



LIBERTY & LAW

December 2022

Volume 31 Issue 6

VICTORY IN PENNSYLVANIA!

**Court Strikes Down Oppressive Real Estate
License After Six Years of Litigation**

Published Bimonthly by
the Institute for Justice

Hope for Educational Choice in West Virginia and Kentucky • 6
Protecting Entrepreneurial Speech Against California Overregulation • 8
Property Rights Matter When IJ Comes to Town • 16
In Memoriam: Conor Beck • 22

contents

4 Victory in Pennsylvania! Court Strikes Down Oppressive Real Estate License After Six Years of Litigation

Josh Windham

6 Hope for Educational Choice in West Virginia and Kentucky

Josh House

8 Protecting Entrepreneurial Speech Against California Overregulation

Paul Avelar

10 Arizona Town Arrests Grandma for Feeding the Needy

Diana Simpson and Suranjan Sen

12 Making the Case: IJ Champions Economic Liberty at the U.S. Supreme Court and Nationwide

Scott Bullock

14 Making Over the Beauty Industry

Marie Miller

16 Property Rights Matter When IJ Comes to Town

Seth Young

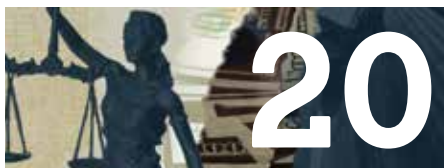
18 9th Annual South Side Pitch

Beth Kregor

20 IJ Scores First Round Victory Against Prosecuting for Profit in Indiana

Mike Greenberg

22 In Memoriam: Conor Beck



LIBERTY & LAW

December 2022 • Volume 31 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 illustrates and extends 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 PENNSYLVANIA!

Court Strikes Down Oppressive Real Estate License After Six Years of Litigation

BY JOSH WINDHAM

When we called IJ client Sally Ladd to tell her that she could reopen her business, her first response was tears. And who could blame her? Pennsylvania had forced her to shut down her small business helping others rent out their vacation homes—her main source of income—because she wasn't a licensed real estate broker. After six years of litigation, a court had finally declared what she'd known all along: This never should have happened.

After losing her job to the Great Recession, Sally started a small business to support herself. Working online from her home in New Jersey, she helped people in the Poconos rent their homes on sites like Airbnb. Sally helped post the properties, book rentals, and coordinate cleanings. She wasn't doing anything clients couldn't have done themselves—she was just saving them a bit of time and hassle, and they paid her for it.

Until 2017. The Pennsylvania Bureau of Professional and Occupational Affairs called to inform Sally that she was under investigation for the unlicensed practice of real estate. She was shocked. She wasn't doing home sales or complex leases, as most brokers do. But Pennsylvania didn't care. Sally would have to get a real estate broker's license or close her business.

Sally looked at the licensing requirements and immediately saw that they were too burdensome for her. She would have to spend three years apprenticing with a broker, take two exams, and complete 315 hours of schooling on real estate practice, and then open a brick-and-mortar office in Pennsylvania—where

she does not live. None of this had anything to do with helping people use Airbnb over the internet, and Sally couldn't afford to spend three years studying irrelevant topics. She had no choice but to shut down.

Sally was crushed, but she wasn't going down without a fight. She found IJ, and we filed a lawsuit arguing that forcing her to get a full-blown real-estate license violated her right to earn an honest living under the Pennsylvania Constitution. At first, a lower court dismissed the case on the theory that courts have no authority to scrutinize the licensing requirement. But in 2020, the Pennsylvania Supreme Court corrected that error, holding that Sally could win by showing that, as applied to her, the license failed to substantially protect the public or did so in an oppressive way. Then, this past July, we had a two-day trial where we proved exactly that.

That brings us to today. On October 31, the trial court issued a 35-page decision granting Sally complete victory. In the court's words, the evidence proved that the "licensing requirements are unreasonable, unduly oppressive, and patently beyond the necessities of [Sally's] case," and therefore violate the Pennsylvania Constitution.

The court's decision is a total vindication—both for Sally and for economic liberty. It's also a vindication of the never-say-die attitude that allows IJ to persevere through yearslong litigation until, finally, we prevail. ♦

Josh Windham is an IJ attorney and IJ's
Elfie Gallun Fellow in Freedom
and the Constitution.





After six years of litigation, IJ client **Sally Ladd** is free, thanks to a court victory, to pursue her small business helping others rent out their vacation homes without needing to spend years becoming a licensed real estate broker.



IJ client and West Virginia mom **Katie Switzer** wants to use the Hope Scholarship to pay for speech therapy, among other educational needs. Without the program, she can't afford the best educational options for her children, so she's teamed up with IJ to defend it.

Hope for Educational Choice in West Virginia and Kentucky

BY JOSH HOUSE

Education is not one size fits all, which is why parents, not the government, should select the educational offerings that best meet their children's needs. But educational choice programs are also not one size fits all. Last year, West Virginia and neighboring Kentucky each passed different types of programs to give parents more educational choice.

Defenders of the status quo made the same tired argument against each: that the government can't promote educational choice. But that's wrong. In West Virginia, the state constitution says nothing that would restrict support for non-public education, and,

indeed, it expressly encourages the state to promote educational policies in addition to the public schools.

Meanwhile, the members of the educational establishment challenging Kentucky's program relied on the false premise that tax-credit-eligible donations are public funds and thus subject to constitutional limits on raising or spending public funds. But as the U.S. Supreme Court itself has held, tax credit programs do not use public money. That money comes from private donors.

If the arguments looked familiar, so did IJ's response: As we have done every day for the past 30-plus years, we stepped in on behalf of parents



IJ is defending educational choice programs in Kentucky and West Virginia on behalf of clients including **Akia McNeary** and her family (left) and **Jennifer Compton** and her family (right).

to defend educational choice. And over a two-week period this fall, IJ argued in defense of both West Virginia's and Kentucky's programs in those states' respective highest courts.

Good news arrived quickly. After a mere two days of deliberation, the West Virginia Supreme Court of Appeals allowed the program to move forward, reversing the trial court's injunction.

The ruling is fantastic news for West Virginia families. West Virginia's Hope Scholarship Program is a sweeping, near-universal education savings account program. Under the program, families who withdraw from full-time public school can receive money in an account, which they can then spend on any educational services.

Those services can include private school tuition, homeschooling supplies and curricula, transportation to educational services, or even the à la carte purchase of public school resources. IJ client Katie

Switzer, for instance, plans to use her account for a combination of homeschooling resources, educational speech therapy, and public charter school coursework.

As for Kentucky, the state's supreme court is still deliberating. But although the program's particulars differ from West Virginia's, the outcome should be the same. Kentucky's Education Opportunity Account Program grants tax credits for donations to nonprofits that manage and grant education savings accounts. That means the accounts are 100% donation-supported and do not take any funds from the Kentucky Treasury.

The accounts can be used for an array of educational resources: homeschooling, tutoring, technology, transportation, and more. Low- and middle-income families can apply for accounts even if they remain in public school. And in Kentucky's largest counties, families can use their accounts for private school tuition. IJ client Akia McNeary plans to use

Educational Choice continued on page 21

PROTECTING ENTREPRENEURIAL SPEECH Against California Overregulation

BY PAUL AVELAR

Ryan Crownholm is a self-described “serial entrepreneur.” After serving in the Army, and while still in college, he started his first business by using his own pickup truck to haul rubbish. His business took off, and he expanded. To take on larger projects, Ryan obtained a California demolition contractor license. But Ryan’s demolition projects required permits from a city or county building department. And these permits required, and still require, the submission of a “site plan” drawing.

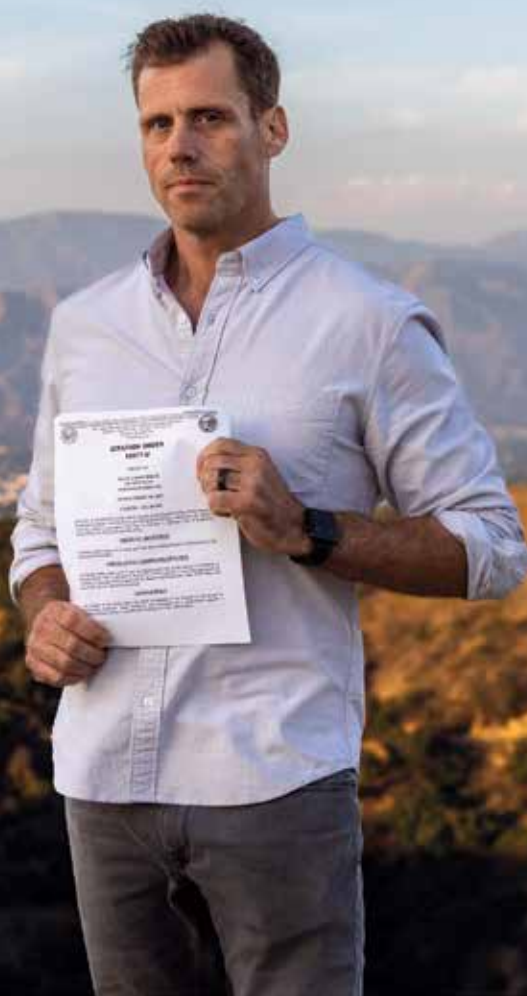
Site plans are not surveys. They are relatively simple drawings to show the property’s physical features—buildings, driveways, fences, sometimes

vegetation—relative to property lines. So, with help from local building departments, Ryan taught himself how to draw these site plans by using publicly available information from the internet: computer mapping systems like GIS (geographic information system), Google Maps, and other programs with satellite imagery.

Ryan was a quick study, learning how to draw site plans in computer-aided drafting programs. And he got good at them—so good that other contractors wanted to pay Ryan to draw site plans for them.

This led Ryan to start MySitePlan.com in 2013. The company has since created more than 40,000 site plan drawings. Ryan describes himself as a “professional

Self-taught entrepreneur **Ryan Crownholm** started a business drawing site plans for contractors and homeowners. But a California surveying board ordered him to shut down, even though local governments advise property owners on how to make identical site plans without licenses.



Ryan's drawings are protected by the First Amendment, and the government cannot prohibit him from making those drawings just because they are related to a licensed occupation.

tracer" given that all the information needed for site plans is already on the internet.

The value of MySitePlan.com is the many hours it saves contractors and homeowners that they would otherwise have to spend drawing their own site plans. And other customers use the drawings for many other purposes: Hotels and resorts use them to help guide guests from the lobby to their assigned rooms, while farmers' markets use them to help show vendors where they should set up shop.

These customers like Ryan's work and know what they're getting—MySitePlan.com clearly states at the top of its website that it is not a legal survey and is not intended to replace one. But that hasn't stopped the California Board for Professional Engineers, Land Surveyors, and Geologists from trying to shut down MySitePlan.com. In late 2021, the Board sent Ryan and MySitePlan.com a citation ordering them to stop their business and pay a \$1,000 fine. According to the Board, based on a review of the website, making drawings that "depict the location of property lines, fixed works, and the geographical relationship thereto" requires a license.

California's interpretation of its surveying law is exceptionally broad, even by

industry standards. The national association of surveyor regulators says "non-authoritative" drawings like MySitePlan.com's don't require a license. And California's own building departments tell homeowners how to do these very same drawings and accept identical site plans from non-surveyors. Yet the Board has singled out Ryan and MySitePlan.com for prosecution.

But Ryan's drawings are protected by the First Amendment, and the government cannot prohibit him from making those drawings just because they are related to a licensed occupation. That's why Ryan has joined with IJ to fight back against this latest example of established industries using licensing to fight technological innovation. You shouldn't need the government's permission to use existing information to create new information and sell it to willing customers. Ryan's case seeks to protect that right in California and across the country. ♦

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



Ryan joined with IJ to fight for his First Amendment right to use new technology to compile information for willing customers.

ARIZONA TOWN ARRESTS GRANDMA FOR FEEDING THE NEEDY


BY DIANA SIMPSON AND SURANJAN SEN

Bullhead City Community Park, nestled on the banks of the Colorado River on the far western border of Arizona, is a lovely spot for a picnic. But don't dare open your picnic to someone in need, or you might be arrested under a new ordinance that criminalizes sharing food in public parks "for charitable purposes."

That's Bullhead City's lesson for Norma Thornton, a 78-year-old grandmother who retired

to Arizona in 2017 after operating a restaurant in Alaska for years. In the local park, she encountered people in need, including those struggling to make ends meet and those without housing. And Norma soon discovered that they often go hungry, as the nearest shelters and food pantries are miles away and have limited resources. So Norma decided to use her career skills to help: For more than four years, she regularly spent her afternoons preparing

For more than four years, Norma regularly spent her afternoons preparing nutritious, hot homecooked meals; sharing them in the park with anyone who asked; and taking care to leave the park cleaner than when she arrived.

A photograph of Norma Thornton, a 78-year-old grandmother, smiling and preparing food at a picnic table in a park. She is wearing a blue shirt and is surrounded by various food items, including a large red pot and a bowl of food. The background shows a chain-link fence and a clear blue sky.

For years, **Norma Thornton** served homecooked meals to those down on their luck in a Bullhead City, Arizona park until the town criminalized sharing food "for charitable purposes."



nutritious, hot homecooked meals; sharing them in the park with anyone who asked; and taking care to leave the park cleaner than when she arrived.

But the city criminalized Norma's kindness last spring, passing a new ordinance all but prohibiting sharing food in public parks "for charitable purposes." The ordinance allows someone to share the exact same food in the exact same location with their friends, but the moment that their sharing becomes motivated by a charitable purpose, their actions become criminal.

The ordinance isn't a hollow threat, either—Bullhead City police officers arrested Norma in March after she'd fed a few dozen people and cleaned up the area. The city even threatened Norma with jail time and fines and fees exceeding \$1,000 in an attempt to coerce a plea deal (which, ironically, included mandatory community service). But Norma stood firm, and the city ultimately dropped its prosecution in the face of bad press.

The city was sure to point out, however, that it would prosecute her if she ever violated the ordinance again. As a result, Norma legally shares her food in a dusty private alley—with hardly any shade, without seats or a place for the hungry to

Arizona Charity continued on page 21

Spreading Cottage Food Reform Nationwide

For generations, people have been making and sharing homemade food, also known as cottage food, with their neighbors. In recent years, IJ has achieved sweeping victories protecting the rights of entrepreneurs and consumers against severe restrictions on selling cottage food. Among other things, thanks to IJ's advocacy, every state and the District of Columbia now allow home bakers to sell their goods.

But there is still work to be done to promote food freedom. This year at state capitols, IJ worked on 12 bills, securing legislative victories in eight states. Our efforts included securing passage of one of the nation's most expansive food freedom laws in Iowa, allowing the sale of nearly all homemade food—even perishable food and meat.

Other reforms lifted restrictions on where and how cottage food could be sold. These efforts responded to real-world problems cottage food producers face. For example, in Rhode Island, the state restricted cottage food sales to farmers—less than 1% of the population. Now, anyone can sell cottage food. And in Indiana, cottage food producers could sell food only at farmers' markets and roadside stands, which meant many had no place to sell their products during Indiana's harsh winters. Producers there can now sell their products anywhere, directly to consumers and online.

Next year, cottage food reform will remain an important part of our economic liberty work. In some states, we will pick up where we left off working with resolute cottage food producers on existing legislation. We will also seize new legislative opportunities to lift needless barriers—and advance food freedom—for entrepreneurs and consumers. ♦

MAKING THE CASE

IJ Champions Economic Liberty at the U.S. Supreme Court and Nationwide

BY SCOTT BULLOCK

Since IJ opened its doors, we have been at the forefront of protecting economic liberty, the right to earn a living free from unreasonable government interference. Indeed, our very first clients were a couple from Washington, D.C., who were practicing African hair braiding without an expensive and irrelevant cosmetology license. Since that time, we have secured over 220 victories for entrepreneurs and established legal precedent that most lawyers and legal scholars thought impossible in light of New Deal jurisprudence.

As this issue of *Liberty & Law* makes clear, we continue to represent small businesses nationwide in court—from a mapper in California to an eyelash extension technician in Oklahoma to a U-Haul operation in South Carolina—while our clinic at the University of Chicago champions local entrepreneurs through its exciting annual South Side Pitch competition (see p. 18). And soon IJ's strategic research team will launch

the third edition of *License to Work*, the go-to guide and definitive resource on occupational licensing laws. This latest offering contains the most comprehensive data yet and demonstrates the enormous negative impact unjust licensing laws have on the ability to work.

While we have worked a sea change in attitudes toward economic liberty, this pillar of IJ's mission remains one of our most challenging on the litigation side. In most courts, we are bedeviled by the rational basis test, a made-up test employed by courts

whereby certain rights get strong protection while others, such as economic liberty, receive a much lower standard of review. Amazingly, IJ has racked up wins in federal and state courts even under this overly deferential standard.

But that's not always the case. Soon we will file two petitions at the U.S. Supreme Court seeking to resolve longstanding confusion in the law over whether the 14th Amendment guarantees meaningful judicial review of the right to earn a living. As you might have read in the wake of the Court overturning

We have secured over 220 victories for entrepreneurs and established legal precedent that most lawyers and legal scholars thought impossible in light of New Deal jurisprudence.

Join IJ's Merry Band of Monthly Donors!

IJ remains the unquestioned leader as we use all the tools at our disposal to advance the interests of the small entrepreneurs you read about in this and every issue of Liberty & Law.

Roe v. Wade this past summer, a majority of the justices are now focused on whether a so-called unenumerated right is “deeply rooted in this Nation’s history and tradition.” Thankfully, the right to engage in a common occupation—economic liberty—is enmeshed in American history and thus worthy, we argue, of protection by the courts. In fact, in one of our cases the Court is considering, a well-respected appellate judge, despite ruling against us, essentially invited the Supreme Court to accept review, noting that “many thoughtful commentators, scholars, and judges have shown that the current deferential approach to economic regulations may amount to an overcorrection.” Regardless of whether the Court accepts these cases, we will continue to press our arguments that the right to earn a living must be protected under the U.S. Constitution and the constitutions of every state.

When IJ started, very few people were discussing economic liberty, and virtually no one was litigating it. Now recognition is widespread, and other organizations and attorneys bring cases that seek to tear down barriers to work. But IJ remains the unquestioned leader as we use all the tools at our disposal to advance the interests of the small entrepreneurs you read about in this and every issue of *Liberty & Law*. ♦

Scott Bullock is IJ's president and general counsel.



As you can see from this full issue of *Liberty & Law*, IJ is busier than ever vindicating the rights of ordinary Americans. We represent our clients at no cost to them—no matter how long their cases take—and we rely on principled supporters like you to fuel our fight.

Now you can make your support go even further. By joining IJ's Merry Band of Monthly Donors, you will partner with more than 1,000 sustaining supporters who give to end widespread abuses of government power and ensure that all Americans can pursue their dreams.

Signing up for recurring monthly gifts is a convenient and affordable way to cut down on IJ's administrative costs for processing donations—which means more of your money goes directly to our fight for freedom.

And now thanks to a generous monthly donor, your first monthly donation will be matched dollar for dollar!

Sign up for monthly giving today using one of these methods:

- Donate online at ij.org/donate. Be sure that “Monthly” is checked to repeat your gift every month.
- Return your donation using the envelope in the centerfold of this magazine—and check the “Monthly” box!
- Call Kristen Sibori at (703) 682-9323, ext. 249, and sign up over the phone.

Stand with IJ and our clients every month of the year, and together we will make America a freer and more just country. ♦

The logo features a stylized flame icon to the left of the text. The text reads "The Merry Band of IJ Monthly Donors" in a serif font, with "The" in orange, "Merry Band of" in dark blue, "IJ" in orange, and "Monthly Donors" in dark blue.



IJ client **Brandy Davis** (standing) had years of training and experience providing eyelash extensions at her Texas small business, but when she moved to Oklahoma, a licensing board demanded she get 600 hours of esthetician training—none of which addresses eyelash extensions—to continue working.

MAKING OVER the Beauty Industry

BY MARIE MILLER

Some occupations in the beauty industry have a long history, like African-style hair braiding and eyebrow threading, which are both centuries-old arts. IJ has represented practitioners in these occupations since our earliest days, fighting to help them practice their crafts without unnecessary or intrusive government regulation. But as the beauty industry has expanded with new niche services, including blow dry bars and eyelash extensions, unreasonable regulation has expanded along with it.

When niche markets and practices emerge, they are often swept into ill-fitting regulations that govern existing professions. This happened in Oklahoma as the practice of applying eyelash extensions became a business unto itself. Suddenly,

the Oklahoma State Board of Cosmetology and Barbering required people who want to provide eyelash extensions to become fully licensed estheticians or cosmetologists.

The problem is that none of the required training for estheticians or cosmetologists addresses eyelash extensions. There is a total mismatch between the occupation and the requirements to practice it legally. That's why, in September, IJ joined an eyelash extension technician, Brandy Davis, to challenge Oklahoma's nonsensical licensing requirements for her occupation.

Brandy has extensive training in eyelash extensions, with more than 320 hours of coursework and years of experience practicing her craft. She had a flourishing eyelash extension business in

The Oklahoma Board of Cosmetology requires Brandy to complete at least 600 hours of esthetician schooling, not a minute of which addresses eyelash extensions, and pass two exams that test only practices that Brandy will never use.



The Oklahoma Constitution protects the right to earn an honest living, so **Brandy** and IJ are challenging the state's nonsensical licensing requirements.

Texas, where she was allowed to provide eyelash extensions without a government permission slip before she moved to Oklahoma for her husband's work. But Brandy's extensive training and experience didn't matter to the Oklahoma Board of Cosmetology. The Board requires Brandy to complete at least 600 hours of esthetician schooling, not a minute of which addresses eyelash extensions, and pass two exams that test only practices that Brandy will never use.

The result is a system of regulations that allow people with no training in eyelash extensions to monopolize the craft while shutting out people like Brandy, who are skilled

and well-trained practitioners. That's not just bad policy—it's unconstitutional.

The Oklahoma Constitution protects Oklahomans' right to earn an honest living free from unreasonable government interference. What's more, the Oklahoma Constitution explicitly recognizes an inherent right to the enjoyment of the gains of one's own industry. With IJ by her side, Brandy intends to show the Oklahoma Board of Cosmetology that these timeless principles of economic liberty apply to all Oklahomans, whether they practice an ancient craft or a newly emerging one. ♦

Marie Miller is an IJ attorney.





Property Rights Matter When IJ Comes to Town

BY SETH YOUNG

For more than 30 years, IJ has repeatedly seen how creative government can be at undermining property rights. But “amortization”—where the government bans a safe, preexisting use of property without compensation to the property owner—is particularly pernicious. That’s why IJ has teamed up with two South Carolina entrepreneurs to end this unconstitutional practice in the Palmetto State and beyond.

In 2013, Jeremy Sark opened his automotive repair business, Sark’s Automotive, on North Main Street in Mauldin, South Carolina. Within a year, he opened a U-Haul franchise overseen by his general manager, Marie Dougherty, and he has been renting more and more U-Hauls ever since. But last year the City Council amended Mauldin’s zoning ordinance to close all truck rental businesses inside the zone where Sark’s Automotive is located by the end of 2022.

Losing the U-Haul franchise has real ramifications for Jeremy, Marie, and their employees—the company’s U-Haul revenue was over \$50,000 last year and has grown every year, and it gets additional revenue from repairing the vehicles of former U-Haul

customers and the U-Haul vehicles themselves. Overall, Jeremy and Marie estimate that losing the U-Haul business will force them to lay off up to two full-time employees.

Ordinarily, safe preexisting uses of property are allowed to continue indefinitely

following changes to a zoning code. But under amortization, the government puts a time limit on the preexisting use. The theory is that by allowing property owners a little extra time to continue exercising their rights, the government can avoid making the zoning change a “taking” for which the government would owe “just compensation.” But that theory flies in the face of the IJ-led post-*Kelo* reforms that states like





Marie Dougherty and Jeremy Sark's U-Haul business has been targeted for "amortization" by the City Council of Mauldin, South Carolina.

South Carolina enacted to prevent governments from using property regulations to shut down disfavored businesses.

Driving the city's vendetta is its irrational belief that U-Haul businesses are impeding development. A couple years ago, after a decade of failed projects with different developers, the city started working with another developer on a new plan for a multiuse development downtown. Anticipating growth, the city overhauled its zoning ordinance and specifically targeted moving truck rentals for elimination—grandfathering in all other existing businesses that would become nonconforming. The mayor of Mauldin explicitly stated that the ordinance targeting U-Hauls was passed to "clean up" Main Street because "developers and potential investors" said U-Hauls made Main Street look "old."

Whether or not Jeremy and Marie's case reaches a swift resolution, you can be sure that IJ will continue to fight to end the abusive practice of amortization wherever it is found.

After Jeremy and Marie's efforts to talk to city officials failed, IJ filed a lawsuit in state court challenging the ordinance's constitutionality. And the lawsuit has already gotten results: The City Council has agreed to stay enforcement of the U-Haul ordinance during the litigation and says it is considering repealing the ordinance altogether. Whether or not Jeremy and Marie's case reaches a swift resolution, you can be sure that IJ will continue to fight to end the abusive practice of amortization wherever it is found. ♦

Seth Young is an IJ Law & Liberty Fellow.





9th ANNUAL SOUTH SIDE PITCH

BY THE IJ CLINIC




“This has been a gamechanger for me!”

BY BETH KREGOR

As I circled the room before our ninth South Side Pitch—the IJ Clinic on Entrepreneurship’s annual contest to identify promising small businesses on Chicago’s South Side—I heard comments like this from every one of our five finalists. Even before we announced the winners and distributed over \$25,000 in prizes, our finalists told us that we had changed their lives. While preparing for the big event, which took place October 20, they worked

Even before we announced the winners and distributed over \$25,000 in prizes, our finalists told us that we had changed their lives.

closely with our coaching team, refined their messages, reflected on their entrepreneurial journeys and destinations, built confidence, and practiced, practiced, practiced. Whatever prize they won at the end of the night, they knew that they had already hit the jackpot.

Of course, there’s more to life than practice! And every one of our finalists put

on a marvelous performance in a three-minute presentation. The businesses on stage included a record store, a company that makes hand-crocheted fashion, a branding consultant, a restaurant that has developed vegan dishes with traditional Mexican flavors, and a brewer. They showed

their passion, their purpose, and their perspicacity. And they demonstrated the vitality and importance of entrepreneurship on Chicago’s South Side.

But the challenge was not over when the

three-minute pitches were finished. The finalists also fielded tough questions from an excellent panel of judges. Those judges included LaForce Baker, an entrepreneur himself and a former client of the Clinic. Now a vice president of community impact at World Business Chicago, he knows what entrepreneurs need to tackle to make their





mark in our city. Justin Douglas came over from the business school at the University of Chicago where he assists student entrepreneurs with ventures designed to have a social impact. Brooke Fallon—who knows the South Side Pitch inside-out, because she helped plan the very first one when she worked at the Clinic—joined us from Trust Ventures. Lastly, Richard Jones joined us from our generous sponsor United Airlines. Richard hears business pitches every day, and he brought his insight as a buyer to bear.

As always, the judges and audience (in person and online) had a tough time ranking the finalists based on the criteria of impact, creativity, vision, South Side connection, and showmanship. In the end, Moor's Brewing Company was the victor. Its pitch, delivered by Damon Patton, truly encapsulated the entrepreneurial spirit of South Side Pitch. Damon started his pitch by pointing out that the company launched on Juneteenth in 2020, which became a national holiday to celebrate liberty and the freedom to work for yourself: "Now this isn't just about selling beer for us. It's about representation. . . . And it is rooted in independence—financial independence especially—from the very foundation of our birthday." ♦

Beth Kregor is director of the IJ Clinic on Entrepreneurship.



This October, Chicago small businesses competed for \$25,000 in prizes at South Side Pitch, the IJ Clinic on Entrepreneurship's annual contest promoting the entrepreneurial spirit of the city's South Side.



Milestones on the Path to Entrepreneurship

As IJ's Clinic on Entrepreneurship gears up to celebrate our 25th anniversary next year, we have been checking in on the many former Clinic clients who celebrated impressive milestones this year—milestones that were more reachable thanks to crucial support from our law students and attorneys.

We met Teresa Ging of Sugar Bliss back in 2007. Her cupcake shop in the heart of the Loop presented all sorts of interesting questions about protecting the brand name and even the signature cupcake frosting in the shape of a flower! We have kept in touch with Sugar Bliss ever since. Now 15 years old, the bakery just announced that it has delectable cookies for sale in local Walgreens stores!

This fall, our former client Moovers Chicago shared pictures showing how they had grown from just two guys with a moving truck in 2014 to a powerful team of 35. Working with Moovers taught us almost as much as we could teach them: The regulatory restrictions and red tape for a moving company in Illinois are unfathomable! Despite all that, thanks in part to advice from the Clinic about hiring and contracts, Moovers is flourishing.

Lastly, September brought a weekend-long festival celebrating the 10th anniversary of Cut Cats Courier. This worker-owned bicycle delivery company has literally weathered many storms, delivering for restaurants through World Series wins, polar vortexes, and a pandemic. It has also worked diligently with the Clinic to set up workable agreements about decision-making, distributing profits, and growing as a worker-owned collective.

Cheers to these clients and to the alumni of the IJ Clinic who learned and taught valuable lessons helping real entrepreneurs while in law school. ♦



IJ Scores First Round Victory Against Prosecuting for Profit in Indiana

BY MIKE GREENBERG

In April's *Liberty & Law*, we wrote about IJ's new lawsuit seeking to end a uniquely corrosive feature of Indiana's civil forfeiture regime: the use of for-profit prosecutors. Recently, IJ notched a critical first step toward ending that system when a federal court not only rejected the government's early bid to dismiss the case but ruled that the challenge should proceed as a class action.

Across the nation, civil forfeiture creates perverse financial incentives for law enforcement agencies to keep some, if not all, of the proceeds from forfeited property. Those agencies, to quote U.S. Supreme Court Justice Clarence Thomas, "have strong incentives to pursue forfeiture."

Indiana dials those questionable financial incentives up to 11. For years, it has been the only state in the country allowing forfeiture cases to be prosecuted by private lawyers operating on a "contingency fee" basis. In other words, the private lawyer is paid not with a salary but with a cut of forfeited property. They make money only by successfully forfeiting property for the state—and the more they forfeit, the more they profit. IJ's claim against that system is as simple as it is important: Fundamental due process principles prohibit prosecutors from having a personal financial stake in the cases they prosecute.

As it so often does when IJ sues to end a shady forfeiture scheme, the government thought some procedural trickery could make the case go away.

Almost immediately, it abandoned its forfeiture case against the lawsuit's named plaintiff—23-year-old Amya Sparger-Withers, a victim of the financially driven system—and returned her property. It then moved to dismiss the federal lawsuit entirely, insisting that Amya could no longer challenge the prosecutor's financial self-interest on behalf of herself or the hundreds of other victims she sought to represent.

Not so fast, the federal court ruled. Recognizing that the private prosecutor could—and likely

would—pull the same maneuver on anyone willing to take on this forfeiture gravy train, the court rejected that attempt to end the case. What's more, because the for-profit prosecutions all violate the Constitution in the same way, the court ruled that the case

could proceed as a class action on behalf of everyone swept up in the system.

In other words, the court's ruling is the best of both worlds. On the one hand, Amya has her property back. And on the other, IJ's challenge to the entire forfeiture system forges ahead.

Prosecutors in America wield enormous power. With this first-round victory in hand, IJ and Amya march toward a final ruling reminding Indiana's prosecutors that they must exercise their power in the public interest, not for personal financial gain. A legitimate system of justice demands nothing less. ♦

With this first round victory in hand, IJ and Amya march toward a final ruling reminding Indiana's prosecutors that they must exercise their power in the public interest, not for personal financial gain.

Mike Greenberg is an IJ attorney.



Educational Choice continued from page 7 accounts for the private school tuition of her two younger children. But public school is working for her eldest son, and she wants to use his account for college-prep courses.

That flexibility is vital because no two kids are the same. Neither are any two educational choice programs. But parents and students across the country can count on one thing to never change: IJ will be there to defend educational choice from bogus legal challenges by defenders of the public school status quo. ♦

Josh House is an
IJ attorney.



Akia McNeary wants to use Kentucky's educational choice program to send two of her children to private school, where she believes they will get the best education. IJ is defending that program in court.



After being arrested and charged with a crime for feeding the needy, **Norma** is fighting back with IJ, because cities shouldn't criminalize kindness.



Arizona Charity continued from page 11

wash their hands, and out of sight of people who could use her help.

Among the rights protected by the Constitution are those with a rich history. And this country owes much to voluntary charity; From the first Thanksgiving to the frontier pioneer days to the Great Depression, helping those in need is baked into the American ethos. By prohibiting Norma from continuing this tradition, Bullhead City is violating her basic constitutional right to engage in charity.

Now Norma is tapping into another great American tradition: standing up for her rights by suing the government. Together with IJ, she filed a federal case seeking to end the city's ban on charity.

In this country, we honor people who assist those in need; we don't arrest them. That's why IJ is fighting to secure Norma's right to help people she finds in need, where she finds them. ♦

Diana Simpson
and Suranjan Sen
are IJ attorneys.



IN MEMORIAM: CONOR BECK



This fall, IJers lost our friend and colleague Conor Beck, who passed away suddenly on October 8. Conor, who started four years ago as a communications project manager, was best known for his earnest commitment to our clients, cases, and causes. For him, IJ wasn't just a job; it was a calling and a commitment to make the world a better and freer place.

Across the country, there are small-business owners, parents, and other IJ clients who knew Conor as the guy who helped save their businesses, win their kids a better education, or get their money back after it had been unlawfully seized. He helped them find their voice and made sure their community—and, indeed, the entire country—knew that they were standing up for what is right.

Conor's work at IJ had a true nationwide impact, involving cases and projects in nearly every corner of the country. From New Jersey, where he helped home bakers legalize the sale of home-baked goods, to California, where he helped a homeowner fight an abusive government receivership, Conor was committed to winning cases in the court of public opinion. In far flung Roseau, Minnesota, Conor worked with IJ's activism team to help a coalition of farmers stop the state from using eminent domain to take their land and turn it into an unnecessary marsh. Just days before his passing, Conor was on the ground in West Virginia generating an outpouring of positive coverage for IJ's successful defense of the state's Hope Scholarship educational choice program.

Around the office, Conor was also known for his sense of humor, can-do attitude, and love of the Red Sox. His smile could brighten any room, especially when the Sox won. He was an eternal optimist, a happy warrior. On the most challenging of days, his attitude was resolute and hopeful—he was always looking for silver linings. And while there is no silver lining to his passing, we find solace in our memories of how he dedicated himself to our clients and to the cause. Conor was IJ, and we will miss him very much. ♦

WHILE THERE IS NO SILVER LINING TO CONOR'S PASSING, WE FIND SOLACE IN OUR MEMORIES OF HOW HE DEDICATED HIMSELF TO OUR CLIENTS AND TO THE CAUSE.



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/
december-2022-headlines](http://iam.ij.org/december-2022-headlines)



Ap Associated Press

**Maine OKs 1st Religious School For
Tuition Reimbursement**

September 22, 2022

Los Angeles Times

**FBI Misled Judge Who Signed Warrant
For Beverly Hills Seizure Of
\$86 Million In Cash**

September 23, 2022

MOTHERBOARD

TECH BY **VICE**

**California Man Fined \$1,000 For
Drawing Lines On Maps**

October 3, 2022

The New York Times

**Area Man Is Arrested For Parody. The
Onion Files A Supreme Court Brief.**

October 4, 2022

THE WALL STREET JOURNAL.

**The Onion And The Supreme Court.
No, This Isn't A Parody.**

October 4, 2022

**Charleston
Gazette-Mail**

**WV Supreme Court Removes Block On
State's Sweeping Non-Public School
Vouchers Program**

October 6, 2022

reason
FREE MINDS AND FREE MARKETS

**Texas Roofer Arrested In Florida For
Helping Hurricane Victims**

October 12, 2022

PBS NEWSHOUR

**Louisiana Pushes to Reduce
'Unnecessary' Barriers to
Employment**

October 19, 2022

NBC NEWS

**Arizona Woman Sues City After Being
Arrested For Feeding Homeless
People**

October 27, 2022



901 N. Glebe Road
Suite 900
Arlington, VA 22203

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

I fought back after Mississippi told me I needed to be a fully licensed cosmetologist to practice traditional African hair braiding.

Thanks to my lawsuit, today there are more than 6,700 legal braiders in Mississippi.

I stood up for my rights. And I won.

I am IJ.



Melony Armstrong
Tupelo, Mississippi

www.IJ.org

Institute for Justice
National Law Firm for Liberty