

ShortCircuit249

📅 Thu, Dec 08, 2022 12:57PM ⌚ 38:16

SUMMARY KEYWORDS

license, licensing, occupations, pennsylvania, sally, state, short circuit, barriers, legislature, lisa, people, listeners, costs, important, third edition, law, work, rational basis test, facts, public health

SPEAKERS

Josh Windham, Anthony Sanders, Lisa Knepper

A


Anthony Sanders 00:25

Every day when I get home from work, I feel so frustrated, the boss is a jerk, and I get my sticks and go out to the shed and I pound on that drum like it was the boss's head. Well, I hope that doesn't describe to many of our listeners, workplaces -- certainly does not describe mine. But for all too many Americans, they don't want to bang on their boss's head, they want to bang on an occupational license. Because what they want to be doing has a license to work. And that's what we're going to be talking about today on Short Circuit, your podcast on the federal courts of appeals. I'm your host, Anthony Sanders, Director of the Center for Judicial Engagement at the Institute for Justice. We're recording this on Thursday, December 8, 2022. And this is a special Short Circuit, because it is all about being licensed to work and how that often doesn't make any sense. With me today is one of the co-authors of a new report the Institute for Justice has just put out: License to Work. It is the third edition. So the third in the continuing trilogy. There's a lot of new stuff in this edition, there's also some good news. There's a lot of work to be done still, though, on making it not quite as onerous to be licensed to work. And so we're going to be talking about some of the good news, some of the bad news. For those of you who are unfamiliar with this subject, you will be able to learn about some of this from the basics. And then also, we'll be talking about what else can be done, including, of course, us being the Institute for Justice, in the judicial arena. And we have some good news there, too. We're going to be talking about a recent victory for the right to earn a living in Pennsylvania. And we have one of the lawyers from that case with us today to talk about that recent decision. So we'll be introducing both of them here. First, I'm very pleased to introduce our Senior Director of Strategic Research, she is one of the co authors, again, of License to Work, does a whole lot of other things at the Institute for Justice. And she is not a lawyer. So because she doesn't drink that Kool Aid, she can kind of see the unseen, to steal the phrase, about a lot of the stuff that we at IJ are involved with. And we very much appreciate that perspective. And so I'm pleased to welcome for the first time on Short Circuit, Lisa Knepper. Lisa, welcome.

L

Lisa Knepper 03:08


Thank you, Anthony. I'm excited to join the Short Circuit crew and talk a little data with with the lawyers.

 Anthony Sanders 03:16

Yes, yes. And so there won't be too many numbers, but there's like lawyer-friendly numbers or layperson-friendly numbers. And for the rest of the of our non lawyer listeners who actually can do math, you know, you'll be just fine. Also joining me is the lead attorney from that case I just referenced in Pennsylvania that we talked about a couple years ago at a preliminary stage of the case, but it is now a final victory for our client. And that is IJ favorite on Short Circuit, Josh Windham. Josh, welcome back.

 Josh Windham 03:51


Well, the pleasure is mine, as always.

 Anthony Sanders 03:54

Well, Lisa, let's first turn to you and License to Work 3. Now again, this is the third in a trilogy. So you know there are a lot of good trilogies out there, Lord of the Rings, Back to the Future. But there are some where you know, the middle of the second movie, you start, like, Why did I come to this? And then you don't even bother watching the third. So tell our listeners what is different about this one? Why should they care? And also, for those of us who haven't seen any of the movies? What is License to Work all about?

 04:27

Absolutely. Well, let me start with what License to Work is all about. And what is this endeavor that we've been undertaking for over a decade now. So, first, an occupational license is, in brief, a government permission slip to work. And to get one you're typically going to have to clear a number of hurdles. You'll have to undertake a prescribed amount of education or training, pass a test or two or three or four, almost always pay some fees. And as Short Circuit listeners likely know, licensing isn't just for doctors and lawyers anymore. It's for people who trim nails and hair, who do landscaping, interior design. Famously, in the case of Louisiana and two IJ cases, florists require a license because floral arranging is, of course, so dangerous to public health and safety.

 Anthony Sanders 05:28

A lot of infected dirt out there.

 05:30

A lot of infected dirt out there. So all of this licensing has, unfortunately, negative consequences most obviously, for the people that IJ represents. People who are shut out of jobs out of career paths that they could otherwise succeed and thrive in. But the effects go far

beyond that as well. Naturally, by limiting competition, licensing raises prices and reduces consumer choice for the rest of us. And this isn't just theory. These are among the most consistent findings of economics research on licensing: higher costs, reduced consumer choice, and reduced employment in licensed occupations. And the costs really add up across the economy. By one estimate, licensing costs our economy as many as 2 million jobs, up to 197 billion -- that's billion with a B -- in misallocated resources. And by that I mean the sand in the gears, the costs to our overall economy of people not being able to do, not being free to do those things that they are best at doing. And there's evidence that these costs fall hardest on particular groups, women, minorities and immigrants among them. Now, unfortunately, against these costs, you'd think there'd be substantial benefits. But that's just not borne out by the research. You'd think that licensing would weed out incompetence. It would weed out those people who just can't do the job, thereby raising the level of quality and protecting public health and safety. But the scholarly evidence here is really quite mixed. And that suggests there's actually quite a lot of room to roll back or even eliminate a lot of these rules and to do so without compromising public health and safety. So at IJ, we are interested in how these rules and regulations affect those on the lowest rungs of the economic ladder. And so over a decade ago, we embarked on this crazy trilogy. And it involves documenting just how hard it is to get a license for a large sample of low income occupations, 102 in all. And nothing like this had ever been done before when we put out the first edition back in 2012. So that is what became License to Work. And our findings continue to be eye opening to this day. In in this new third edition, just released, we found that it is in fact quite hard to get a lot of these licenses. On average across all of the licenses in our sample, it takes nearly a year of education and experience, passing at least one exam, and \$295 in fees. Now that's a lot of time and money spent earning a license instead of earning a living. And that's especially true for lower income workers who are most likely to enter these fields. And our figures don't include a lot of the hidden costs like tuition for required schooling or income foregone while training instead of working. And these costs can be quite high. In another recent study, we found that cosmetology school costs on average \$16,000. A lot of students, most students take on debt in order to afford that. But unfortunately, it rarely pays off in terms of future earnings. And, in fact, researchers have pointed to cosmetology school as one of the worst returns on investment out there.

A

Anthony Sanders 05:47

Wow.

o

05:51

But it's mandated by every state. And cosmetology, barbering, and related fields, these are some of the most common and burdensome licenses that we study and licensed to work. So these barriers are substantial, and that is one of the core findings of License to Work, and it's remained true throughout all three editions. One of the other core findings is that these barriers are widespread. In this third edition we identified more than 2,700 licenses across the 50 states and District of Columbia, and the 102 occupations that we're looking at. So for lower income Americans, there's a lot of licensing, and it's pretty onerous. But we also found, as you alluded to Anthony, it often simply doesn't make sense. So let me talk about a couple of ways in which that's the case. Most of the occupations that we studied, 88%, are unlicensed in at least one state. And in the past five years, 14 of them have been de-licensed by at least one state. That

is one state or more has said, you know what, we don't really need to be licensing this occupation, and yet other states continue to erect these barriers to honest work. So if these jobs can be done safely, somewhere, perhaps they can be done safely elsewhere, as well.

A

Anthony Sanders 10:59

What are a few of those licenses that have been discarded?



11:04

Absolutely. Makeup artist, auctioneer, painting contractor, interior designer, locksmith. These are things that states are starting to conclude we just don't need to license them. Now, at the same time, it's not just free market economists or think tanks who are saying a lot of these barriers aren't necessary. Earlier this year, we did a different study where we looked at what are called sunrise reviews. And this is a process where government bureaucrats examine proposals for licensing most often these proposals, as you might expect, as Short Circuit listeners might expect, come from within the occupation themselves. It's the occupation saying regulate us, please, they have an interest in limiting --

A

Anthony Sanders 11:51

We want to be seen as professionals. Please license us. And we want to be seen as professional



11:54

And we want to be seen as professional. They're seeking the professional stature that they believe a license confers.

A

Anthony Sanders 12:00


Hang out with too many lawyers and doctors I think.





12:02


Yeah, that's right. That's right. Exactly. And and also likely the economic benefits of limiting competition. So sunrise laws and processes are an attempt to say, Well, okay, we understand why you want to be licensed. But is there good evidence suggesting that there's a legitimate public health and safety concern here? And even if there is, is licensing the right solution, or might there be lesser form of regulation: inspections, deceptive trade practice acts, or even just mere registration, that would be better suited to any identified problem. So we looked at hundreds of these studies. And we found that most of them found licensing was a bad idea, including for 13 of the occupations that we look at in License to Work, things like interior design, athletic trainer, and so on and so forth. So there are a lot of good reasons to think that a lot of the licensing laws that we looked at just aren't well supported, well grounded in

evidence. There's also a real disconnect between the training required and the risk to public health and safety. One of the more cited findings, I think, from License to Work is that, on average, an entry level emergency medical technician needs about a month's worth of training in order to offer life saving care in an emergency, while cosmetologists need about a year's worth of training to cut and style hair.


 **A** Anthony Sanders 13:45
It's amazing.


 **L** Lisa Knepper 13:46
So that in a nutshell, is what license to work is about.

 **J** Josh Windham 13:50
So Lisa I have a question for you. In the original version of License to Work, there was a statistic that's kind of sticking out in my mind about how so many decades ago, one out of every however many Americans needed a license to work, and now the number is x, right? So what are those figures today? And kind of can you remind our listeners what they used to be?

 14:10
Sure. So that's actually not from License to Work originally. That's from fantastic work done by economist Morris Kleiner, who's really the godfather of occupational licensing research.

 **A** Anthony Sanders 14:27
At the University of Minnesota.

 **L** Lisa Knepper 14:30
At the University of Minnesota. That's right. And yes, so the the number remains around one in four today. Estimates vary, but it's about one in four American workers need a license today. And our best estimate is that back in the 1950s that figure was about one in 20. So it's grown quite a bit. When the Obama administration did an analysis of those figures back in 2017, they found that most of that growth couldn't be explained by growth in licensed occupations, which is to say it's not because there's more doctors and lawyers. Right? It's because there's more licenses, or at least primarily because we're licensing more jobs than we used to.

 **J** Josh Windham 15:19
And you mentioned the Obama administration. I mean, in the last few years, we've also had the

Trump administration criticizing occupational licensing. So is it fair to say this is a pretty bipartisan issue at this point? Are there any skeptics out there that we should know about?



15:33

I think it's absolutely a bipartisan issue. I mean, two of the states that I've seen do the most to reduce licensing barriers are Utah and Vermont. These are not states that we ordinarily put in the same sentence ideologically or politically. And yet, they've both shown strong interest in reducing and eliminating licensing barriers.



Anthony Sanders 16:00

What's some of the other good news from License to Work 3 that we didn't see in say License to Work 2?



16:07

Yep. I think that's one of the things that's most exciting about this edition, because it's the third, we have a better ability to look at trends over time. And that's where we start to see some good news. Compared to five years ago, when we put out the second edition, there are actually slightly fewer licenses on the books. And that's a reversal of the prior trend. Between 2012 and 2017, which is the first and second editions of License to Work, more licenses were created than removed. That's starting to change. The numbers are small, to be sure, but it's starting to change. On top of that, we saw that about 20% of the licenses that we studied have actually become less burdensome in this time. Utah and Arkansas have done a lot to reduce barriers in the construction trades, things like painting, drywall contracting, and other specialty trades. And about 30 states have reduced barriers in the barbering, cosmetology, and other beauty fields, makeup, artistry, manicuring, things like that. And so we're starting to see it inch downward.




Anthony Sanders 17:18

And so for licenses that aren't just completely repealed, what are most of those changes? Are they are the educational requirements a little less onerous? The fees lower what what is it tend to be?



17:34


So it's a mixed bag, for sure. But encouragingly, we saw a lot of change on the education and experience metric. So reduction of required hours or reduction of years of training required. So in the trades, it's often an apprenticeship where you have to apprentice under another licensed contractor for two, four, or even more years. We're starting to see those types of numbers come down. And that's important, because those are the really the biggest barriers.

 Anthony Sanders 18:11

Right? And I mean, one huge barrier I see is that -- I'm glad you mentioned apprentices -- is that in a lot of occupations, and this is one good thing I think about some of how the trades work, is you can do your learning on the job. So although you won't be getting maybe a full journeyman's wage, you'll be getting some kind of apprentice wage while you're learning. Whereas if you just go to say beauty school, and you don't have a job, you're you're foregoing that lost income of that time, you're paying that tuition. And so you're not earning a living while you're working. And although school is fine in a lot of ways, like I learned some things in law school, of course, we all learned things in our undergrad time at college, there's a place for that. But the best way to learn about a job is doing the job. And so if you can make money while you're learning, that's that's a real benefit versus having to put you into into a year or two of schooling, when maybe you could be doing that when you're actually working for somebody.

 19:23

That's right. And, you know, with cosmetology school, it's even worse than that. Because cosmetology schools will have students work on live clients as part of their training.

 Anthony Sanders 19:35

Right, and they can't be paid.

 Lisa Knepper 19:36

But they don't get paid. Right. So they are paying the school and then the client is paying the school for the haircut or the manicure or whatever it is. And so the school is making money off of that student in two different ways. And the student is paying for the privilege of offering their services for free. So it's even even worse than it sounds at first blush and so it's small wonder that cosmetology schools are among the biggest proponents of cosmetology licensing.

 Anthony Sanders 20:09

Any other takeaways from from the third edition you think the people would would like to know and might want to go check out?

 20:17

You know, I think that the trends are really important. But I also think we don't want to overstate them because too many irrationalities remain, and too many licenses remain. 2,700 is a lot. A year of education and experience, mandated by states for low income occupations that are perfect for people in the lower rungs of the economic ladder. And I think it's important to keep in mind that while we see legislatures starting to chip away at this, they're not going to be able to do the job on their own. It's just not feasible because of the power of occupational lobbies. Groups like cosmetology schools, they have a really strong interest in maintaining

these barriers and adding new barriers and limiting competition. And they're the ones that can afford to hire professional lobbyists to go down to the state capitol, right? Aspiring workers don't do that. Consumers don't do that. And so their interests aren't as well represented. And that's a systematic problem. And one that I imagine is quite familiar to listeners of Short Circuit. Judicial engagement is so important.

A

Anthony Sanders 21:37

It's public choice 101 as our listeners know about. Well, we will put a link to Licensed to Work 3 in our show notes. So if you're interested in checking it out, listeners, you can go there. And it's important to remember that we in the report, survey 102 different occupations that are licensed in at least one state. But there's many other occupations out there that just you know, they just weren't part of the study. Also one that one final question, Lisa, that, that I forgot to ask, is these are about state licenses, right. But there are also municipalities that often license or have an additional layer of license that people need to worry about. So there, it's not like you cover absolutely the whole boardwalk because the boardwalk is quite vast.

i

22:33

Absolutely, no that that is very much correct on both of those counts. In many ways, what we're looking at is somewhat of the tip of the iceberg. There's a lot more licensing out there at other levels of government and among other occupations.

A

Anthony Sanders 22:49

Well, one occupation that is not in Licensed to Work 3 is being a lactation consultants, which is an important license -- or not an important license -- an important occupation for many women who help new mothers deal with the the challenges that come with with a baby and how breastfeeding doesn't always come so naturally to them. We just had an argument earlier this week in the Georgia Supreme Court by our colleague Renee Flaherty, about a challenge to Georgia's credibly overbearing licensing law for lactation consultants. It is the only one of the country, and so that is now being considered by the Georgia Supreme Court as to whether the license is constitutional under the Georgia Constitution. We're cautiously optimistic after that argument, and we'll talk about it on Short Circuit whenever the opinion comes out in due course.

i

23:50

And I just want to want real quick before you pivot to my case, Anthony, I do want to note that regarding this Georgia case, it sort of maps pretty well into a lot of things Lisa was talking about earlier, especially with regard to industry insiders wanting the license. I mean, as Renee put it during her argument on Tuesday, this is a license by certified lactation consultants, for certified lactation consultants of a particular stripe. I mean, there are various certifications. These folks are called IBCLCs. And they've lobbied all across the country to get IBCLCs licensed and to require an IBCLC certification to be a lactation care consultant. And they only really succeeded in Georgia. So that's where this license came from. And in fact, before the case was

filed, before the law was passed, the legislative review council issued a kind of a finding that there was no public health or safety reason for this to be licensed in the way they were asking it for to be licensed, and yet, the legislature adopted it anyways. And so, you know, we ended up suing.



24:48

Yeah, in fact, that is one of the sunrise reviews that I was talking about earlier. That was a sunrise review that concluded not only is there no need to license lactation consultants and to require these hugely onerous credentials exclusive to one group, the legislative review council actually said it's a bad idea because it's going to limit access. It's actually going to reduce care for mothers and babies. So not only is it not needed, but it's a bad idea. And yeah, legislature did it.



25:24

The folks who held the certification that lobbied for this licensing, were basically concentrated in kind of urban medical center areas. And the folks who had other certifications, including our clients are, you know, rural women, often African American women who are helping mothers breastfeed. And so there really is a fencing out of precisely the demographics that Lisa was talking about earlier.



Anthony Sanders 25:46

Well, Josh now that you've grabbed the microphone, I will just let you hold on to it and talk about another occupation that was not in the report. Well, actually, two occupations that were not in the report, and that is real estate folks, people who sell real estate, and then people who manage property in a different way, and aren't really the same thing. So take it away.



26:13

Yeah, and I appreciate you distinguishing between those two, because that's what the case is about. I mean, this case is really a microcosm of I think a lot of things that Lisa was talking about earlier, possibly with sort of an underline bolded, and made you know, in italics. So our client is a woman named Sally Ladd. Sally is a single woman in her mid 60s, later 60s now. When we filed the case she was 63, 64. She had recently gone through a divorce, she had been laid off after the recession. And she was looking for a way to support herself. And during that time, she was able to buy a couple of little vacation cottages, small little homes in the Pocono Mountains in Pennsylvania. And she started to -- this is about the time Airbnb started to take off, 2012, 2013. And she started to post her properties on those websites and get some rental income from that. And she ended up being so good at it that some of her neighbors took notice in the area and said, hey, you know, can you help manage my property as well. Help me get some rentals on Airbnb, VRBO, FlipKey, websites like that. And Sally notably, doesn't live in Pennsylvania and didn't at the time. She actually lived about an hour, hour and a half away in New Jersey. So she was able to manage all of these rentals from her home, as she likes to say, in her PJs, at her kitchen table just on her laptop. And she ended up making a pretty good good

living doing this for two, three years until she got a call from an investigator with the Pennsylvania Bureau of Professional and Occupational Affairs, which like is a very sort of Soviet style name for a bureau, right. But this investigator called her and said, hey, you're under investigation for the unlicensed practice of real estate. And so you have to stop, right. And so Sally took a look at the licensing law in Pennsylvania and said, hey, you know, maybe if I can get this license pretty easily, I can continue doing this, and determined that she could not get the license very easily. The requirements, I mean, to run through it, it was a lot of the things that Lisa covered, but just sort of multiple x. So she would have to take 315 hours of courses on traditional real estate practice, like buying and selling homes and managing, you know, commercial properties and things like that. She would have to do a three-year apprenticeship in the state of Pennsylvania where she doesn't live, working for a licensed broker, who again, is doing things like buying and selling houses that Sally does not do. And then she would have to open a brick and mortar office in Pennsylvania, which is going to cost her a lot of money. And again, she doesn't need the office because she's working online from her home in a different state. And so she looked at all this and said, you know what, I cannot possibly meet these requirements. It doesn't make sense for me to try to continue to put my life on hold for three years just to keep this business going. And so she she had to shut down and she pivoted because she's an entrepreneurial person. But she wanted to keep running this business. And so in 2017, we filed a lawsuit under the Pennsylvania Constitution. And the argument was pretty simple. It was even if Pennsylvania can license real estate brokers consistent with the state constitution's restrictions on the state police power, the power to regulate for the public health and safety, it cannot require this woman to get this license to do this work. That's excessive was our argument. And we had some tough sailing at first. In 2018, the first sign that things were going to be tough was we filed a discovery motion. The state was refusing to produce documents or answer questions in our case in discovery on the theory that under the rational basis test, which our listeners will be familiar with, facts don't matter at all. And so we don't get to have discover.

A

Anthony Sanders 30:00

Yeah, who cares about discovery? Just make it up.

⦿

30:02

Right. And so you actually had a Pennsylvania judge, say, You know what? That's correct and deny us discovery at that point on the theory that under the rational basis test in Pennsylvania facts don't matter. And so that was kind of a sign that side of things to come at first. Because we made our way to the Pennsylvania Commonwealth Court on a motion to dismiss, and the court dismissed our case on the theory that because real estate broker licensing in general is rational, it doesn't matter if it's burdensome for our client or irrational in this particular case, it's generally rational. And that's all the legislature really needs to kind of rubber stamp its law in all of its applications. Right. So we filed an appeal to the state Supreme Court. And, you know, happily they reversed. And what they did was, they said, the right to earn a living in Pennsylvania is undeniably important. That's a pulled quote from the opinion. And they said, rather than applying the federal rational basis test, this sort of make facts up approach, very deferential to the government, we're going to apply a two part kind of heightened test. One that that requires the government, when it passes a law, the law has to have a real and substantial relationship to a legitimate governmental interests, right, like protecting public

health or safety, preventing fraud, that kind of thing. And it cannot be unduly oppressive or patently unnecessary. And that language patently unnecessary ended up being very important in our case. So the court remanded and said, you know what, the allegations in our complaint did state a claim. We could possibly win this case. And over the summer, we had a trial in an economic liberty case, right. And so what what's the premise of a trial? It's that facts matter. So we had two days of testimony, we had exhibits introduced, we had live witnesses. And at the end of the day, on October 31, so just a few weeks ago, the court issued a pretty amazing opinion, holding that based on all the facts and all the evidence, the license was unduly oppressive and patently unnecessary in Sally's case. And so the state has chosen not to appeal that determination, which means after you know, five, six years of litigation, Sally has won her case. Now, I want to tie all of this back to some of the stuff that Lisa covered. So start with the real estate license itself. This is a law that was passed in 1929, originally, and the definition of real estate practice hasn't changed in basically over 100, almost 100 years. And it was lobbied for by industry insiders in Pennsylvania who wanted to fence out actually out-of-state folks. And so that's where the office requirement came from. It was we don't want folks in other states to be able to practice in our state. And so this was a case of -- now the legislature recodified and slightly modernize the law in 1980 -- but we're talking about a law that was really designed and implemented decades and decades before the internet even existed and about a century before Airbnb even existed. So what my client Sally was doing was just not in the minds of any legislator when they were adopting this incredibly broad real estate licensing law. And Lisa mentioned that a lot of the costs of licensing are hidden. Well, that ended up being pretty compelling to the to the court in our case, so let me just run through a few of them. So the court found it pretty compelling that Sally would have to spend over three years of her life working for somebody else. And this is not an apprenticeship where she would learn the trade she was practicing before. It was an entirely different trade she would become familiar with if she was working for brokers for three years. The typical fee splitting when you're working for a broker is about 50-50. So her income is going to be cut in half during this three year period. Out of pocket costs to pay for the schooling and the exams and that kind of stuff -- over \$4,000 out of pocket for Sally. And then on top of all that the cost to open an office in the state, we had a broker testify, who said it cost him about \$1,000 to \$1,500 a month to afford his office. And so Sally's like, look, at my profit margin was basically that, right? So if I have to have an office, I don't have a business. So you're fencing out people like Sally who want to operate online, which and I think in a post COVID world, I mean, things like this become more and more rational. Right. But let me just read you kind of how the court wrapped up its its opinion. Because the trial court decision is really quite amazing in the context of kind of economic liberty litigation more broadly. You don't see this sort of thing very often. So the court says, as fully detailed above, in its opinion, the broker licensing requirements of hundreds of hours of real estate coursework, a three-year apprenticeship, and the broker examination are all minimally related, at best, to Ladd's short term property management services. The requirements are well beyond the necessities of this case and forcing Ladd to comply with them in no way advances the General Assembly's goal of public protection. So the court held they're unconstitutional as applied to Sally. And I'll sort of stop there. But that's really I think this is a perfect example of even though we covered 102 occupations in License to Work 3, there are other licenses out there that are that are in certain cases even more burdensome and just as irrational as some of the barriers that we see in Licensed to Work.

A

Anthony Sanders 35:19

And often those licenses, like the one you you have Josh, they're not even licenses that were intended for that occupation. Because that occupation either didn't exist or is just totally

outside of what the legislature was trying to do. And yet they are applied by the the bureaucrats who administer them to this other occupation, and, and fence those people out.



35:43

That's right. I mean I think the judge actually was was compelled by this at trial. Because she asked about, if I apply the test that the supreme court has said to apply, and I really do kind of scrutinize the application of this law to your client, am I second guessing the will of legislature. On the one hand, the answer to that is yes, because the constitution does place limits on the legislature's discretion, right. But the simpler answer to that than that, even is just that the legislature could not have possibly contemplated this style of work when it was enacting either the 1929 version of the law or the 1980 version of the law. And so this is really just sort of a situation of legislative oversight that results in pretty heavy burdens on entrepreneurs like Sally.



Anthony Sanders 36:29

And if the legislature worked like we all wish it would work and actually responded to what's going on out there, they would have updated the law. And yet they don't because of things like public choice that Lisa educated us about earlier. And so I think this really hammers home the need for judicial engagement to take the Constitution when the legislature fails to protect those rights and enforce the right to earn a living. Well, thank you both for working with me today and banging the drum for the right to earn a living. I appreciate that you came on and best of luck in whether it's Licensed to Work 4 or the next licensing case, I wish you all the best. Thank you both.



Lisa Knepper 37:24

Thank you guys.



Josh Windham 37:25

Yep, and fingers crossed for Georgia.



Anthony Sanders 37:28

Fingers crossed for Georgia. We're gonna bang the drum all day as Todd Rundgren said and as they always play when the Green Bay Packers score a touchdown. Not as much recently unfortunately. But there's always next season. And in the meantime, I want to thank my guests once again for coming on here talking about License to Work. For the rest of you, I hope you all get to work and bang the drums that you need to bang on. But also I hope all of you get engaged.