



LIBERTY & LAW

December 2018

Volume 27 Issue 6

A photograph of a man and a woman standing outdoors. The woman is in the foreground, smiling slightly, with blonde hair and wearing a dark top. The man is behind her, with his hand on her shoulder, looking directly at the camera. They are in front of a green, leafy background.

Landmark Victory: CITY OF BROTHERLY LOVE ENDS POLICING FOR PROFIT

Published Bimonthly by
the Institute for Justice

The IJ Victories You Haven't Heard About • Texas Veterinarian Renews Fight to Give Pet Advice Online

Two New Federal Lawsuits Tackle Longtime Barriers to Educational Choice • Protecting Property Rights in Puerto Rico

Defending the Right to Use Private Property to Provide a Helping Hand • Carolina Beach Food Trucks Roll Over Protectionist Law

At What Cost? New IJ Research Reveals the Economic Costs of Occupational Licensing

contents

4 Landmark Victory: City of Brotherly Love Ends Policing for Profit

Darpana Sheth

6 The IJ Victories You Haven't Heard About

Scott Bullock

8 Back in the Saddle: Texas Veterinarian Renews Fight to Give Pet Advice Online

Andrew H. Ward

10 Two New Federal Lawsuits Tackle Longtime Barriers to Educational Choice

Tim Keller and Michael Bindas

12 FINAL WEEKS: Participate in the Selz Legacy Challenge and Secure IJ's Victories Into the Future

Melanie Hildreth

14 Mi Casa Es Mi Casa: Protecting Property Rights in Puerto Rico

Brooke Fallon

16 Defending the Right to Use Private Property to Provide a Helping Hand

Jeff Rowes

18 Victory: Carolina Beach Food Trucks Roll Over Protectionist Law

Justin Pearson

20 At What Cost? New IJ Research Reveals the Economic Costs of Occupational Licensing

Mindy Menjou

22 South Side Pitch Entrepreneurs Swing for the Fences

Stacy Massey

23 Notable Media Mentions



8



14



18



22



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December 2018 • Volume 27 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, 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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Landmark Victory: City of Brotherly Love Ends Policing for Profit

BY DARPANA SHETH

After more than four long years of litigation, Philadelphia has shut down its unconstitutional forfeiture machine and instituted sweeping reforms of how it seizes and forfeits property. This victory will bring long-awaited justice to more than 25,000 property owners—and require the city to respect the property rights of every resident in the future.

As regular readers of *Liberty & Law* will recall, IJ filed a federal class action lawsuit in August 2014 challenging the nation's largest municipal forfeiture program. Philadelphia had turned civil forfeiture into a machine, taking more than 1,200 homes, 3,500 vehicles, and \$50 million in cash from residents—many of whom were never even charged with a crime.

This forfeiture machine was fueled by a perverse financial incentive: Police and prosecutors were allowed to keep and use forfeiture funds as they saw fit. For decades, the district attorney's office amassed a forfeiture slush fund through a rigged system involving:

- Cookie-cutter legal complaints, which allowed officials to generate as many forfeitures as possible.

- Little notice to individuals about the nature of forfeiture proceedings against them.
- No opportunity for owners to contest the seizure of their property before trial.
- Nearly insurmountable burdens of proof that required owners to prove their innocence.
- “Hearings” run by prosecutors who were paid solely with forfeiture funds.
- A courtroom without any judge—the now infamous Courtroom 478. No more.

The victory comes in the form of two consent decrees that, once approved by the court, will permanently overhaul this unconstitutional system. Here's how:

First and foremost, the consent decrees will end policing and prosecuting for financial gain. Rather than padding law enforcement budgets, any new forfeiture revenues will be directed back to communities to help with drug prevention and treatment programs. This ensures that Philadelphia can no longer use forfeiture to treat its citizens like ATMs.

Second, the consent decrees

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Although they committed no crime, IJ clients **Chris and Markela Sourovelis** were thrown out of their home and into Philadelphia's forfeiture machine. With IJ's help, they fought back—and secured a sweeping victory for all Philadelphians.

IJ Senior Attorney **Darpana Sheth** announces groundbreaking consent decrees at a press conference in Philadelphia this September. The agreements end years of abuse and create a fund to compensate innocent owners.



strengthen much-needed protections for property owners. The proposed new procedures will transform the Kafkaesque process described above into one more befitting the birthplace of our Constitution.

Finally, the consent decrees will take all existing forfeiture revenues and establish a \$3 million fund to enable innocent property owners to reclaim every dollar seized from them under the city's unconstitutional scheme.

This case represents not only a sweeping victory for Philadelphians, but also a number of "firsts" for IJ. The case was our first class action lawsuit. It was also the first time we sued judges for being complicit in constitutional violations. Through a "smoking gun" memorandum we obtained in discovery, we showed how state court judges set up Courtroom 478 and other constitutionally deficient procedures. Without suing the state court judges, it would have been difficult to secure comprehensive reform of those courtroom procedures. Lastly, if the consent decrees are approved by the federal court, it will be the first time IJ has obtained a seven-figure monetary award to compensate those who have been wronged.

IJ is using these tactics and other lessons from this case to expand protections for property owners and due process rights across the country. And while we still have more work to do in securing final court approval and ensuring that innocent property owners get compensated, we look forward to using these judgments as a model for reforming other cities and making them forfeit their own forfeiture slush funds. ♦

Darpana Sheth is an IJ senior attorney.



IJ Returns to the U.S. Supreme Court

BY WESLEY HOTTOT

Every U.S. Supreme Court case requires extraordinary time, effort, and resources. IJ's sixth appearance before the Court—in *Timbs v. Indiana*—was no exception.

IJ's involvement in the case began last November, when the Indiana Supreme Court ruled that the prohibition on excessive fines in the U.S. Constitution does not apply to state and local governments. Within days of that decision, IJ Attorney Sam Gedge and I were in rural Indiana to meet Tyson Timbs—a recovering drug addict who, thanks to the state's draconian civil forfeiture laws, stands to lose his \$40,000 vehicle over a drug transaction involving a few hundred dollars.

A year later, on November 28, 2018, Sam and I stood before the Justices to present argument on Tyson's behalf at the U.S. Supreme Court.

Along the way, we persuaded the Court to take the case, submitted lengthy merits briefs, launched an all-out media campaign, and lined up 19 friend-of-the-court briefs supporting our position (while the state found only one such "friend").

We held five moot courts, where IJ attorneys, academics, experienced outside legal practitioners, and others helped hone our arguments. In the weeks before the big day, we participated in high-profile moots at the University of Washington, Harvard, Northwestern, and Georgetown.

At every step, IJ's team made the seemingly impossible possible. Attorneys across four offices worked on the briefs. IJ's groundbreaking strategic research was cited in more than a dozen briefs in support of Tyson. Our media team persuaded virtually every major Supreme Court outlet to label our case "one to watch." And our donors made all of this hard work possible.

More than anything, "whatever it takes" is teamwork. And our team includes you. ♦

Wesley Hottot is an IJ senior attorney.



A recording of the argument and transcript are available at www.ij.org/case/timbs-v-indiana.

The IJ Victories You Haven't Heard About

BY SCOTT BULLOCK

Longtime friends of IJ are used to our victories often being hard-fought. We spend years grinding out difficult legal victories in unfriendly terrain in order to achieve the kind of principled and far-ranging victories that our clients and supporters have come to expect.

But not everything works out that way. Sometimes we win so quickly and resoundingly that we never have a chance to tell you about it.

For example, this past spring, IJ attorneys Milad Emam and Bob McNamara heard about one of the largest abuses of eminent domain that IJ had ever encountered. Even though Tennessee passed eminent domain reform in the wake of the U.S. Supreme Court's *Kelo v. New London* decision, the small city of East Ridge was proposing to declare nearly all of its downtown area "blighted"—a designation that would have given the city the power to use eminent domain to take some 2,500 homes and businesses for private development. Naturally, IJ swung into action. Milad and Bob flew into town to interview potential clients, organize affected property owners, and lay the groundwork for constitutional litigation.

Why did you never read about this fight? Because after media coverage of IJ's visit, during which we helped property owners create a formal coalition to protect their rights, the City Council not only scrapped its blight plans but also actually voted to eliminate the government agency that had drawn up the plans in the first place. Saving 2,500 homes is not bad for a week's work—but victories that quick rarely make it into these pages.

The same is true across IJ's other mission areas: For every win you read about in *Liberty & Law*, there are more standing behind it—achievements important for our long-term vision but accomplished so efficiently they never turned into full-blown cases or all-out projects.

When we saw an opportunity earlier this year to help create a uniform and freedom-friendly set of rules for traditional street vendors in California, for instance, we jumped at

For every win you read about in *Liberty & Law*, there are more standing behind it—achievements important for our long-term vision but accomplished so efficiently they never turned into full-blown cases or all-out projects.

it: IJ's activism team ramped up the political pressure while our strategic research program cranked out a sophisticated analysis of the proposed rules' impact in a fraction of the time it usually takes to create a report. The result for California was a new law that empowered literally thousands of entry-level entrepreneurs in the state.

Or consider Senior Attorney Jeff Rowes' one-man campaign to eliminate an Idaho Falls ordinance restricting job opportunities for people with past criminal convictions. Jeff sent the city a detailed three-page analysis of the law, explaining why it was unconstitutional—and the officials immediately repealed it.

Meanwhile, the IJ Clinic on Entrepreneurship at the University of Chicago Law School helped client Haji Healing Salon move into its first brick-and-mortar location in 2018. That means the Clinic and its students took a business that started in their client's living room and helped turn it into a real live storefront in less than a year.

As you can tell from the other articles in this issue, 2018 was a year filled with victories both big and small, slow and quick. But each of them matters—to us, to our clients, and to the future of freedom. We look forward to many more of them in 2019. ♦

Scott Bullock is IJ's president and general counsel.



IJ Senior Vice President and Litigation Director **Dana Berliner** was part of a panel discussion on the future of the 14th Amendment at IJ's recent symposium.

IJ Symposium on the 14th Amendment Calls for Judicial Engagement

This year marks the 150th anniversary of the 14th Amendment, a post-Civil War amendment so important that it's often referred to as part of America's "Second Founding." Indeed, because it applied constitutional protections against the states, it's an amendment that's at the heart of almost all of the Institute for Justice's litigation against state and local governments.

For that reason, IJ's Center for Judicial Engagement celebrated the amendment's anniversary in September by hosting a symposium about it with the Liberty & Law Center at George Mason University's Antonin Scalia Law School.

We gathered judges, practitioners, and legal scholars to discuss the amendment's history and its application by the courts. In addition to generating new scholarship that will inform our litigation, the symposium highlighted the problems caused when the enforcement of rights protected by the 14th Amendment—especially economic liberty and property rights—gives way to judicial abdication.

The symposium concluded with a discussion of the 14th Amendment's future in the courts. For IJ, that future is now: *Timbs v. Indiana*, our case about the Constitution's protection against excessive government fines, fees, and forfeitures discussed on page 5, is the most significant 14th Amendment case on the U.S. Supreme Court's docket. And beyond *Timbs*, the 14th Amendment will continue to be at the center of IJ's mission to protect individual liberty. ♦



BACK IN THE SADDLE: Texas Veterinarian RENEWS FIGHT to Give Pet Advice Online

BY ANDREW H. WARD

IJ never gives up. When the law is bad, we change it. And whenever there is an opportunity to turn defeat into victory, we seize it. This fall, that determination took IJ back to Texas to vindicate the free speech rights of Dr. Ron Hines.

Ron is a veterinarian dedicated to helping animals. Because of a disability, he retired in 2002. But thankfully the internet enabled him to share his 40 years of experience with just a few clicks. So Ron launched a website and began giving advice to pet owners around the world.

It was a labor of love. The small fees Ron charged barely covered expenses, and he helped everyone, whether they could pay or not. Of the hundreds of pet owners he counseled, some could not afford a traditional veterinarian. Others—like AIDS-relief workers in rural Africa—had no local options. Still others, often with terminally sick pets, just needed a sympathetic ear. It was a win-win situation: Ron could devote his retirement to good works, and technology was giving a new option to pet owners in need.

But Texas did not see it that way. In Texas, it is illegal for a veterinarian to give advice to a pet owner without first examining the animal in person. The state fined Ron and ordered him to shut down, even though no one had ever complained about his advice. In short, Texas treated online advice from Ron as worse than no care at all.

But Ron's advice—emails and calls with willing listeners—was pure speech protected by the First Amendment. So, back in 2013, IJ and Ron teamed up to defend his right to speak. Unfortunately, a federal appeals court ruled in 2015 that the First Amendment

does not apply to a professional's advice. According to the 5th U.S. Circuit Court of Appeals, professional speech should be regarded as "conduct," more akin to plumbing than speech.

IJ did not take this lying down. As part of our ongoing effort to protect those who speak for a living, we launched a series of new cases across the country and filed a friend-of-the-court brief in a case before the U.S. Supreme Court last year, all involving occupational speech. We explained that professionals do not lose their right to speak just because they have state occupational licenses. And, in a sweeping decision this June, the Supreme Court emphatically agreed with our arguments.

This seismic legal shift means the original ruling against Ron was wrong for the exact reasons we argued

in 2015, and we now aim to fix that injustice. So in October we filed a second lawsuit defending Ron's right to give advice.

Meanwhile, guidance from the Supreme Court is not all that has changed. In 2017, Texas finally allowed telemedicine for doctors. That means humans in Texas can get advice online from their doctors without an in-person exam, but the state's veterinary laws remain stuck in the past. It makes no sense to have tougher telepractice rules for vets treating animals than for doctors treating people. If the Texas vet board still won't recognize the free speech rights of telepractitioners, well, this is IJ's chance to teach an old dog a new trick. ♦

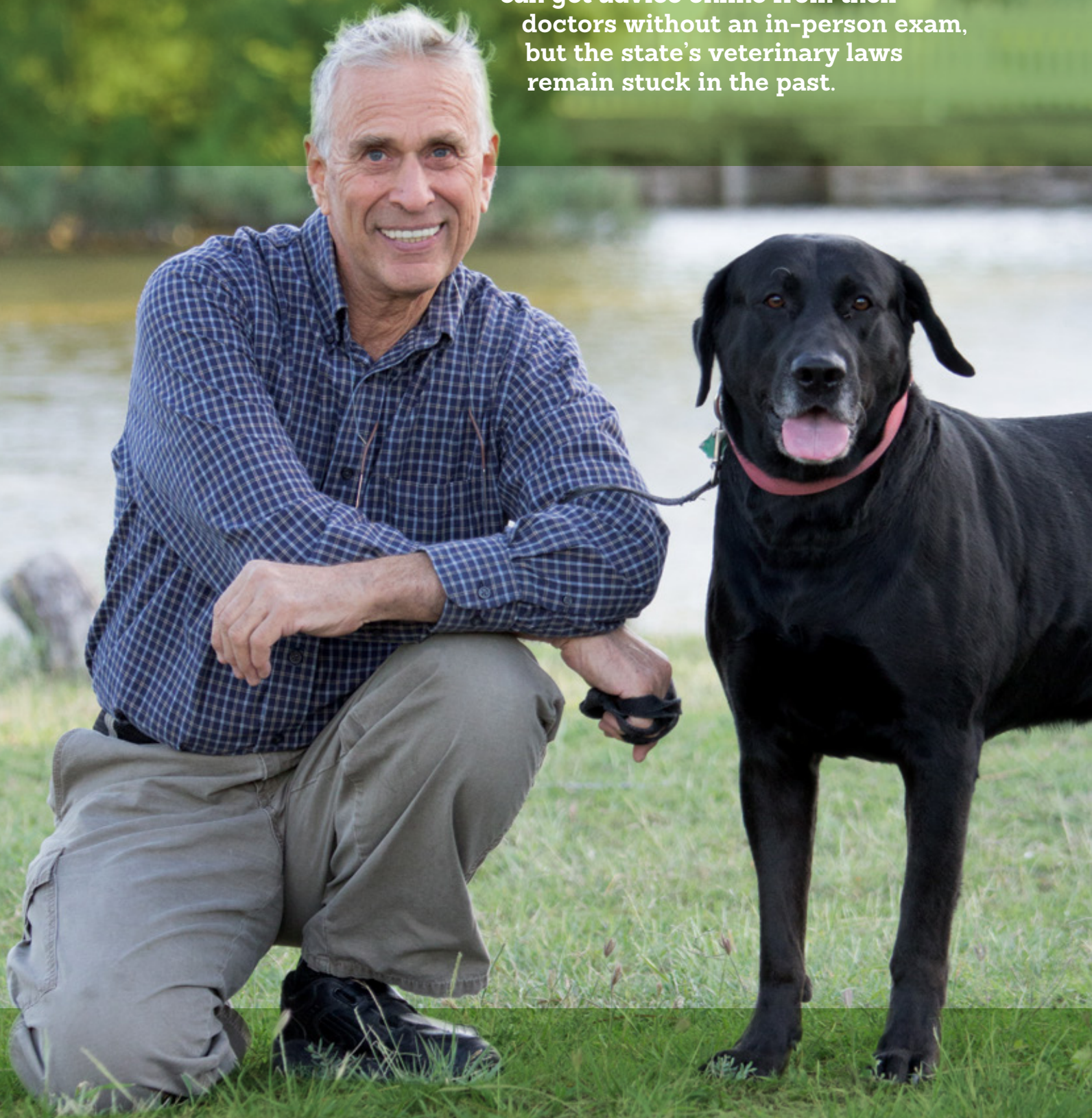


In a case with major implications for free speech, innovation, and internet freedom, Texas veterinarian **Ron Hines** is renewing his fight to give veterinary care online.

Andrew H. Ward is an IJ attorney.



In 2017, Texas finally allowed telemedicine for doctors. That means humans in Texas can get advice online from their doctors without an in-person exam, but the state's veterinary laws remain stuck in the past.



Two New Federal Lawsuits Tackle Longtime Barriers to Educational Choice

BY TIM KELLER AND MICHAEL BINDAS

Liberty & Law readers know that IJ racked up a string of legal victories in defense of educational choice programs over the past few months. A recent U.S. Supreme Court decision also gave us an opportunity to go on the offensive. This fall, IJ unveiled a cutting-edge legal strategy to seize that opportunity, with two federal lawsuits in Maine and Washington state designed to knock down barriers to expanded educational opportunities.

Although IJ set a landmark 2002 Supreme Court precedent that declared educational choice programs to be perfectly legal under the U.S. Constitution, opponents have continued to file lawsuits challenging choice programs under state constitutions. Their arguments rest mainly on state constitutional provisions known as “Blaine Amendments.”

Found in some 37 state constitutions, Blaine Amendments prohibit appropriations in aid of so-called sectarian institutions. These controversial constitutional provisions are not about church–state separation. Rooted in 19th-century anti-Catholic bigotry, they were designed to protect the predominantly Protestant public school system while denying direct funding for “sectarian”—a term the Supreme Court acknowledges was code for “Catholic”—schools.

IJ’s new cases aim to remove these pernicious provisions as obstacles to educational choice. In Maine, students who live in towns too small to sustain public schools receive tuition funds to use at another town’s public school or at a nearby private school of their parents’ choice—unless, that is, the private school is “sectarian.” And in Washington, college students participating in the state’s work–study program can earn money for college and gain valuable job experience working in a field related to their major. Except those students who choose to work for a “sectarian” employer.

But discriminating against students or families who choose religious options is just as unconstitutional as endorsing religion. The Constitution demands that, when it comes to religion, the government remain neutral. IJ is challenging the “sectarian” exclusions in both programs to vindicate that principle and to give students the widest possible array of educational options.

We have fresh ammunition to support our argument: the U.S. Supreme Court’s recent decision in *Trinity Lutheran v. Comer*. In that case, the Court held that excluding qualified institutions—like schools—from public programs solely because of their religious affiliation is “odious to our Constitution.”





Students who want to participate in Washington state's work-study program are barred from selecting "sectarian" employers, even if the work itself is non-religious. IJ is fighting back against this unconstitutional discrimination to provide all students the widest possible array of educational options.

By eliminating roadblocks to new and expanded choice programs, IJ will protect one of the most essential components of parental liberty: the right to direct your children's education. As far back as

1925, in the *Pierce v. Society of Sisters* decision, the U.S. Supreme Court held that government has no power to "standardize ... children by forcing them to accept instruction from public teachers only." As the Court forcefully explained, "The child is not the mere creature of the State."

The reality is that families who cannot afford to live in neighborhoods with high-performing public schools, or to pay the tuition for private alternatives, are often

By eliminating roadblocks to new and expanded choice programs, IJ will protect one of the most essential components of parental liberty: the right to direct your children's education.

trapped in deficient schools. That is why, for nearly three decades, IJ has defended programs that empower parents to select the school that best fits their children's unique learning needs—regardless

of whether the school is public or private, religious or non-religious.

Our new cases in Maine and Washington are a continuation and an escalation of that fight. Success means we will help even more students get the education they need—while removing one more obstacle that blocks the path to educational freedom. ♦

Tim Keller and Michael Bindas are IJ senior attorneys.



Parents who live in towns without public high schools in Maine have the right to select the public or private school that best meets their children's needs—unless that school is religious. IJ is litigating on behalf of three Maine families to end this religious discrimination and vindicate parental choice.



FINAL WEEKS : PARTICIPATE IN THE SELZ LEGACY CHALLENGE AND SECURE IJ'S VICTORIES INTO THE FUTURE

BY MELANIE HILDRETH

Two years ago, IJ launched the Bernard and Lisa Selz Legacy Challenge to ensure that we have the resources we need to continue defending liberty for generations to come. We are now in the final weeks of the campaign, and we ask for your help to meet our ambitious goal and secure IJ's long-term strength and success.

You may recall that longtime IJ donors Bernard and Lisa Selz challenged us to earn \$100 million in planned gift commitments by the end of 2018. To help us reach this goal, they pledged \$2.7 million in matching funds. Simply put, Bernard and Lisa agreed to make a donation to IJ now for each new or re-affirmed pledge of future support IJ receives.

We need your help to finish the campaign strong by our December 31 deadline.

If you have included the Institute for Justice in your will or have made IJ the beneficiary of a retirement or other account—or if you have considered doing so—please tell us.

By joining the more than 250 people who have already participated in the Selz Legacy Challenge, you will have an extraordinary impact on IJ for many years to come, providing us with the resources necessary to win and safeguard the kind of victories you read about in this and every issue of *Liberty & Law*. ♦

Melanie Hildreth is
IJ's vice president for
external relations.



BERNARD & LISA SELZ LEGACY CHALLENGE

FREQUENTLY ASKED QUESTIONS

How do I participate in the Selz Legacy Challenge?

Name the Institute for Justice in your will, or as a beneficiary of your retirement plan, savings account, or life insurance policy, helping us defend individual liberty well into the future.

Complete and submit a Selz Legacy Challenge Matching Form. One is included in this newsletter, and a secure online version is available at ij.org/pledge-online.

I have already included IJ in my will. Is my gift eligible?

Yes! If you already have IJ in your plans, simply complete and submit the Matching Form to join the Challenge. There is no need to change your existing arrangement.

What if my circumstances change in the future and I have to revise my will?

The Matching Form is not a legally binding pledge—you are welcome to change your plans if your situation changes. IJ will keep any information you provide strictly confidential.

I plan to leave IJ a percentage of my estate, but I don't know how much it will be worth in the future. What amount should I put on the pledge form?

Please provide your best good-faith estimate of the **current** value of your bequest. There is no need to forecast future years' earnings or withdrawals in reporting your gift.

I would like to make a gift from my IRA using a qualified charitable distribution (QCD). Is that gift eligible for the Challenge?

While we greatly appreciate current IRA gifts—and will put them to immediate good use—they do not qualify for a match under the terms of the challenge grant. However, making IJ the beneficiary of a retirement or other account is an eligible gift.

More FAQs and other information is available at ij.org/Selz. We would also be glad to talk with you as you consider making a legacy gift to IJ. Please reach out to Melanie Hildreth at melanie@ij.org or (703) 682-9320, ext. 222, with questions or to discuss the effect your gift will have on IJ's future.



CHARITY
NAVIGATOR

IJ Receives Charity Navigator's Highest Rating 17 Years Running



For the **17th consecutive year**, IJ has earned Charity Navigator's highest rating—four stars—for our commitment to financial health, accountability, and transparency.

Charity Navigator is the world's largest and most utilized charity rating service, assessing more than 9,000 nonprofits every year. In once again awarding IJ the designation, Charity Navigator wrote:

Less than 1% of the charities we evaluate have received at least 17 consecutive 4-star evaluations, indicating that Institute for Justice outperforms most other charities in America. This exceptional designation from Charity Navigator sets Institute for Justice apart from its peers and demonstrates to the public its trustworthiness.

IJ's consistent excellent performance in these ratings is a result of careful stewardship and the highest professional standards across the organization. Our exceptional rating from Charity Navigator is one more indication that your investment in IJ is secure and that it is paying dividends for individual liberty.

For more information, visit www.CharityNavigator.org. ♦

Mi Casa Es Mi Casa:

Protecting Property Rights in Puerto Rico

BY BROOKE FALLON

Following our resounding victory for educational choice in Puerto Rico this summer, IJ continues working to bring greater freedom to the island with the launch of our largest Spanish language activism campaign yet.

Puerto Ricans are still recovering from the damage caused by Hurricanes Maria and Irma, but many fear losing their homes and livelihoods to a different kind of threat. That is because Puerto Rico's outdated eminent domain law is one of the worst in the United States.

In Puerto Rico, eminent domain can be used to acquire private property to be developed into virtually anything municipalities want—from shopping malls to casinos to luxury housing. To make matters worse, there is little opportunity to challenge these takings in court, and public hearings are not required, as is commonplace stateside.

Development has stalled since the hurricanes, but Puerto Rico's municipal govern-

Puerto Ricans are still recovering from the damage caused by Hurricanes Maria and Irma, but many fear losing their homes and livelihoods to a different kind of threat.

ments see the influx of billions in federal recovery funds as a green light to condemn communities for previously unviable projects.

This spring, a team of IJers traveled to Puerto Rico to join forces with communities, organizations, and individual activists from across the island to fight back against this injustice.

In a community named Vietnam, we met with tireless activists who have seen hundreds of their neighbors' homes bulldozed in the former mayor's quest to acquire land to hand over to his developer cronies. We met a woman who nurses her bedridden mother and sister in the last home standing in a once vibrant community that was levelled to make way for a luxury condo development that never fully materialized. Across the island we saw colorful murals depicting past and ongoing struggles

against eminent domain.

Following our first trip, we developed a three-pronged approach: form an

In the aftermath of Hurricanes Maria and Irma, Puerto Ricans are working to rebuild, but the territory's eminent domain law makes it easy for municipal governments to condemn and seize properties for the benefit of private developers.





A team of IJ staff met with community activists across Puerto Rico this year, mobilizing citizens and providing training sessions on how to fight back against eminent domain abuse.

island-wide coalition, release reports outlining the problems with the current law and solutions for reform, and demand legislative action to protect the property rights of homeowners.

In August, IJ helped form and launch the *Comité para la Reforma de la Ley de Expropiaciones Forzosas* (Committee for Eminent Domain Reform). We collaborated with local activists to create a Puerto Rico-specific Spanish-language version of our popular *Eminent Domain Survival Guide*.

The following week, IJ released a report card detailing the existing law's serious shortcomings and grading it an "F" when it comes to protecting property rights. The report included recommendations for reform and generated significant coverage from the island's largest news outlets. A week of meetings with legislators and a

press conference announcing IJ's collaboration with the new coalition further established our commitment and helped attract over 150 attendees to activism trainings we held on different parts of the island. Just days later, a senator introduced a bill to specifically address our concerns. Now, we're working with our coalition to promote this legislation.

So many on the island have lost so much in the past year. They should not now have to face the additional threat of having their home or small business taken from them by their own government, simply for the benefit of a private developer. IJ will stand with Puerto Rico property owners to protect their rights and to bring common-sense reforms to the Commonwealth. ♦

Brooke Fallon is IJ's assistant director of activism.



A colorful mural in the Puerto Rican community of Vietnam depicts the residents' ongoing struggles against eminent domain.





DEFENDING THE RIGHT TO USE PRIVATE PROPERTY TO PROVIDE A HELPING HAND

BY JEFF ROWES

IJ has long defended lower-income Americans from eminent domain abuse, fines-and-fees schemes, and voracious forfeiture programs. The overarching principle guiding our approach is that property rights matter for everyone—and they often matter the most for those who have the least. We are now taking the fight for property rights in a bold new direction in Akron, Ohio, to help client Sage Lewis aid the lost and forgotten.

Sage runs The Homeless Charity out of his commercial building in a gritty part of Akron. He first

befriended the homeless by accident. A few years ago, he ran for mayor as an independent and walked the streets for signatures to get on the ballot. As a result of this time spent among them, the homeless stopped being stereotypes to Sage and became friends with often heartbreaking pasts. A longtime entrepreneur, Sage hired the homeless to help with his auction business and then let them set up a thrift store for their benefit to peddle unsold items.

Then, in January 2017, the county evicted some homeless people from the woods along an abandoned



Entrepreneur **Sage Lewis** created a low-cost, high-impact approach to address the problem of homelessness in his hometown of Akron, Ohio.

Sage's innovative approach uses private land and private money, amounting to just four dollars per day per person, to turn a profound social problem into success stories. But instead of applauding Sage's efforts, Akron wants to shut the village down.

railway line. Facing frigid temperatures and with nowhere to go, some asked if they could pitch their tents in the backlot of Sage's commercial building. Sage said yes and allowed them to warm up inside during the day.

Step by step, this initial kindness grew into The Homeless Charity, which now operates a day center and tent village for 44 people. Residents govern themselves through an elected Tri-Council, which administers a strict code of conduct, including zero tolerance for drugs, alcohol, and violence. Everyone is required to work at least one hour each day at the shelter and must continuously demonstrate a commitment to transitioning back into society. The day center and village provide the homeless with the stability, community, and support they cannot find at a traditional shelter.

Sage's innovative approach uses private land and private money, amounting to just four dollars per day per person, to turn a profound social problem into success stories. But instead of applauding Sage's efforts, Akron wants to shut the village down.

The city is using its zoning law to forbid sleeping at Sage's property. Akron argues that tents are never adequate shelter and that the community is out of step with its neighbors. But the reality is that the residents came from the streets and will return to the streets. Barring them from Sage's property will not get them into permanent housing. And The Homeless Charity strives diligently to minimize its impact on surrounding property.

That is why IJ brought a first-of-its-kind constitutional lawsuit to defend Sage's right to use his property peacefully to help the neediest. Providing refuge is an ancient and valuable use of private property, stretching from the biblical Christmas story through the Underground Railroad to the Great Depression to today.

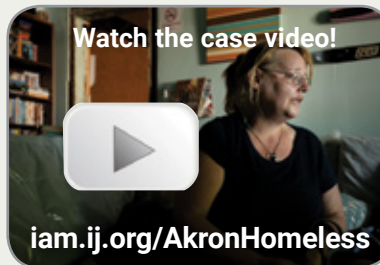
To be clear, we are not arguing for a rule that would allow anyone to set up a tent village anywhere, such as in a typical residential neighborhood. Instead, we are arguing that Akron is behaving irrationally—and thus unconstitutionally—because the harm in shutting down the community behind Sage's commercial building is grossly disproportionate to any public benefit.

Sage and The Homeless Charity recognize that tents are not a long-term solution for anyone. They are acquiring more property to house the homeless indoors, but that process takes time and resources. The practical option available today is a tent, which they will gladly offer until they can provide even more. And these tents are in demand; the community

is full and has a 20-person waiting list.

During the holidays, many of us gather around the table with family and friends and give thanks for what we have. We should take a moment to be grateful that the freedom we enjoy includes the freedom to use our property peacefully to help those most in need. ♦

Jeff Rowes is an IJ senior attorney.



Residents who live on Sage's commercial property have access to food, clothing, and other social services to aid in their transition back to permanent housing.





IJ client and food truck owner **Michelle Rock** challenged Carolina Beach's protectionist food truck restrictions—and secured a speedy victory.

VICTORY: CAROLINA BEACH FOOD TRUCKS ROLL OVER PROTECTIONIST LAW

BY JUSTIN PEARSON

IJ continues to build on our string of victories for food truck owners, and our latest win comes from Carolina Beach, North Carolina. Only one week after IJ filed suit challenging the town's ban on competition, the government capitulated and repealed its unnecessary barrier to earning an honest living.

This came as welcome news to Michelle Rock, IJ client and owner of T'Geaux Boys, a food truck specializing in Cajun cuisine. A Louisiana native and passionate home cook, Michelle was inspired to open her food truck after receiving encouragement from friends and family. But her food truck dreams hit a roadblock

when the Carolina Beach Town Council enacted a new ordinance declaring that only local restaurant owners could operate food trucks in the town.

Carolina Beach's brick-and-mortar requirement was just the latest in a long list of anticompetitive regulations being imposed on food truck owners across the nation. Often, the protectionism takes the form of an area-wide ban or a prohibition on operating within a certain distance of restaurants. In Carolina Beach, it was a ban on competition

from "outsiders." But regardless of the details of the regulation, the motivation is always the same—protecting politically favored businesses from competition. The mayor of Carolina Beach was clear about

Only one week after IJ filed suit challenging Carolina Beach's ban on competition, the government capitulated and repealed its unnecessary barrier to earning an honest living.



Just weeks after IJ filed suit, Carolina Beach announced that it intended to remove, rather than enact, barriers to competition.

In typical IJ fashion, the lawsuit dominated the local news cycle, with television, print, and online reporters repeatedly emphasizing the harms imposed by the requirement on entrepreneurs and consumers alike.

the reason for the new law: Government officials “queried local brick-and-mortars, and that’s what they proposed.”

But the government is not allowed to pick winners and losers in the marketplace. That choice belongs to consumers.

So IJ stepped in on behalf of food truck entrepreneurs and their hungry customers. In late August, we joined with Michelle and her coalition of food truck owners to challenge Carolina Beach’s brick-and-mortar requirement. In typical IJ fashion, the lawsuit dominated the local news cycle, with television, print, and online reporters repeatedly emphasizing the harms the requirement imposed on entrepreneurs and consumers alike.

Embarrassed by the unflattering media coverage generated by the lawsuit, the Town Council repealed the ban only one week later. But it did not stop there. The Council, which consisted of all the same members who passed the protectionist ban just a few months earlier, made

an about-face on competition: In addition to removing the brick-and-mortar requirement, it scaled back other food truck regulations too. What’s more, it began designing a plan to further deregulate food trucks and transform the town into a “food truck leader.”

IJ’s speedy and impactful victory is a testament not only to the strength of our legal theory, but also to the reputation we have developed over almost a decade of fighting on behalf of food truck owners. Simply put, when IJ comes to town, local government officials shift gears.

This victory is great news for Michelle and other aspiring entrepreneurs. It also provides a model for future litigation in North Carolina and beyond. But for now, we’re happy to be able to buy one of Michelle’s delicious po’ boys and celebrate a well-earned victory. ♦

Justin Pearson is
managing attorney of
IJ’s Florida office.



At What Cost?

New IJ Research Reveals the Economic Costs of Occupational Licensing



Read the report at :
www.ij.org/report/at-what-cost/

BY MINDY MENJOU

Since IJ opened its doors, we have argued not only that occupational licensing shuts people out of work, but also that it robs consumers and the wider economy of the benefits of honest competition. Thanks to a new report from IJ's strategic research program, we have top-notch data to back up our argument.

Released in November, *At What Cost?* is the result of years of collaboration between IJ, Dr. Morris Kleiner, the leading academic expert on licensing, and his fellow economist, Dr. Evgeny Vorotnikov. Drawing on two national datasets, we created the largest-ever sample of American workers surveyed about licensing and other job characteristics. This uniquely large dataset enabled Drs. Kleiner and Vorotnikov to look closely at licensing's impacts on consumers and the wider economy. Their work both confirms that licensing has exploded in recent decades and offers the first state-level estimates of licensing's economic costs for 36 states.

At What Cost? finds that nearly 20 percent of American workers now need a license to work, up from just 5 percent in the 1950s. States vary widely in the share of workers licensed, from 14 percent in Georgia to 27 percent in Nevada.

Licensing costs consumers and the wider economy billions of dollars each year.

And all this licensing doesn't come cheap. Nationally, it costs the American economy nearly 2 million jobs annually. In the states, licensing's toll on jobs ranges from around 7,000 (Rhode Island) to nearly 196,000 (California).

Licensing also costs consumers and the wider economy billions of dollars each year. Using a measure of lost economic value that takes into account all the resources that are squandered due to licensing, this study estimates annual losses to the national economy of \$184 billion. In the states, losses range from \$675 million (Rhode Island) to over \$22 billion (California).

Occupational licensing laws impose these costs because they restrict competition, effectively giving licensed workers a monopoly. With fewer competitors, licensees can charge more for their services. The rest of us pay the price.

And what are we buying with those 2 million jobs and billions of dollars in economic activity lost to licensing? Not much. Although lawmakers often believe they are protecting the public when they create licenses, there is little empirical evidence demonstrating a link between licensing and quality or health and safety.

Range of State Losses to Occupational Licensing



Rhode Island
7,000 jobs
\$675 million



California
196,000 jobs
\$22 billion



Fortunately, more and more lawmakers, judges, and opinion leaders are waking up to the reality that, too often, occupational licensing just isn't worth the cost. That's thanks, in no small part, to IJ. In courtrooms, statehouses, and the court of public opinion, we've been working tirelessly for 27 years to roll back needless licensing barriers that serve only to keep people out. And we're winning.

Our new data on licensing's considerable economic costs give us a powerful new tool to keep winning for our clients and thousands like them. Freeing people from needless licensing burdens isn't just the moral thing to do, it's the smart thing to do. When markets are more competitive, everyone wins. ♦

Mindy Menjou is IJ's research editor.



Photo: Joel Sorrell, State Policy Network



IJ's communications team is sharing the message of liberty for all to hear! At the State Policy Network's 2018 annual meeting, IJ Vice President for Communications **John Kramer** was honored with the Roe Award. Two IJ productions also recently won awards for innovation and creativity.

IJ's Communications Team Racks Up Awards

This was another banner year for IJ's communications team, which since our founding has racked up more than 55 national awards for its work personalizing, humanizing, and dramatizing the fight for freedom.

Among the awards received this year was the Roe Award, presented to IJ Vice President for Communications John Kramer. The Roe Award, named for the late Thomas A. Roe, is the highest honor given by the State Policy Network for achievements in advancing free-market ideas. (IJ's co-founders Chip Mellor and Clint Bolick are each previous recipients of the Roe Award.) Kramer—who joined IJ in 1992—is recognized as one of the most innovative, creative, and effective communicators in the free-market movement.

IJ also won a Platinum Award from dotCOMM—an international competition honoring excellence in web creativity and digital communications—for our video “Why Do So Many Need the Government’s Permission to Work?” The video, which launched the second edition of our *License to Work* report, also earned an honorable mention at the Lights, Camera, Liberty Film Festival.

And IJ's video describing our lawsuit defending the right of California horseshoeing instructor Bob Smith to teach a useful skill earned an Award of Distinction from the Videographer Awards program, as well as a second place Video Prize at the Reason Media Awards.

IJ's communications team is the most effective in the business and will help IJ win the fight for liberty in the court of public opinion for years to come. ♦





South Side Pitch Entrepreneurs Swing for the Fences

BY STACY MASSEY

On October 11, the Institute for Justice Clinic on Entrepreneurship hosted the 5th Annual South Side Pitch event to highlight some of the most innovative entrepreneurs from Chicago's South Side. Of more than 700 applicants over the past five years, just 26 have been invited to pitch at the competition.

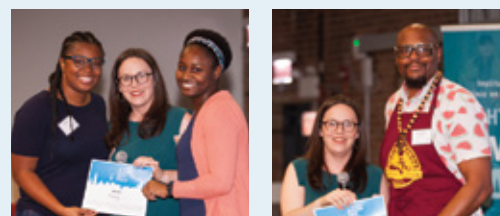
This year, Melody Roberts of Liv Labs earned first place. Liv Labs invented a small and easy-to-use device that promises to help the 23 million American women who struggle with incontinence. The \$5,000 cash prize will help her navigate her business through early regulatory requirements. Mariah and Mecca Johnson, founders of the startup Kozy, took second place for their platform connecting renters to landlords who contribute to savings accounts on behalf of their tenants as a means of incentivizing retention and on-time rental payments. Third place went to The Bougie Melon, whose founder Johnathan Carthon wants to "re-brand and elevate" the watermelon to appeal to trendy, up-market consumers.

Finalists from past years also continue to display the entrepreneurial promise of Chicago's South Side. Rumi Spice, a 2016 finalist and veteran-owned company that sources saffron from Afghanistan, appeared on ABC's *Shark Tank* and struck a deal with Mark Cuban. 2015 finalist Wheelz on Time, a company that helps individuals finance new tires rather than purchase used and potentially dangerous ones, has helped more than 1,000 people purchase safe, reliable tires. 2014 finalist Nature's Little Recyclers, a worm farm and composting business, is now partnered with the Chicago Marathon to compost all of its organic waste—more than 10 tons each year!

Entrepreneurship is all about problem solving. Each year, South Side Pitch shines a light on the South Side's most promising problem solvers. It's an honor to work with these businesses to refine their pitches and to jumpstart their success.

The IJ Clinic provides free legal assistance to low-income entrepreneurs. Year after year, this competition provides a fantastic opportunity to meet more of those we seek to serve, to learn about the red tape that they're up against, and—thanks to your support—to help them break through it and succeed. ♦

Stacy Massey is assistant director
of operations and outreach
at the IJ Clinic.



The IJ Clinic's South Side Pitch, a *Shark Tank*-style pitch event, showcases the innovative spirit of Chicago's South Side entrepreneurs and serves as a reminder of how vital economic liberty is to underserved communities.



NOTABLE MEDIA MENTIONS

THE WALL STREET JOURNAL

**Two New Lawsuits Seek To Stop
Discrimination Against Religion**

August 20, 2018

The Washington Post

**The Sprawling, Intrusive Administrative
State Is Keeping You Unwell**

August 15, 2018

Austin American-Statesman

**Texas Shouldn't Fine Veterinarians,
Or Any Other Professionals,
For Giving Advice Online**

October 19, 2018



USA TODAY

**Inmates Who Volunteer To Fight
California's Largest Fires Denied
Access To Jobs On Release**

August 20, 2018

The Philadelphia Inquirer

**Philly Agrees To Overhaul Civil
Forfeiture Program To Settle Lawsuit**

September 18, 2018

The New York Times

**Why A Private Landowner Is Fighting To
Keep The Homeless On His Property**

October 16, 2018



**California Outlaws Big Bills For
Minor City Violations**

September 9, 2018

Los Angeles Times


**California Legalized The Sale Of
Homemade Food. It Should Remove
Barriers For Other Industries Too**

October 4, 2018

NEW YORK POST

A Big Win For The Little Guys

September 23, 2018



New Jersey wants to take my family's home
to benefit a bankrupt casino.

In America no one should lose their
home to eminent domain for someone
else's private use.

I am fighting to keep my property.

I am IJ.