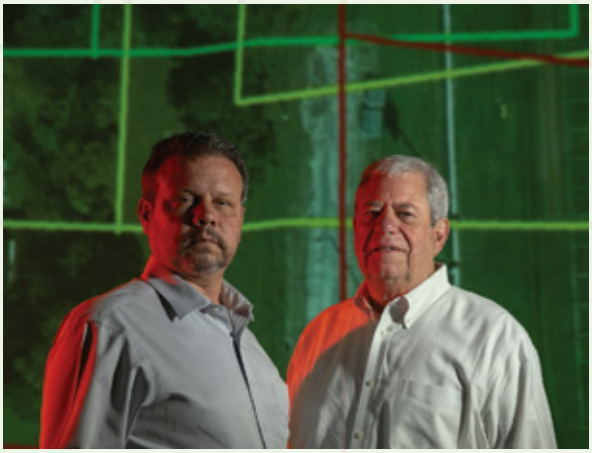
Renée Flaherty is an IJ attorney.

Tech Entrepreneurs MAP NEW TERRAIN for Free Speech

BY PAUL AVELAR

Increasingly, modern technology allows entrepreneurs to bring us information that used to require hiring experienced professionals. Whether it's Zillow for property valuations, LegalZoom for simple legal documents, or Mint for basic financial advice, new startups are constantly chipping away at the margins of long-standing occupations.

Of course, members of these occupations frequently don't take kindly to sharing their turf, and they look to governments to punish people for disseminating information that they think it should be their sole right to disseminate. So it is with IJ's latest First Amendment client, a Mississippi-based startup called Vizaline.



A powerful Mississippi regulatory board sued entrepreneurs **Scott Dow** and **Brent Melton** to shut down innovative competition. With IJ's help, they are fighting back to protect their First Amendment right to provide information to their clients.

Vizaline grew out of co-founder Brent Melton's career in small community banks throughout the South. Like large banks, community banks often take on property as collateral for loans. But unlike large banks, which generally must hire professional surveyors to confirm the boundaries of property being offered as collateral, community banks often make smaller loans on smaller properties, where a professional surveyor is neither legally required nor financially feasible. Brent realized these banks still wanted more information about the properties being offered as collateral, and he set out to find a cost-effective way to help them "see" what properties they were working with.

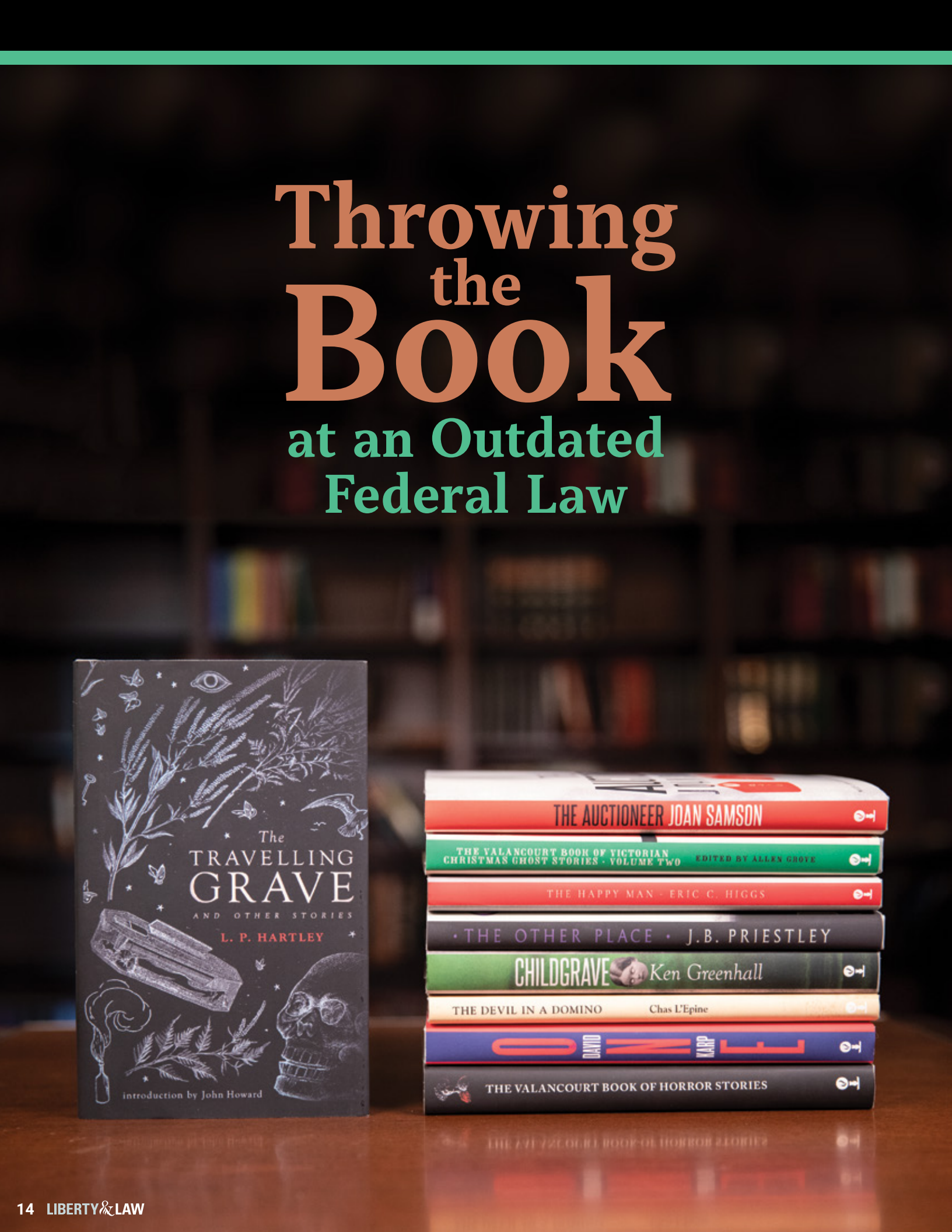
So Brent teamed up with geospatial-modeling expert Scott Dow to form Vizaline. Vizaline's software takes existing information—formal legal descriptions of property and satellite photographs—and generates an easily comprehensible image of where property lines are in the real world. Vizaline's customers—which are all banks—use the drawing to visualize the property and identify issues that should be corrected with a survey or with the help of attorneys.

Unsurprisingly, Vizaline drew the attention of the Mississippi Board of Licensure for Professional Engineers and Surveyors, which sued the company to stop its unlicensed practice of "surveying." The board also wants Vizaline to "disgorge" every dollar it has ever earned, even though all of Vizaline's customers continue to support it.

MS Mappers continued on page 18

All Vizaline does is take two publicly available pieces of information and combine them into something that anyone can understand. The First Amendment means that neither the board nor any other government entity can claim a monopoly on communicating this kind of information.

Throwing the Book at an Outdated Federal Law



BY JEFFREY REDFERN

Outdated technology gets replaced. Outdated businesses get crushed by innovative competitors. But as one small-business owner has recently learned, outdated laws just keep going. The U.S. Copyright Office is using one of these outdated laws to threaten a small publisher, Valancourt Books, with fines totaling nearly six figures for not sending the government free books.

The law that the Copyright Office is enforcing is a relic of an era when the copyright system in this country functioned very differently than it does today. Two hundred years ago, if you wrote a book and wanted it to be protected by copyright, you had to register your copyright by sending copies of the book to the federal government. Today, however, everything you write is automatically copyrighted the moment you put pen to paper. Nevertheless, the Copyright Office keeps demanding books and threatening publishers with crippling fines.

For a big publisher like Random House, this demand would be no more than an inconvenience, but Valancourt is a print-on-demand publisher, operated out of the home of its founder, James Jenkins. Valancourt keeps no books in stock, and sending the government every single book in its catalog, as the Copyright Office has demanded, would cost thousands of dollars that Valancourt can't afford.

Jenkins founded Valancourt in 2005 after he discovered that a book he wanted to write about for a graduate school application was available in only a single location in North America—the microfiche archives at the University of Nebraska. After driving halfway across the country to borrow the book, Jenkins had a realization: There was no reason, in the modern world of print-on-demand technology, that classic literature should ever fall out of print. He decided he would try his hand at publishing some of his favorite forgotten classics, and Valancourt Books was born.

Today Valancourt is a small but successful publisher, specializing in gothic, horror, early LGBT literature, and other forgotten fiction, with over 400 titles in its catalog. Valancourt books are now used in college courses and have been favorably reviewed by major publications around the world.

Valancourt is an innovative business with a noble mission. It should be lauded for its work, not bullied by petty bureaucrats enforcing archaic laws. That is why Valancourt and IJ have teamed up to challenge the mandatory book deposit law. Antiquated laws left standing mean countless people and businesses risk the same treatment that Valancourt received: being threatened and potentially destroyed, simply because a federal official happened to notice them.

The law is unconstitutional for two reasons: First, it requires people to give up their property to the government without any compensation, in violation of the Fifth Amendment's Takings Clause. If the government wants a book, it should buy it like everyone else. Second, the law violates the First Amendment because it burdens free expression. People have a right to speak and to publish without notifying the government that they are doing so or incurring significant expenses. IJ's lawsuit will vindicate those essential rights—while taking one more outdated law off the books.◆

Jeffrey Redfern is an IJ attorney.

The U.S. Copyright Office is enforcing an obscure and outdated federal law against Valancourt Books—one that could cost it thousands of dollars. Owner **James Jenkins** (right) is fighting back.

IJ Scores Sweeping Forfeiture Victory in New Mexico

By shutting down Albuquerque's forfeiture machine, IJ's groundbreaking victory this summer vindicated the rights of IJ client **Arlene Harjo** (pictured with IJ Attorney **Robert Everett Johnson**) and thousands of other New Mexico residents.

BY ROBERT FROMMER

Great news from the Land of Enchantment! In July, IJ successfully persuaded a federal judge in New Mexico to rule that a forfeiture program run by that state's largest city, Albuquerque, violates the U.S. Constitution. This groundbreaking ruling will have seismic effects not just in New Mexico but across the entire nation.

For years, New Mexico has been a forfeiture trailblazer. As readers of *Liberty & Law* may recall, the New Mexico Legislature eliminated civil forfeiture in 2015 after officials made comments that showed the seedy underbelly of policing for profit. IJ was instrumental in that legislative victory, which made New Mexico the first state in the nation to abolish civil forfeiture.

Some cities, though, thumbed their noses at the reforms. Addicted to forfeiture dollars, they claimed they could ignore the Legislature and keep on seizing and forfeiting as they always had.

One of those cities was Albuquerque, whose program took in more than a million dollars a year, often at the expense of innocent owners like Arlene Harjo. Arlene found herself trapped in Albuquerque's unlawful forfeiture system after her son took her car under false pretenses and was arrested for driving while intoxicated. Although Arlene had done nothing wrong, the city tried to permanently take her 2014 Nissan Versa. Arlene's only other option, according to Albuquerque, was to pay $4,000 and immobilize her car for 18 months.

But Arlene chose a third way. She joined forces with IJ to sue Albuquerque. We argued that the city's forfeiture program violated not only state law but also the U.S. Constitution, and we sought to bring Albuquerque to justice.

And that's exactly what we've done. In a resounding and pathbreaking 105-page opinion, U.S. District Court Judge James O. Browning affirmed IJ's argument on virtually every count: Judge Browning held that Albuquerque's forfeiture program violated state law. He held that it violated due process by requiring property owners to prove their innocence. And he held that, in giving officials carte blanche to use forfeiture proceeds any way they saw fit, Albuquerque's program created an unconstitutional financial incentive to police and prosecute for profit rather than for public safety.

This ruling strikes at the heart of what drives forfeiture abuse—the ability of law enforcement agencies to financially benefit at the expense of individuals and to impose unjust and unconstitutional burdens on property owners in forfeiture proceedings. The first ruling of its kind from a federal court, Judge Browning's decision will have ripple effects throughout all of IJ's work in defense of property rights and the right to due process of law. And it demonstrates that IJ's long-running, well-orchestrated campaign to end civil forfeiture continues to make history.◆

Robert Frommer is an IJ senior attorney.

IJ Supreme Court Case
Brings Together Diverse Advocates for Property Owners

BY ANTHONY SANDERS

When you are preparing to argue before the U.S. Supreme Court, you want all the friends you can get. When your case challenges abusive civil forfeiture practices and excessive government fines and deals with the implications of over 800 years of history—you *need* all the friends you can get.

We at IJ are grateful to have many friends supporting our advocacy for our client, forfeiture victim Tyson Timbs, and thousands of Americans like him. Since the Supreme Court announced it will hear IJ's case about whether the Eighth Amendment's Excessive Fines Clause reins in state and local governments, a vast coalition of organizations and individuals has come forward to write *amicus*, or friend-of-the-court, briefs supporting Tyson.

An impressive left–right coalition of nonprofits jointly told the Supreme Court how excessive fines trap individuals in cycles of poverty.

An impressive left–right coalition of nonprofits jointly told the Court how excessive fines trap individuals in cycles of poverty. The **American Civil Liberties Union**, **R Street Institute**, **Fines and Fees Justice Center**, and **Southern Poverty Law Center** joined together to detail these abuses in an important brief. Meanwhile, the **U.S. Chamber of Commerce** wrote a powerful brief about the harms businesses incur from fines imposed by politically motivated state attorneys general. In addition, the NAACP Legal Defense Fund discussed the history of the application of the Bill of Rights to the states. Such an ideologically diverse coalition is a rare find at the high court.

Our allies in the campaign to end civil forfeiture also informed the Court about the practice's inherent dangers: The **Drug Policy Alliance**, **DKT Liberty Project**, and **National Association of Criminal Defense Lawyers** all wrote briefs detailing its history—and the human toll of its abuse.

Professors Eugene Volokh and **Beth Colgan** at **UCLA's Supreme Court Clinic** authored a brief discussing the overuse of fines and fees in modern America, while a **group of Eighth Amendment scholars** recounted 800 years of Anglo–American tradition protecting against excessive fines, from Magna Carta to the U.S. Constitution's Bill of Rights.

These are just a few of the 19 briefs filed, including submissions by old friends like the **Pacific Legal Foundation** and the **Cato Institute**. This wide range of support illustrates the sweeping impact of forfeitures and fines and fees on people across the country.◆

Anthony Sanders is an IJ senior attorney.

As IJ attorneys prepare to argue before the U.S. Supreme Court on behalf of our client, forfeiture victim **Tyson Timbs**, a bipartisan coalition of allies from across the nation is speaking out in support.

NC CON continued from page 6

from purchasing one. And even if he could apply for a CON, Dr. Singh could not afford to spend hundreds of thousands of dollars—money he needs to continue providing low-cost scans for patients—gambling on a mere chance to purchase an MRI scanner.

Fortunately, the North Carolina Constitution protects Dr. Singh's right to participate in the health care market. It specifically bans the government from establishing monopolies, guarantees that laws be applied evenhandedly, and protects the right to earn an honest living. In fact, the North Carolina Supreme Court struck down a previous version of North Carolina's CON law under exactly these provisions back in 1973.

Dr. Singh just wants to provide safe, quality, affordable MRI scans for patients who need them.

Dr. Singh just wants to provide safe, quality, affordable MRI scans for patients who need them. And he knows that he and his patients—not state planners—are the ones who should be deciding which health care services are "needed." We look forward to vindicating Dr. Singh's rights and bringing competition to an area where it is desperately needed.◆

Josh Windham is an IJ attorney.

MS Mappers continued from page 13

But all Vizaline does is take two publicly available pieces of information and combine them into something that anyone can understand. The First Amendment means that neither the board nor any other government entity can claim a monopoly on communicating this kind of information. Since Mississippi officials seem to believe otherwise, Vizaline has teamed up with IJ to make that point where it counts: in court.

The kind of maps Vizaline makes are very useful for small banks, and they are exactly the sort of information that IJ's free speech pillar exists to protect: useful information being offered to a willing audience.

The kind of maps Vizaline makes are very useful for small banks, and they are exactly the sort of information that IJ's free speech pillar exists to protect: useful information being offered to a willing audience. All of us benefit from the right to convey and to hear that kind of information every single day. And whether on behalf of Vizaline, on behalf of tour guides in Charleston (see page 4), or on behalf of the next startup that has yet to be imagined, IJ will remain on the front lines to prevent the forces of protectionism from taking that right away from any of us.◆

Paul Avelar is managing attorney of IJ's Arizona office.

NOTABLE MEDIA MENTIONS

The Washington Post

Supreme Court To Consider Cases On The Seizure Of A $40,000 Land Rover, iPhone Apps And A Moose Hunter
June 18, 2018

The New York Times

He Sold Drugs For $225. Indiana Took His $42,000 Land Rover
June 25, 2018

Investor's Business Daily

Towns' Fines Run Rampant: Stop Treating Residents Like ATMs
June 22, 2018

NBC NEWS

Breastfeeding Can Be Difficult, But A Law To License Lactation Consultants May Make It Even Harder
August 1, 2018

Vox

MRI Costs: Why This Surgeon Is Challenging NC's Certificate Of Need Law
July 31, 2018

AP Associated Press

Lawsuit: Bureaucrats Violating Vocational School's Rights
July 24, 2018

ars TECHNICA

If An Algorithm Draws Lines On A Map, Is That The Same As Land Surveying?
July 13, 2018

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