



LIBERTY & LAW

April 2022

Volume 31 Issue 2

VICTORY **In North Carolina!**

**Federal Court Rejects Bogus Zoning Arguments
That Kept Homeless Out in the Cold**

New IJ Report Tackles Regulatory *Barriers to Business* in Cities • 6

Published Bimonthly by
the Institute for Justice

Teed Off! Home Day Care Owner Denied Permit Due to Golfers' Complaint • 8

Fight Continues in Court for Ed Choice in West Virginia and Ohio • 10

contents

4 Victory in North Carolina! Federal Court Rejects Bogus Zoning Arguments That Kept Homeless Out in the Cold

Diana Simpson

6 New IJ Report Tackles Regulatory Barriers to Business in Cities

Alex Montgomery

8 Teed Off! Home Day Care Owner Denied Permit Due to Golfers' Complaint

Erica Smith Ewing and Jared McClain

10 After Year of Legislative Victories, Fight Continues in Court for Ed Choice in West Virginia and Ohio

Joe Gay

12 From Research to Real-World Results

Mindy Menjou and Kyle Sweetland

14 The Litigator's Notebook: How Discovery Helps IJ Build Winning Cases

Dana Berliner

16 IJ Class Action Challenges Indiana's For-Profit Civil Forfeiture Prosecutions

Bob Belden

17 Judicial Engagement Goes Down to Georgia

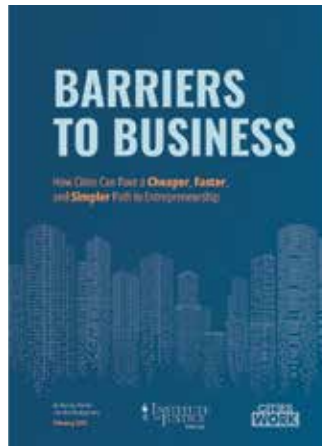
Anthony Sanders

18 New Year, New Look! IJ's Website Redesign Makes Big Improvements

J. Justin Wilson



4



6



8



10



12



14



16

18



17



LIBERTY & LAW

April 2022 • Volume 31 Issue 2

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 the benefits of freedom to those whose full enjoyment of liberty is denied by government.

Editor:

Paul Sherman

Layout & Design:

Laura Maurice-Apel

General Information:

(703) 682-9323

Donations: Ext. 399

Media: Ext. 205

Website: www.ij.org

Email: general@ij.org


Donate:

www.ij.org/donate

 facebook.com/instituteforjustice

 youtube.com/instituteforjustice

 twitter.com/ij

 instagram.com/institute_for_justice

Victory in North Carolina!

Federal Court Rejects Bogus Zoning Arguments That Kept Homeless Out in the Cold

BY DIANA SIMPSON

A few days before Christmas, a small homeless shelter in northwestern North Carolina received the best present it could have imagined: a victory awarding it the right to open. The Catherine H. Barber Memorial Shelter, represented by IJ, won its lawsuit against the town of North Wilkesboro, which had invoked bogus reasons to stop the shelter from opening. A federal judge cut through the irrationality and declared the town's actions unconstitutional. It is a momentous decision not just for the Barber Shelter but also for other property owners restrained by draconian zoning boards.

For more than 30 years, the Barber Shelter has provided a warm and safe space to sleep for people experiencing temporary homelessness. In 2020, the Barber Shelter was looking for a new space to serve the community when a local dentist generously offered to donate his office building. The building is perfect—it is in an ideal location for a shelter (nonresidential, near public transit, and near social services) and satisfies all the North Wilkesboro zoning requirements.

There was a hitch, though: The town's Board of Adjustment had to sign off by approving a conditional

use permit. Instead, the Board invented reasons to deny the permit. For example, the Board fretted about sidewalk and traffic safety issues supposedly presented by the nearby major road. But the zoning code *requires* that homeless shelters have public sidewalks and be near major roads. Paradoxes like this pervaded the Board's decision. Its reasoning meant that there was literally nowhere in town a homeless shelter could go.

The Barber Shelter teamed up with IJ to fight back and filed a federal lawsuit in October 2020. Following an intensive year of discovery, the parties briefed the issues and had oral argument in Charlotte, North Carolina. The wait for a decision was mercifully short—

and it was a grand slam.

The court engaged with the evidence, analyzed the arguments, and ultimately saw the Board's tortured reasons for what they were: excuses to keep the county's only homeless shelter out of town. In doing so, the court vehemently rejected the defendants' pleas for deference: "The Board apparently believes—incorrectly—that it can say the magic words 'traffic and safety' and this Court will rubber stamp the classification no matter the facts," wrote U.S. District Judge Kenneth D. Bell. The judge acknowledged that courts are often deferential to state zoning regulations but said "such deference



The Catherine H. Barber Memorial Shelter will soon open its doors to the needy at a new location thanks to a recent IJ victory.

The court ultimately saw the Board's tortured reasons for what they were: excuses to keep the county's only homeless shelter out of town.

The Board's reasoning meant that there was literally nowhere in town a homeless shelter could go.

cannot be an excuse for the Court to abdicate its duty to protect the constitutional rights of all people.”

IJ has already put the decision to work, citing it in multiple briefs to convince judges in other cases that they can and should stand on the side of property rights. Zoning boards are ubiquitous throughout

the country, and they regularly abuse their power. IJ will work to ensure that these boards abide by their constitutional limitations.

As for the Barber Shelter, its victory is now final. The town declined to appeal the decision, and the Barber Shelter has its sights set on renovating its building to effectively serve the needy. And when the shelter opens later this year, IJ will be there to celebrate. ♦

Diana Simpson is an IJ attorney.



Elizabeth Huffman, chair of the Barber Shelter's board of directors, stands in front of the shelter's new home, which it plans to renovate and open this year.

New IJ Report Tackles Regulatory **BARRIERS TO BUSINESS** In Cities

BY ALEX MONTGOMERY

Becoming a barber is a lot tougher than you might think. According to IJ's report *License to Work*, barber licenses require applicants to spend, on average, 368 days complying with costly state government regulations—all before earning a dime.

But imagine that a barber, finally licensed, wants to capitalize on his newfound skills by opening his own shop. Doing so won't be easy as he navigates local requirements—zoning, building permits, taxes, inspections, business licensing—on his journey to opening day. He will have to visit government offices, pay for registrations, and try to comply with confusing guides and websites, struggling for clear answers from officials.

Adding these burdens up puts the regulatory hurdles into perspective. A new IJ report, *Barriers to Business: How Cities Can Pave a Cheaper, Faster, and Simpler Path to Entrepreneurship*, does just that. It finds that across 20 large and mid-sized cities, starting a barbershop requires entrepreneurs, on average, to pay over \$3,200 and complete 55 steps just to get up and running.

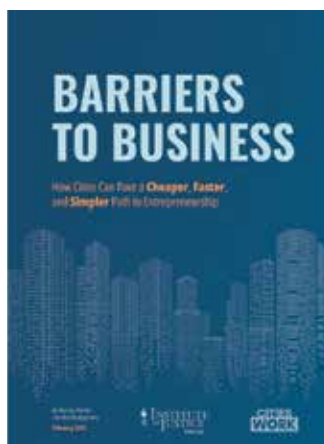
Aspiring barbershop owners are not alone. To start a restaurant, entrepreneurs must pay more

than \$5,300 and complete 16 forms and 61 steps, nine of which are in person. And even businesses more accessible for those on the first rungs of the economic ladder—food trucks and home-based ventures—are saddled with costs and compliance.

But in America you shouldn't need a law degree or a pile of cash to start a small business. That's why *Barriers to Business* also marks the launch of a new IJ activism initiative called Cities Work, dedicated to making it cheaper, faster, and simpler to start a business in America's cities.

For years, policymakers and advocates have recognized that the process of getting a business off the ground is mired in red tape. But rarely are city officials able to visualize the full picture of how those requirements create daily barriers for the average small-business owner. Even more rare are successful efforts to hack away at the local regulatory thicket by eliminating unnecessary rules.

With the launch of Cities Work, IJ's team of city policy experts and grassroots organizers is poised to give city officials the tools they need to truly ease the cost of doing business—to eliminate red tape and unleash job-creating small-business owners in cities and towns across the country.



Read the report at:
ij.org/report/barriers-to-business



IJ's new report *Barriers to Business* includes stories of red tape and high fees from small-business owners like **Dennis Ballen** of Seattle, **Lucio González** of New York City, and **Tameka Stigers** of St. Louis (left to right).

***Barriers to Business* marks the launch of a new IJ activism initiative called Cities Work, dedicated to making it cheaper, faster, and simpler to start a business in America's cities.**



Barriers to Business diagnoses the problem by tallying the fees and steps needed to start five common business types, showing how 20 cities' rules stack up against one another. It includes a "one-stop shop" analysis, which measures how well city websites guide entrepreneurs, and identifies the barriers that all small businesses must navigate. The report also puts forward customized policy recommendations that city officials could run with tomorrow, from implementing one-stop permitting portals to expediting zoning reviews for home-based businesses.

By combining IJ's groundbreaking research with boots-on-the-ground activism, IJ stands ready to make those recommendations a reality and break down regulatory roadblocks from coast to coast. ♦

Alex Montgomery is IJ's city policy associate.



Another New IJ Report Highlights Importance of Home-Based Businesses

Home-based businesses provide flexibility and opportunity—particularly during tough times like the COVID-19 pandemic—but all too often regulations stand in their way. Indeed, some cities effectively outlaw entire categories of home-based businesses.

Now IJ has a new tool for advocating on behalf of hardworking home-based entrepreneurs: our new report, *Work Entrepreneur from Home*. The result of a survey of 1,902 home-business owners, the report highlights the importance of home-based businesses—and how draconian regulations hold them back.



Read the report at:
ij.org/report/entrepreneur-from-home

Key findings include:

- One in three respondents started their businesses after pandemic-related job losses, and one in four did so after pandemic-related business closures.
- These ventures can be anything from a hobby to a side gig to a full-time job, and they operate in industries as diverse as baking, cattle ranching, and financial services.
- Most home-based businesses are modest, costing just \$1,200 to start and generating less than \$15,000 annually. However, nearly half of respondents planned to expand.
- Owners reported it took more than two months to jump through the regulatory hoops required to start their businesses, and they rated paying high permit fees and navigating complex local rules to get started as the most onerous regulations they faced.

With home-based work now easier and more popular than ever, it is likely that more entrepreneurs will build their businesses at home, even after the pandemic subsides. And IJ will be using this research to persuade cities to help people help themselves—during tough times and ordinary times—by easing regulatory burdens that get in the way of home-based entrepreneurs. ♦

A Texas town denied **Bianca King** a license for her home day care after a politically powerful golfer complained about the sound of children playing. She's fighting back with IJ.



Teed off!

Home Day Care Owner Denied Permit Due to Golfers' Complaint

BY ERICA SMITH EWING AND
JARED MCCLAIN

Due to the national shortage of child care, neighborhood day cares are more important than ever. But in West Austin, some politically connected golfers are trying to shut down a home day care in the city of Lakeway by exploiting the city's strict zoning laws for home businesses. IJ sued to protect Bianca King and her neighborhood day care in February.

Bianca King is a single mother to two small children whose life was turned upside down when she was laid off from her job in the aerospace industry during the pandemic. Bianca decided to

turn this upset into an opportunity. She has always had a gift with children, so she decided to open a small home day care business.

Bianca began watching a few of her neighbors' children during the workday as she stayed home with her own two children. The children love going to Bianca's house, and her clients are grateful to have found such an intimate and high-quality day care for their children. Bianca watches only two to four children at a time, in addition to her own two. She is also inspected and certified by the state.

Unfortunately for Bianca, her house backs up to the tee box on the eighth hole of a



Watch the case video!
iam.ij.org/TXdaycare

Americans have a right to use their property in ways that don't interfere with their neighbors.

private golf course, and three golfers complained that hearing and seeing children in Bianca's backyard interferes with their golf game. And who was one of those golfers? The former mayor of Lakeway.

The city received these complaints and told Bianca that her certification from the state was not enough—she also needed to apply to the city for a home business permit. This triggered a five-month administrative process, including two public hearings. Many of Bianca's neighbors and clients wrote letters in support of Bianca. But the former mayor, Joe Bain, and two other golfers complained they did not like seeing toys and a swing set in Bianca's private, fenced-in backyard while they were on the course. They also complained they did not want to hear children playing during their golf game.

Of course, Bianca's own two children would still play with toys in her yard regardless of whether she had a home day care. There are also several other homes with children that back up to the course.

Even so, the city denied Bianca the permit she needed to stay in business. It did so

by relying on its home business ordinance, which allows the city to deny home business permits for 19 different reasons, including if the businesses are not completely "undetectable."

Now Bianca risks criminal prosecution and fines of up to \$2,000 a day if she keeps operating.

IJ sued to protect Bianca as well as home businesses across the nation. Although home businesses are more common than ever, many cities are still aggressively cracking down on them—even banning businesses as ordinary and inconspicuous as tutoring, music lessons, and home baking.

Americans have a right to use their property in ways that don't interfere with their neighbors. Bianca's business is harmless, and she has

a right to stay in business. We are optimistic the Texas courts will agree. ♦

Erica Smith Ewing is an IJ senior attorney, and Jared McClain is an IJ attorney.



Even though Bianca is certified by the state to provide much-needed child care, the city of Lakeway tried to shut down her day care using its impossibly strict home business ordinance.

After Year of Legislative Victories, Fight Continues in Court for **Ed Choice in West Virginia and Ohio**



BY JOE GAY

As parents learned firsthand the value of schools that answer directly to families, and frustration with public schools reached a fever pitch, 2021 became the Year of Educational Choice: 18 states enacted seven new educational choice programs and expanded 21 existing programs. And no two states are better examples of this than Ohio and West Virginia.

IJ and educational choice in Ohio go way back: Two decades ago, IJ made history successfully defending Ohio's first educational choice program, the Cleveland Scholarship Program, before the U.S. Supreme Court. Ohio later enacted its EdChoice Scholarship Program, which awards scholarships to students assigned to underperforming schools and whose families meet certain income designations. And in 2021, Ohio expanded its EdChoice Program by eliminating caps on the number of scholarships, raising scholarship amounts, and broadening eligibility.

Unlike Ohio, West Virginia was among the minority of states in 2021 with no existing educational choice programs. But following tireless efforts by IJ and our allies, West Virginia enacted the historic Hope Scholarship Program, the broadest educational savings account program in the country. All current public school students and all students entering kindergarten are eligible to receive Hope Scholarships to use toward educational expenses, including private school tuition, occupational therapies, and homeschooling costs.

But legislative victories in 2021 have meant lawsuits in 2022. Days after the new year began, a collection of public school districts, a



In January, IJ launched two cases to defend educational choice programs so that families like the **Comptons** of West Virginia (top) and the **Ellises** of Ohio (bottom) can send their children to the schools that best meet their unique needs.

By intervening, IJ provides the courts with the unique perspectives of real families who need these programs to choose the education that best meets their individual needs, as well as IJ's expertise as the nation's leading courtroom advocate for educational choice.

special interest group, and an Ohio family sued Ohio in state court seeking to dismantle the EdChoice Program. Two weeks later, lawyers from an anti-educational choice group filed a lawsuit in state court against West Virginia officials, seeking to halt the Hope Scholarship Program from even starting.

But as always, IJ was ready to defend these crucial programs. Within days of each lawsuit, IJ intervened to defend the programs on behalf of parents who want to use these scholarships for their children. By intervening, IJ provides the courts with the unique perspectives of real families who need these programs to choose the education that best meets their individual needs, as well as IJ's expertise as the nation's leading courtroom advocate for choice.

These programs provide a much-needed lifeline to IJ's clients. In West Virginia, for example, Katie Switzer wants to use Hope Scholarships for her two eldest children, one of whom has a speech disorder that Katie believes would benefit from therapies and resources she can purchase through the program. And in Ohio, Brian Ellis relies on EdChoice Scholarships for his three school-age children, two of whom have disabilities that require special attention and all of whom would otherwise be assigned to low-performing public schools.

Both Katie and Brian need their scholarships to afford to do what wealthier families do all the time: choose the education that works best for their families. And IJ looks forward to fighting on their behalf to ensure that educational choice remains an option for families across Ohio and West Virginia. ♦

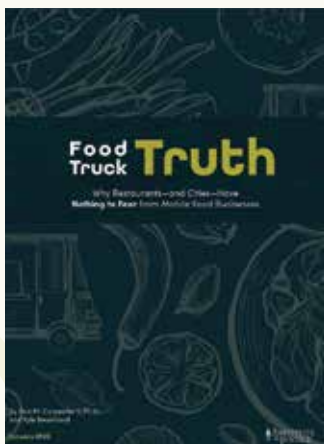
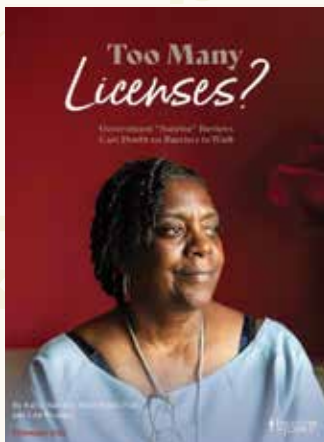
Joe Gay is an IJ attorney.



By intervening in lawsuits to defend these educational choice programs, IJ provides courts with the perspectives of real families who rely on the programs, like the **Boggs** family of Ohio (top) and the **Switzer** family of West Virginia (bottom).



From Research to **REAL-WORLD RESULTS**



Read the reports at
ij.org/report/too-many-licenses and
ij.org/report/food-truck-truth

BY MINDY MENJOU AND KYLE SWEETLAND

In statehouses nationwide, IJ works to promote reforms that will make America freer and more just. And, as regular *Liberty & Law* readers know, we often use IJ's strategic research to do it. Now we have two new reports we're using to make change in the economic liberty arena, reining in occupational licensing and expanding food truck freedom.

One of the reports, *Too Many Licenses?*, is the first comprehensive analysis of government studies of proposed occupational licenses. These "sunrise" reviews give legislators objective information to help them decide whether licenses are needed to protect the public—or whether they are unnecessary barriers to work.

As it turns out, the vast majority of *government* studies conclude licenses are a bad idea. Of nearly 500 studies we analyzed, about 80% declined to recommend licenses—and more than half declined to recommend any new regulation at all. Not surprisingly, most proposed regulations were put forward by those with a vested interest in fencing out competition: 83% came from industry groups compared to just 4% from consumers. That government studies often saw through these self-serving proposals suggests sunrise programs can help legislators make better decisions in the face of organized pressure.

We're using these findings to urge more states to adopt strong sunrise programs to help protect economic liberty. But we're also using them to remind legislators that they should be skeptical of interest groups pushing new licenses even if they don't have a sunrise program—and that they should revisit many licenses already on the books. After all, decades of government studies reveal some of these very same licenses to be needless barriers to work.

IJ HAS TWO NEW REPORTS WE'RE USING TO MAKE CHANGE IN THE ECONOMIC LIBERTY ARENA, REINING IN OCCUPATIONAL LICENSING AND EXPANDING FOOD TRUCK FREEDOM.

**IJ INVESTS IN RIGOROUS RESEARCH BECAUSE
KNOWING THE FACTS MAKES US MORE EFFECTIVE
ADVOCATES FOR FREEDOM.**

The second report, *Food Truck Truth*, takes aim at a myth commonly used to justify unnecessary restrictions on mobile food entrepreneurs: that food trucks steal customers from restaurants, driving them out of business. Leaving aside that customers aren't property and competition isn't theft, is this argument true? We investigated using 12 years of county-level census data and found it holds no water.

For one thing, we found that even as food trucks took off following the Great Recession, the restaurant industry continued to grow—and restaurants still vastly outnumber food trucks. But stronger evidence comes from our robust statistical analysis, which controlled for economic conditions and other factors and found food truck growth in one year was not followed by restaurant decline the next. We also found that the number of food trucks and restaurants in a county were correlated, suggesting that both sectors

can and do thrive at the same time—and that laws designed to curb food trucks are misguided.

We're using this research to promote state-level bills that would streamline licensing so that food trucks wouldn't have to submit to multiple applications, fees, and inspections to operate across several cities or counties. And, of course, we're using it to fight protectionist city-level regulations pushed by the restaurant industry.

IJ invests in rigorous research because knowing the facts makes us more effective advocates for freedom. Robust protections for individual rights are not only moral and constitutional imperatives—they also work, and IJ's research provides policymakers with proof. ♦

Mindy Menjou is
IJ's research publications
manager, and Kyle Sweetland
is an IJ researcher.



The Litigator's Notebook: How Discovery Helps IJ Build Winning Cases

BY DANA BERLINER

In this notebook, I explore what is often portrayed as the most boring part of litigation—discovery. Discovery is a period during litigation, lasting around four months to a year, during which we gather information to prove our case. Because we sue to challenge laws and government policies, much of the time we have to get information and documents from the government itself. As part of that process, we ask the other side for documents (“requests for production of documents”), ask written questions (“interrogatories”), ask if the government will agree that certain facts are true (“requests for admissions”), and ask government employees questions under oath (“depositions”).

Discovery is a period during litigation, lasting around four months to a year, during which we gather information to prove our case.

Discovery is often time-consuming and tedious for lawyers and clients. There is a lot of bickering with the other side, and there are no newsworthy events. But behind the scenes, discovery is often quite exciting because we put together the facts that will allow us to win our cases.

Consider civil forfeiture. As in the title of our landmark report *Policing for Profit*, our main argument in many of our forfeiture cases is

that the police have a perverse financial incentive to take property through forfeiture because they get to keep and spend a portion of every dollar they seize. The government responds that there is no incentive and that police department spending is strictly controlled by budgets and other rules. But discovery often proves otherwise. In our



The normally tedious discovery phase of litigation can uncover disturbing evidence of government wrongdoing, as it did in IJ's challenges to Philadelphia's civil forfeiture scheme (left) and Wisconsin's ban on selling homemade foods (right).

Philadelphia forfeiture case, for example, our requests for documents turned up performance reviews that criticized officers who did not bring in enough forfeiture revenue and praised those who did.

Discovery can also provide vivid examples of a policy's irrationality. In Wisconsin, where we are challenging the ban on selling homemade foods, one of our claims is that the law violates equal protection because it allows some people but not others to sell homemade foods. Under the law, selling homemade foods is legal if done for charity but illegal if done to support one's family. In discovery, we got emails showing that the health department allowed a nonprofit lobbying group to sell highly perishable cream puffs at the state fair while denying our clients the ability to sell far safer foods. This was a stark demonstration of both unfair treatment and the fact that our clients' homemade foods really are less dangerous than those the state allows.

Discovery can also be useful when the government tries to disown its previous threats in the face of litigation. In our occupational speech cases on behalf of tour guides, diet coaches, and engineers, for example, the government almost always argues that it is regulating not speech but rather "professional conduct." This difference is important because courts are more likely to strike down a law that regulates speech. But when asked under oath what it is precisely that our clients are not allowed to do, the government's answer, invariably, is speak.

The discovery phase of a case can be annoying, especially when the government refuses to give us documents or answer questions without a court order. Knowing that we often find a crucial and damning piece of information, however, makes it all worthwhile. ♦

Dana Berliner is IJ's senior vice president and litigation director.



IJ Delivers Victories with Litigation by Letterhead

You don't always have to file a lawsuit or pass a bill to bring change. Sometimes it just takes a good old-fashioned letter. At IJ, we like to send letters—which we affectionately call "nastygrams"—to government agencies to persuade them to stop abusing people's rights . . . or else. Sent on IJ letterhead, and often accompanied by a press release, these letters are a time-efficient way to pressure government officials to do the right thing.

Just in the past few months, four of our sternly worded nastygrams have hit the mark. The city of Watertown, South Dakota, for instance, shut down Debra Gagne's taxi company mere days before Christmas under an unfair permit scheme designed to protect existing taxi companies from competition. We sent the city a letter and alerted the local TV stations, which broadcast the story that night. The next day, the city allowed Debra to reopen permanently. Debra cried tears of happiness when we told her the good news.

Similarly, letters from IJ were all it took to persuade Allegheny County, Pennsylvania, and Norwalk, Connecticut, to lift their bans on selling homemade foods. A stern letter also stopped Kentucky's perplexing and oddly specific ban on selling homemade bagels. Now cottage food producers can sell homemade foods to support their families in all three places.

Some government officials think they can get away with imposing arbitrary laws and crushing small businesses. They think twice when a letter from IJ lands on their desks. And if they don't take heed, an IJ lawsuit may be next. ♦



IJ Class Action Challenges Indiana's For-Profit Civil Forfeiture Prosecutions

BY BOB BELDEN

As *Liberty & Law* readers well know, IJ has tangled with Indiana over civil forfeiture before. IJ recently ended the state's attempt to forfeit Tyson Timbs' Land Rover, which the Indiana Supreme Court described as "reminiscent of Captain Ahab's chase of the white whale Moby Dick." A unique feature of Indiana's civil forfeiture law might explain that saga: private, for-profit prosecutors. In Indiana, county prosecutors can retain private lawyers on a contingency-fee basis to pursue civil forfeiture prosecutions. The scheme has been described as an "institutionalized bounty hunter system" and a "scandal."

It's not only a scandal, it's unconstitutional. The contingency fee creates an unmistakable profit incentive: Forfeit nothing, recover nothing and maybe even lose money prosecuting the case; forfeit a little, recover a little; forfeit *more*, recover *more*. That runs afoul of the due process guarantees of the U.S. Constitution, which require prosecutors to pursue justice, not money. To eliminate these for-profit civil forfeitures, IJ partnered with native Hoosier Amya Sparger-Withers—herself a victim of the profit-fueled

The contingency fee creates an unmistakable profit incentive: Forfeit nothing, recover nothing and maybe even lose money prosecuting the case; forfeit a little, recover a little; forfeit *more*, recover *more*.

system—and filed a federal class action lawsuit this past November.

Amya won a significant victory less than a week into the case. As the government so often does when citizens team up with IJ to resist civil forfeiture, Indiana hastily dropped its case against Amya and returned her property. It almost certainly did so to try

to get rid of her federal class action; in fact, Indiana asked the federal court shortly thereafter to dismiss the suit. The state said nothing about the hundreds (and maybe thousands) of other proposed class members whose constitutional rights are still being violated every day. Rather than respond to these

allegations, Indiana has effectively put up its hands and declared, "Nothing to see here!"

IJ, Amya, and *Liberty & Law* readers know there actually is a lot to see, and to fix, when it comes to Indiana's civil forfeitures. And so Amya and IJ will keep fighting to end Indiana's financially driven civil forfeiture prosecutions once and for all. ♦

Bob Belden is an IJ attorney.



Judicial Engagement Goes Down to Georgia

BY ANTHONY SANDERS

The Center for Judicial Engagement (CJE) advocates that judges should take not just the U.S. Constitution seriously but state constitutions as well. And since each state constitution is different, careful cultivation of judicial engagement sometimes requires a state-by-state approach.

That's the idea behind CJE's State Constitutional Forums, a series of forums on different state constitutions and the need for state courts to enforce them. We began two years ago with a live conference in Minnesota, held a virtual one on Pennsylvania's constitution during the height of the pandemic, and just recently completed another live conference in Georgia, a state rich in constitutional history. We also have another planned for Michigan this spring. (Check CJE's website, ij.org/cje, for details.)

Georgia's constitution was a particularly interesting forum topic because the state has had about 10 constitutions since 1776, depending on how you count them. Because states often reuse old language even when they adopt new constitutions—and Georgia is no exception—that means questions such as “What is the original meaning of this provision?” or “How do you apply old cases when interpreting reused constitutional language?” frequently do not have straightforward answers.

The keynote speaker for our conference, former Georgia Supreme Court Justice Keith Blackwell, walked our audience through these issues and provided some advice for untangling them. He was followed by Georgia appellate attorneys Andrew Fleischman and Josh Belinfante, who provided great ideas on how to get the state's courts to take Georgia's constitution more seriously.

We ended with a delightful panel on unenumerated rights. Judge Stephen Dillard, chief judge of the Georgia Court of Appeals, and Gerry Weber of the Southern Center for Human Rights, joined with me to discuss Georgia's long history of protecting all manner of rights. This included analyzing Georgia's “Baby Ninth Amendment,” a provision that explicitly recognizes rights outside those explicitly listed in the state constitution, similar to the Ninth Amendment in the federal Bill of Rights.

IJ has been part of an ongoing conversation in Georgia about its constitution with several past and ongoing cases. The engagement we received has given us hope that the future of judicial engagement in the Peach State is strong. ♦

Anthony Sanders is director of IJ's Center for Judicial Engagement.



Legal experts from IJ and beyond discussed the complicated history and meaning of Georgia's constitution at our third State Constitutional Forum, hosted by IJ's Center for Judicial Engagement.

Help IJ Plot a Course For the Future

Once every five years or so, IJ conducts a survey of our supporters to inform our decision-making in key areas that range from how we communicate with you to how we identify new audiences to cultivate for future funding. Your feedback is instrumental not only to our ability to evolve and grow but also to ensuring that we do so with the backing and approval of our dedicated supporters.

During the week of April 4, IJ donors will receive a questionnaire from Industry Insights, the third-party company we have retained to conduct this research study. We ask that you complete and return this brief form or fill out the survey online before May 16. Please note that the survey is confidential, and no attempt will be made to attribute the answers to specific respondents.

Longtime supporters may recall our previous survey, which was conducted in 2015. The enthusiastic response to that questionnaire helped IJ successfully navigate a period of heightened growth over the past several years. By taking 10 minutes to respond to the questionnaire, you will similarly allow us to make the most of the opportunities that lie ahead as we embark on our fourth decade of litigating for liberty. Thank you in advance for your participation. ♦

New Year, New Look!

IJ's Website Redesign Makes Big Improvements

BY J. JUSTIN WILSON

Each year, IJ's website—ij.org—receives millions of visitors seeking to find out about our cases, read our research, and support IJ's mission. Our website is a key tool in litigating our cases in the court of public opinion and serves as an archive of IJ's 30 years of litigating for liberty.

This summer, for the first time in seven years, we embarked on the process of updating IJ's website. To help the site continue to grow, our goal was to modernize the site, in terms of both how it looks and the underlying technology it uses. To do that, we partnered with a web development firm and also brought on a full-time web developer, Rima Gerhard.

In redesigning the website, we wanted to do a better job of giving first-time visitors a sense of what IJ is and what we do. We also wanted to improve the site's look and feel on mobile phones, which now account for almost half of our visitors. The new site incorporates a much more

sophisticated system for finding and contacting potential clients, a Google-powered search function, and a streamlined online donation system.

You can now find a timeline of IJ's first 30 years and a concise list of some of our major achievements on the About Us page, as well as landing pages for our recently launched initiatives, like IJ's Project on the Fourth Amendment.

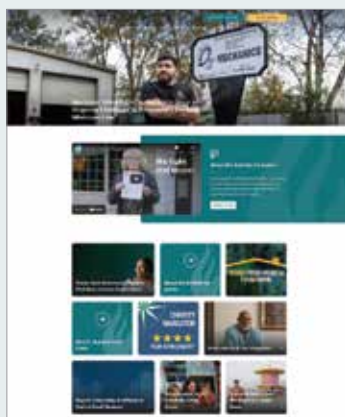
After six months of designing, programming, organizing, and writing, we launched the new site in January.

Here are a few statistics about ij.org:

- The site received 2 million pageviews in 2021.
- There are 431 pages on the site, 2,018 press releases, 1,313 *Liberty & Law* articles, 659 report pages, and 600 client profiles.
- The site has 1,631,393 pieces of "metadata"—small pieces of information about our cases and reports, like the date we filed a case or a report datapoint.
- The site hosts 3,430 PDFs and 10,346 photos.
- There are 13,157,529 words stored on the website.
- The codebase includes more than 60,000 lines of code.

We hope you'll visit ij.org and see for yourself how the new site looks and feels! ♦

J. Justin Wilson
is IJ's senior director of
communications.



IJ MAKES HEADLINES

These articles and editorials are just a sample of recent favorable local and national pieces IJ has secured. By getting our message out in print, radio, broadcast, and online media, we show the real-world consequences of government restrictions on individual liberty—and make the case for change to judges, legislators and regulators, and the general public.

Read the articles at
[iam.ij.org/
april-2022-headlines](http://iam.ij.org/april-2022-headlines)



THE TENNESSEAN

A GANNETT COMPANY

**Tennessee Supreme Court Grills Attorneys
In Second Hearing On Gov. Bill Lee's School
Voucher Program**

February 24, 2022

INSIDER

**Texas Woman Alleges City Officials Shut
Down Her Home Daycare After Golfers
Complained About Noise From Children**

February 18, 2022

Des Moines Register

PART OF THE USA TODAY NETWORK

**How The City Of Des Moines Chills
Entrepreneurship In 66 Steps**

February 16, 2022

reason

FREE MINDS AND FREE MARKETS

**The Tennessee Supreme Court Could
Decide The Fate Of Nashville's Home
Recording Studios**

January 27, 2022

Los Angeles Times

**Legal Sellers Of Pot Get Cash Seized; An
Armored Car Firm Says San Bernardino
County Deputies Took Money Belonging
To Licensed Businesses.**

January 28, 2022

DAILY KOS

**'Poster Child For Policing For Profit':
Alabama Town Saw 640% Spike In Fines
And Forfeitures**

January 24, 2022

USA TODAY

**A Rookie Cop Mistook My Sons For
Gang Members And Searched Them At
Gunpoint. Where's Our Justice?**

January 25, 2022

DAILY@NEWS

**A West Side, Upstate And Downstate Story:
Eminent Domain Abuse In New York**

January 21, 2022

I built a business using a single strand of cotton thread.

The state of Oklahoma required threaders like me
to get cosmetology licenses we didn't need.

I fought for my right to earn an honest living.

And I won.

I am IJ.

