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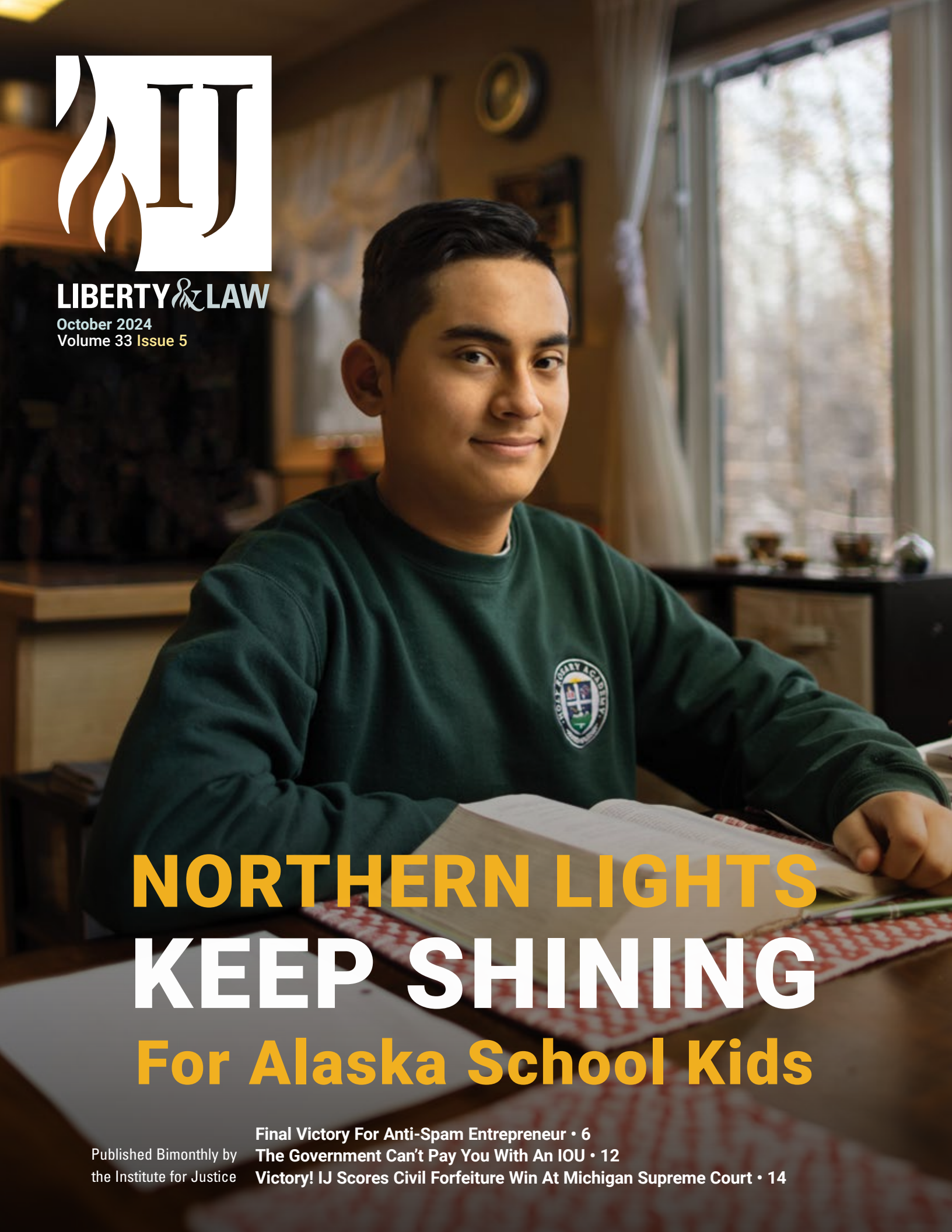
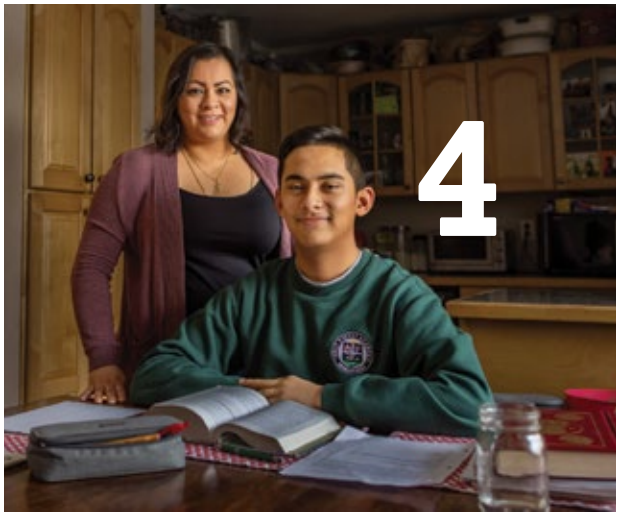


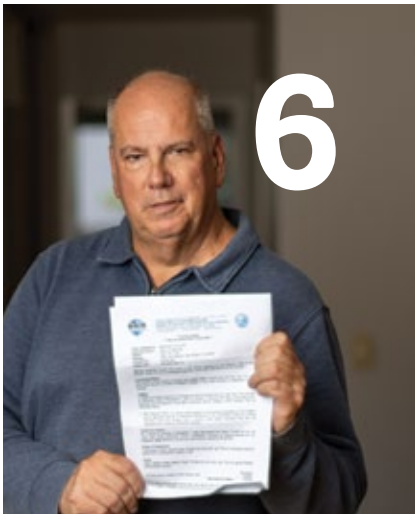
NORTHERN LIGHTS KEEP SHINING

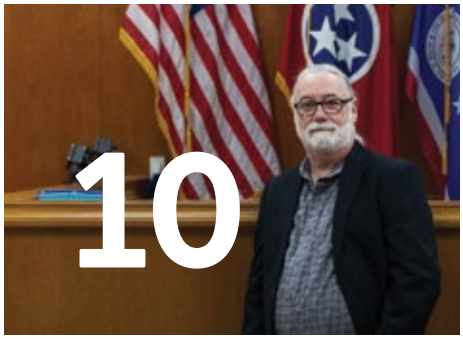
For Alaska School Kids

Published Bimonthly by
the Institute for Justice

contents







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

Through these activities, IJ illustrates and extends the benefits of freedom to those whose full enjoyment of liberty is denied by government.

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Northern Lights Keep Shining

For Alaska School Kids

BY JEFF ROWES

IJ struck another blow for educational choice with a mid-summer victory at the Alaska Supreme Court. Students using Alaska's unique correspondence school program were able to enjoy their 21-hour summer days knowing that their education is secure—for now, at least.

On June 28, 2024, the state high court set off some early fireworks for freedom by overturning a trial court's decision striking down Alaska's correspondence school program. This unique approach to choice has long allotted state funds to allow children in remote communities without schools to learn via the mail, including correspondence education from private providers. In 2014, the Alaska Legislature expanded the reach of the program to allow all kids across the state, even those with access to a local public school, to use a correspondence school allotment for tuition at a private school. Earlier this year, a trial court in Anchorage struck down that aspect of the program as a violation of the Alaska Constitution.

The Alaska Supreme Court reversed that plainly wrong decision, but the fight isn't over. The state high court didn't rule that families using the allotment for private schools—like IJ client Andrea Moceri and her son—win outright. It just ruled that those families shouldn't have lost at this stage of litigation. So the fight will return to the trial court this fall.

IJ is often aligned with state governments in defending school choice. But not here. The Alaska attorney general's office agrees that the trial court was wrong but has taken the position that the aspect of the program that IJ clients use—allowing tuition at private schools—may in fact violate the state Constitution. That means IJ is the only counsel fully defending the freedom of Alaska parents and students under both the Alaska and U.S. Constitutions.

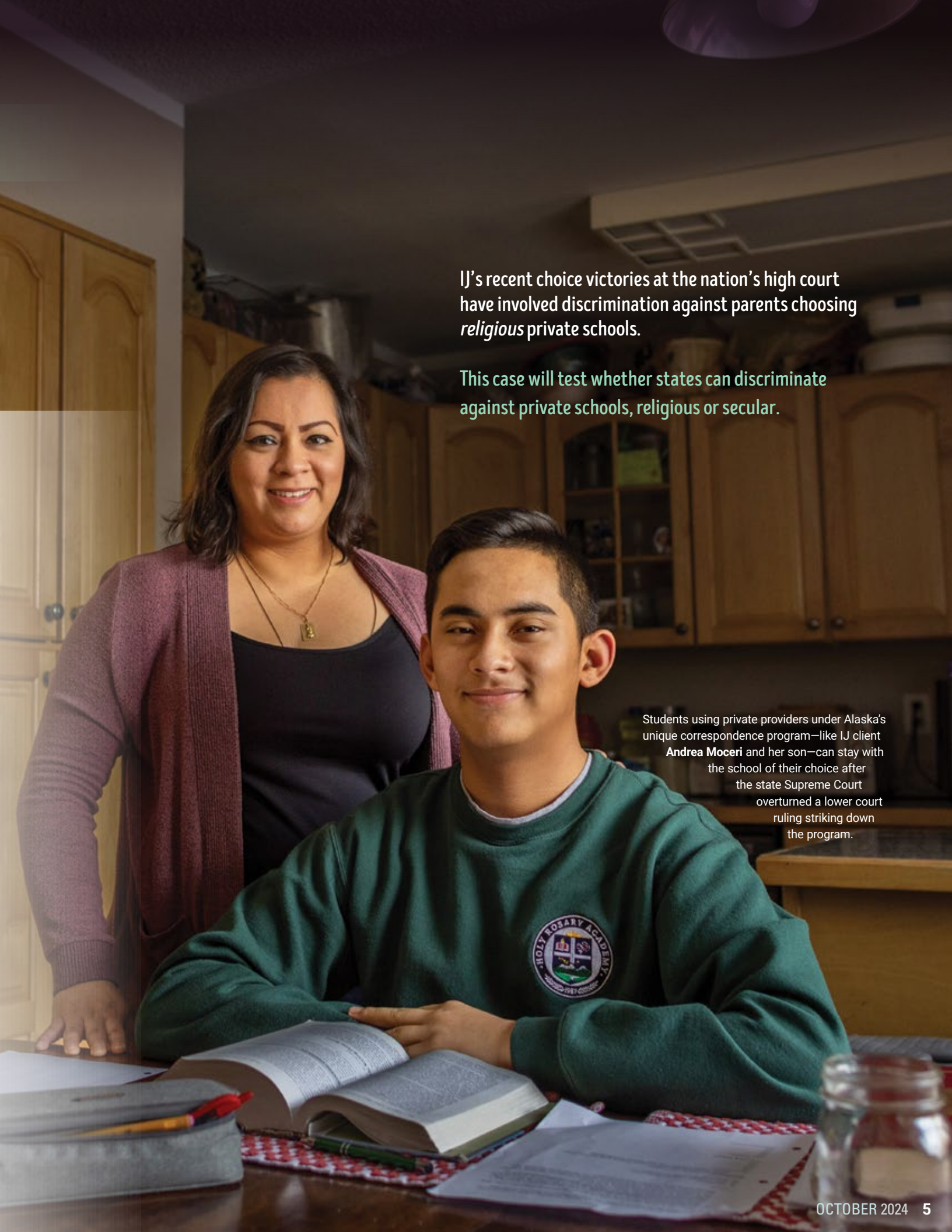
Arguing before the Alaska Supreme Court, IJ Attorney Kirby Thomas West made two big points. First, the Alaska Constitution allows parents to use allotment money for private school tuition. Second, if the state Constitution *requires* the state to discriminate against parents who choose private schools (this is the state attorney general's position), *that* violates the U.S. Constitution, which protects the right to choose a private school. Alaska doesn't have to fund private options for education, like correspondence schools, tutoring, or after-school sports. But because it does fund those options, it can't forbid parents from using that money for private school tuition.

> By delivering this one-two constitutional punch, IJ is setting up yet another landmark educational choice case at the U.S. Supreme Court.

By delivering this one-two constitutional punch, IJ is setting up yet another landmark educational choice case at the U.S. Supreme Court. IJ's recent choice victories at the nation's high court have involved discrimination against parents choosing *religious* private schools. This case will test whether states can discriminate against private schools, religious or secular.

For now, though, we're focused on the nuts and bolts of winning back at the trial court. There may be cold weather and long nights ahead for the Alaska trial team. But summer will come again next year. We'll make sure Alaska's kids can again fish and swim without worrying about whether they can go back to the schools they love. ◆

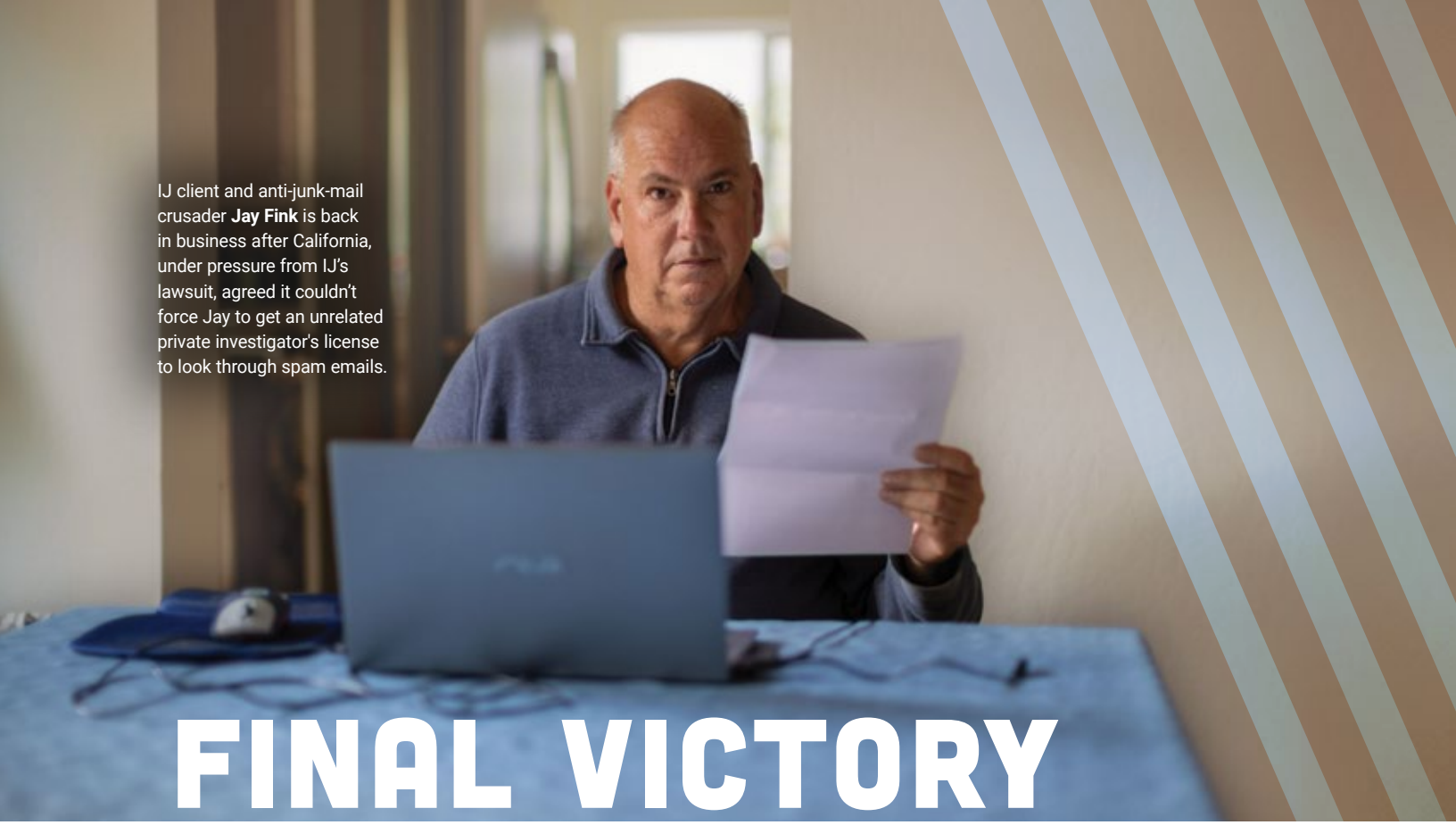
Jeff Rowes is an IJ senior attorney.



IJ's recent choice victories at the nation's high court have involved discrimination against parents choosing *religious* private schools.

This case will test whether states can discriminate against private schools, religious or secular.

Students using private providers under Alaska's unique correspondence program—like IJ client **Andrea Moceri** and her son—can stay with the school of their choice after the state Supreme Court overturned a lower court ruling striking down the program.



IJ client and anti-junk-mail crusader **Jay Fink** is back in business after California, under pressure from IJ's lawsuit, agreed it couldn't force Jay to get an unrelated private investigator's license to look through spam emails.

FINAL VICTORY FOR ANTI-SPAM ENTREPRENEUR

BY DYLAN MOORE

Spammers beware: IJ client and anti-junk-mail crusader Jay Fink is back in business—for good.

For more than a decade, Jay helped Californians declutter their inboxes and hold deceptive email spammers accountable. He accomplished this by sorting through mountains of his clients' virtual junk mail and identifying misleading messages that might violate the law.

California should have commended Jay for helping consumers. Instead, it shut his business down. Why? Because, according to state bureaucrats, only *licensed private investigators* could hunt for deceptive spam in other people's email accounts. To get a PI license, Jay would have had to spend 6,000 hours training in fields like arson investigation, law enforcement, or insurance adjustment—none of which has the least bit to do with identifying spurious junk mail.

Jay knows it doesn't take three years of full-time training as a private investigator to do his job. So, with a little help from IJ, he challenged the licensing requirement in federal court. We also asked the court to issue a preliminary injunction—an order that prevents the government from enforcing a challenged law while the case is ongoing.

In March, the judge granted the injunction so Jay could continue working. This was, to put it lightly, a big deal. To issue the injunction, the judge had to find that Jay was likely to succeed in proving that California's licensing requirement violated his constitutional rights. But because the court determined that the licensing requirement is an economic regulation, it reviewed the law under the painfully deferential "rational basis" test.

TO GET A PI LICENSE, JAY WOULD HAVE HAD TO SPEND 6,000 HOURS TRAINING IN FIELDS LIKE **ARSON INVESTIGATION, LAW ENFORCEMENT, OR INSURANCE ADJUSTMENT**—NONE OF WHICH HAS THE LEAST BIT TO DO WITH IDENTIFYING SPURIOUS JUNK MAIL.

IJ has fought (and won) a variety of cases under the rational basis test, but one thing never changes: The government always argues that the test is just a rubber stamp for even the most blatantly absurd and protectionist regulations. Unfortunately, courts often take the bait.

In Jay's case, however, the judge saw through California's paper-thin attempts to justify this licensing law. She instead ruled that there was likely no constitutional justification for forcing Jay to endure 6,000 hours of irrelevant training before he could read his clients' emails.

Once the court held that the licensing requirement likely violated Jay's right to earn a living, something unbelievable happened: California agreed. Just months after the court issued its preliminary injunction, California and IJ jointly petitioned the court to make the injunction permanent and enter final judgment in Jay's favor.

In other words, after Jay's first-round victory, California saw the writing on the wall and *asked* the court to rule against it. And in July, the court obliged, permanently barring California from enforcing its private investigator laws against Jay for cataloguing his clients' emails.

Preliminary injunctions in rational basis cases are rare. Joint motions with the government to make those injunctions permanent are almost unheard of. Now other people burdened by senseless economic regulations can point to Jay's victory to help protect their own right to earn an honest living.

IJ had secured a preliminary injunction at court, preventing California from enforcing its irrelevant licensing law against Jay while the case proceeded.

AS JAY'S CASE SHOWS, REGULATORS CAN'T FORCE PEOPLE TO UNDERGO THOUSANDS OF HOURS OF UNNECESSARY TRAINING JUST TO PURSUE THEIR VOCATION OF CHOICE.

IJ will continue to fight irrational licensing laws across the country. The government won't always throw in the towel—but we won't give up either. As Jay's case shows, regulators can't force people to undergo thousands of hours of unnecessary training just to pursue their vocation of choice. ◆

Dylan Moore is an IJ attorney.





Protecting Liberty Nationwide Through Legislative Reform

BY MEAGAN FORBES

At IJ, we are in courts across the country fighting for people's rights. But litigation isn't the only way we fulfill our mission. We are also at state houses and in front of Congress advocating for legislative reform.

This year, IJ supported more than 160 bills in 40 jurisdictions. These bills expanded economic liberty, protected property rights, and advanced educational choice. And what makes IJ's legislative efforts unique is that, unlike that of so many others walking the halls of legislatures, all of our work in this domain is about expanding freedom and tearing down barriers to opportunity. Here are some of the highlights.

This year, IJ supported more than 160 bills in 40 jurisdictions. These bills expanded economic liberty, protected property rights, and advanced educational choice.

IJ worked on legislation to reduce occupational licensing barriers in 24 states. This year, we supported several noteworthy bills that were enacted into law. Louisiana—the only state in the nation to require government permission to arrange flowers for a living—finally repealed its florist license. Georgia and Oklahoma both pared back licensing requirements for cosmetologists and barbers, creating new opportunities for people to work in the beauty industry without a license.

Our work also took us to Nebraska and Tennessee, where we helped enact legislation to make it easier for people with criminal records to find work. Research shows that reducing licensing barriers for people with criminal records supports re-entry and increases public safety. Both bills improved the states' standards used for determining whether a criminal record can disqualify a person from getting a license.

Beyond occupational licensing reform, IJ advocated to lift other burdensome regulations. IJ supported a bill in Georgia that dramatically narrowed the scope of the state's certificate of need (CON) laws, which require aspiring entrepreneurs to request permission from their would-be competitors before entering the market—and which are prominent in the

Local entrepreneurs joined IJ staff, including **Meagan Forbes** (second from right) and **Ellen Hamlett** (right), to create new opportunities in the beauty industry.




From scrapping a florist license in Louisiana to legalizing homemade food in Arizona, IJ worked with legislators across the country to expand freedom and justice.

transportation and healthcare industries. The bill exempted various facilities and services from CON requirements, including freestanding birth centers, new general acute hospitals in rural counties, and new or expanded psychiatric and substance abuse inpatient programs.

IJ also cut red tape for food entrepreneurs in Arizona by helping enact one of the most expansive food freedom laws in the country. This bill, nicknamed the "Tamale Bill," made national headlines last year when it was vetoed. Undeterred, IJ worked with legislators this year to overcome concerns so people can now legally sell and buy a broad variety of homemade foods.

Another important focus of our legislative work this year was protecting property rights. IJ worked on at least 30 bills to protect property rights in more than 20 jurisdictions. In Delaware, for instance, we helped enact three bills that eliminated certain court fees and fee-related debt that too often extracted money from those who were least able to pay.

All the legislation we worked on this session would not be possible without IJ's litigation, activism, and strategic research. IJ's work in the courtroom shows the need for change.

And in Kansas, we worked with local advocates to codify IJ's U.S. Supreme Court victory in *Timbs v. Indiana*, which established that the Eighth Amendment's protections against excessive penalties also apply to state and local governments. Kansas courts will now be required to determine whether a proposed forfeiture is unconstitutionally excessive.

Finally, IJ had another successful year advancing educational choice. We advised on educational choice bills in at least 15 states. Notable reforms this year included Alabama's and Louisiana's enactments of educational savings account programs.

All the legislation we worked on this session would not be possible without IJ's litigation, activism, and strategic research. IJ's work in the courtroom shows the need for change. Beyond setting legal precedent, we stand ready to work with interested legislators to advance liberty to the greatest extent possible. ◆

Meagan Forbes is IJ's senior legislative counsel.

IJ Allies
Spread Freedom And Justice In Their Communities

BY LEE MCGRATH AND JORDAN BANEGAS

IJ is home to dozens of full-time litigators, legislative specialists, researchers, activists, and communications staff. *Liberty & Law* details the impact their work has in cities and states throughout America. Of course, they can't do it alone—IJ partners with heroic clients to take on government goliaths, and more than 10,000 supporters make it all possible.

But it also takes countless dedicated and passionate individuals working in their own communities to secure the freedoms IJ fights so hard to defend. Here are just a few recent examples:

Shinara Morrison's son, Gavin, had thrived in his North Carolina school. But when the family moved to Texas, he struggled to transition to a new education system. Shinara tried switching schools and even homeschooling. In 2022, Shinara attended an IJ activism event, where she heard about an education savings account program the Texas Legislature was considering. She was inspired to immediately get involved, making multiple trips to the state capitol to meet with legislators and tell her and Gavin's story. The family also volunteers at each of our events to tell other parents and students about how they can be a part of the movement. Last fall, Shinara spent hours manning the cotton candy machine at our family fun night, where hundreds of families got to hear about school choice and sign a banner that was later delivered to Texas Speaker of the House Dade Phelan. The family was also featured in an op-ed published last year asking legislators to pass an ESA. Grassroots activists like Shinara are instrumental as we work to support the expansion of educational choice in Texas and nationwide.

David Seal of Dandridge, Tennessee, is a citizen inspired by IJ's work to restrict the use of eminent domain. In 2006, a year after the U.S. Supreme Court's reviled decision in *Kelo v. New London*, legislators in Nashville enacted a modest reform to Tennessee's eminent domain laws. IJ's Castle Coalition graded the reforms a D-minus, among the least meaningful in the nation. David's fifth-generation family farm was threatened by eminent domain for an "industrial park" a few years later, and he rallied his community to ultimately protect more than 100 homes. The experience prompted him to contact IJ to learn about how he could change his state's eminent domain laws—and to run for Jefferson County Commissioner, a position he held from 2014 to 2018.

At right, friend of IJ **David Seal** poses with a presentation copy of one of the two eminent domain reform bills that were enacted during the 2024 session.

Three of the strongest legislative reforms enacted in Tennessee post-*Kelo* originated in Jefferson County, with formal resolutions made by the county commission featuring IJ's model eminent domain language—and championed by David. Among those are Public Chapters 748 and 1034, passed by the Tennessee Legislature earlier this year. Among other features, those acts allow property owners to defend against a taking by asking a court to make a determination of necessity. David has been a one-man force for property rights both in and out of office, working to shield Tennesseans against eminent domain abuse.

John Shaw is a Delaware-based attorney who specializes in jury trials of complex commercial litigation ranging from patent infringement to stock purchase agreements and other contractual indemnities. John is also passionate about pro bono work, and his work has earned the Caleb R. Layton III Service Award from the Delaware District Court. He has partnered with IJ on litigation under the Freedom of Information Act; he served as local counsel in our successful Wilmington towing case; and he represents small-business entrepreneurs whose cases we aren't able to take on ourselves—including an eyebrow threader who received threats from the Delaware Board of Cosmetology and Barbery about his mall kiosk in Wilmington. There, the board backed down after John helped demonstrate that the business fit within the grandfathering provisions of the new regulatory scheme. John is currently representing three braiders in Pennsylvania, where a successful outcome would help advance IJ's long-term strategy to change the Commonwealth's braiding laws. The case is scheduled to go to trial in November.

As IJ pursues broad, transformative legal change nationwide, allies like Shinara, David, and John are hard at work advancing our shared ideals of freedom and justice in their own communities. ◆

Lee McGrath was IJ's senior legislative counsel (now retired) and Jordan Banegas is an IJ assistant director of activism.

Biking for Freedom and Economic Prosperity

In December, a supporter named Rahul Razdan made made an unusual announcement: He planned to bike across the country—and would dedicate his ride to IJ, generating nearly two dozen donations through a generously matched "GoFundMe" fundraiser. His journey, completed this spring, is a testament to the determination and commitment of IJ clients and supporters alike.

In Rahul's own words, here's why he did it:

The Southern Tier is a 3,000-mile cross-country bicycle route stretching from San Diego, California, to St. Augustine, Florida. It's an incredible journey that prompts deep personal reflection.

As an immigrant, I firmly believe that the U.S. possesses a unique system that empowers the individual. The principles of "life, liberty, and the pursuit of happiness," along with the Bill of Rights and the specific enumerated powers of the U.S. Constitution, create a distinctive mental framework for the relationship between the individual and the government. This has led to remarkable economic growth driven by empowered individuals.

It is crucial to safeguard this fundamental aspect of the U.S. system. Therefore, when the chance arose with the Southern Tier, I chose to support the Institute for Justice, which undertakes the essential constitutional work vital for sustained prosperity.

From all of us at IJ: Congratulations, Rahul, on completing your amazing ride! ◆

The Government Can't Pay You With An IOU

BY BRIAN MORRIS

The Fifth Amendment says that when the government takes your property, it must pay you "just compensation." But what does that mean? In an alarming trend, some states think just compensation means they can leave property owners with an IOU that they can never cash in.

In fact, an IOU is all the town of Okay, Oklahoma, left Mike and Melisa Robinson with after it took and damaged their property—to the tune of $73,350.

The Robinsons own and operate a mobile home community in Okay, where they provide safe, clean, and affordable homes for families to rent. One day, Melisa discovered a nightmare on their property: Without any authorization (or even notice), the town was digging up private sewer lines in the community. As it turned out, the town had a secret plan to turn the Robinsons' private pipes into public ones.

In doing so, the town caused massive damage. Besides just the digging itself, the town clipped power lines, causing power outages and appliances to blow out in tenants' homes. Even worse, the town didn't grade the pipes correctly. This meant that toilets wouldn't flush, showers wouldn't drain, and sewage was everywhere. It was uninhabitable. The Robinsons needed things fixed fast. But rather than help, the town left the Robinsons to fix everything themselves, which they paid for out of their own pockets.

The Robinsons then sued the town in state court for the damage it caused and for the property it took. A jury said the town owed the Robinsons just compensation. The case went all the way up to the

Melisa Robinson and her husband, Mike, sued the town of Okay, Oklahoma, after it flooded the mobile home community they operate. A court said they're owed over $200,000, but the town won't pay. So, the Robinsons have teamed up with IJ to get the just compensation they deserve.

Watch the case video!
iam.ij.org/OK-IOU

Oklahoma Supreme Court—and the town has racked up more legal fees resisting that ruling than the value of the original taking. On appeal, the Court confirmed that the Robinsons are now owed more than $200,000 for what happened to their property.

That should be the end of this story. But the officials in Okay came up with a clever plan to avoid paying the bill. The town conceded it owes the Robinsons just compensation for taking their property. But as the town sees it, that constitutional requirement is satisfied by simply giving the Robinsons a piece of paper that says, "We owe you the money." Under that theory, the town refuses to pay the Robinsons a dime. (Meanwhile, Okay councilmembers voted to add a surcharge to all water bills to offset the legal fees.)

That's wrong—and it's unconstitutional. Just compensation is a principle that dates back over 800 years to Magna Carta. And it means the government must pay for property with cold hard cash—not some paper IOU.

That's why IJ has teamed up with the Robinsons to file a federal lawsuit. Property owners suffer an ongoing Fifth Amendment violation when the government takes their property and refuses to pay for it with actual money. A win for IJ won't just help the Robinsons. It will also prevent other government officials from trying to sidestep the Constitution.

This case builds on IJ's recent U.S. Supreme Court win in *DeVillier v. Texas*, in which we successfully defended a Texas family's right to seek just compensation for the flooding of their family ranch.

As we argued at the high court, the Fifth Amendment is not a suggestion—it's a requirement. The government must pay for what it takes. ◆

Brian Morris is an IJ attorney.

Want To Support IJ In A Savvy Way?

Make A Gift From Your IRA!

If you are age 70½ or older, you can transfer up to $105,000 tax free from your traditional IRA to qualified charitable organizations like the Institute for Justice. These gifts are great options for those who must take a required minimum distribution but don't want to add to their taxable income for the year.

What you will add is more ammunition to IJ's nationwide battle for individual freedom and help more people than ever to combat government abuse.

Making a qualified charitable distribution, or QCD, allows 100% of your hard-earned IRA dollars to go to work in support of IJ's mission, rather than to fund an ever-overreaching government. And these gifts are easy to make:

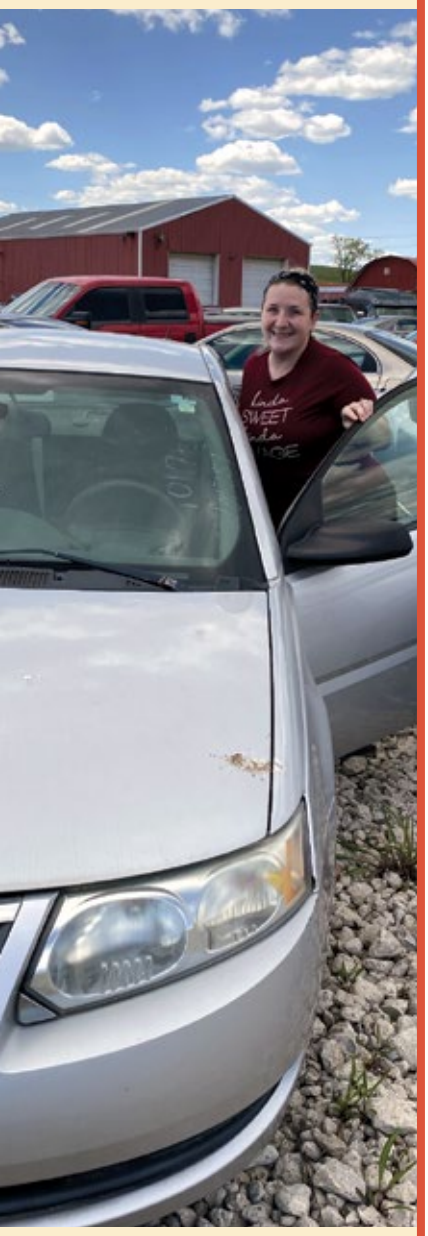
1. Reach out to your IRA administrator.
2. Tell them you want to make a qualified charitable distribution from your retirement account.
3. Provide IJ's name, address, and tax ID number (52-1744337).

If you have questions or would like to learn more about giving to IJ through your IRA, please contact Ross Ward at rward@ij.org or (703) 682-9320 ext. 210, or visit ij.org/IRA-gifts.

Considering a QCD in 2024? Please note that the date of your QCD is NOT the date you or your IRA administrator send the distribution check; rather, it is the date that your IRA administrator transfers the funds to the charity. We recommend initiating your distribution **before the Thanksgiving holiday** to make sure it is credited toward 2024. ◆

VICTORY!

IJ SCORES CIVIL FORFEITURE WIN AT MICHIGAN SUPREME COURT



BY KIRBY THOMAS WEST

After years of litigation, IJ client Stephanie Wilson was recently fully vindicated by the Michigan Supreme Court, which held that Wayne County's forfeiture of her 2006 Saturn Ion was illegal.

Stephanie has been fighting alongside IJ since 2020 in a multi-front challenge to Detroit's vehicle forfeiture machine. She is a named plaintiff in IJ's federal class action lawsuit against Wayne County and has simultaneously been fighting the county's attempted forfeiture of her car in state court. This victory is the final word on the latter suit.

Wayne County seized Stephanie's car in 2019 after she picked up her son's father—who was battling addiction—to take him to his mother's house. When officers stopped Stephanie as she began driving away, they found no drugs on Stephanie, her passenger, or anywhere in her car. The officers nevertheless decided to seize Stephanie's car for forfeiture, alleging that her passenger had purchased $10 worth of drugs shortly before getting into the car.

In the trial court, Stephanie argued that she had done nothing wrong. She also argued that—even if her passenger had purchased drugs at some point that day—giving a drug user a ride does not make a car subject to forfeiture under Michigan law. The trial court judge agreed and ordered Wayne County to return Stephanie's car. (The judge also wondered aloud at the hearing whether the county might have "bigger fish to fry" than taking the car of a young single mother for an alleged $10 drug deal in which she had not been involved.)

Wayne County appealed, and the Michigan Court of Appeals (the intermediate appellate court) overturned the previous ruling in Stephanie's favor. That court held that, on the facts set out by the

Stephanie Wilson lost her car to Detroit's vehicle forfeiture scheme. IJ got her 2006 Saturn Ion back in 2021. Now, the Michigan Supreme Court has ruled the state's forfeiture of her car was illegal.

STEPHANIE'S BIG WIN ENERGIZES OUR ONGOING BROADER CONSTITUTIONAL CHALLENGE TO DETROIT'S VEHICLE FORFEITURE SCHEME. IT ALSO OFFERS SECURITY AND PEACE OF MIND TO MOTORISTS IN THE MOTOR CITY AND ACROSS MICHIGAN.

state, it was possible that Stephanie's car had momentarily "transported" drugs in the brief time before her car was stopped, and that her passenger had used them or thrown them out the window to avoid detection prior to the officers' search. That, the court found, would have been enough for forfeiture.

If left unchallenged, that decision could have affected people across the state who know or love someone battling addiction, making cars vulnerable to forfeiture simply for transporting someone who may have recently purchased or used drugs. So IJ urged the Michigan Supreme Court to overturn the appellate court's ruling.

In July, the state's high court adopted IJ's position. The Court held that, under Michigan's vehicle forfeiture law, forfeiture is appropriate only when cars are used to transport illegal drugs with the intent of selling or receiving those drugs. Because Stephanie's car had not been used in this way even in the government's version of the story, it should never have been subject to civil forfeiture.

This victory will protect innocent drivers like **Stephanie Wilson** from losing their cars simply for giving rides to people struggling with addiction.

Stephanie's big win energizes our ongoing broader constitutional challenge to Detroit's vehicle forfeiture scheme—where we are currently in the midst of the discovery process in federal court. It also offers security and peace of mind to motorists in the Motor City and across Michigan. ◆

Kirby Thomas West is an IJ attorney.

DELIVERING JUSTICE:

IJ Tackles Forfeiture Cash Grab At Shipping Hub

BY SAM GEDGE AND MARIE MILLER

For longtime *Liberty & Law* readers, "Indiana" and "civil forfeiture" go together like peanut butter and jelly. Who can forget Tyson Timbs' string of victories in the long-running fight to recover his Land Rover? And now there's a new case on the Indiana roster, this time involving a small jewelry wholesaler based in … California.

How does a California company end up mired in a civil forfeiture case in Indiana? Only because Indiana law enforcement ruthlessly exploits their privileged position at the Crossroads of America.

For years, the Indianapolis airport has been home to the second largest FedEx hub in the nation. At least 99,000 parcels pass through the hub each hour, en route from one side of the country to the other. Which, it turns out, is a cash cow for state and local law enforcement. Routinely, police pluck packages from conveyor belts and run them past K-9s. If a dog alerts and the officers find cash, prosecutors in Indianapolis file a civil forfeiture suit in Indiana state court to keep the money.

At least 99,000 parcels pass through the Indianapolis FedEx hub each hour, en route from one side of the country to the other. Which, it turns out, is a cash cow for state and local law enforcement.

In their complaints, Indiana prosecutors don't tell the owners what Indiana crime allegedly supports the forfeiture. For that

The parcel caught the eye of a police officer, who pulled it aside, subjected it to a drug-dog sniff, got a warrant, and opened it.
Drugs? No. $42,825? Yes.

matter, no Indiana crime *can* support these forfeitures: The parcels and their owners usually have no connection to Indiana other than the happenstance of FedEx's shipping routes.

Enter Henry and Minh Cheng. For the past 30 years, Henry and Minh have run a small jewelry-wholesale business in California. They immigrated to the United States decades ago, and both of their families have long been in the jewelry business. The couple specialize in Italian gold and diamond jewelry, and they service many jewelry retailers around the country.

In April, one of their customers located in Virginia sent them a cash payment, totaling $42,825, for a bulk order of gold jewelry. The retailer mailed the cash through FedEx to Henry and Minh in California. Receiving cash by mail isn't the couple's usual practice, but this particular payment had been delayed, and they needed the money.

But it never arrived. Passing through Indianapolis' FedEx hub, the parcel caught the eye of a police officer, who pulled it aside, subjected it to a drug-dog sniff, got a warrant, and opened it. Drugs? No. $42,825? Yes. And within days, Henry and Minh's company was ensnared in a civil forfeiture lawsuit in a state courthouse over 2,000 miles away. The alleged crime supporting forfeiture? According to the complaint: "a violation of a criminal statute." In other words, Indiana prosecutors have no idea what Henry and Minh could have done wrong—they just want the couple's cash.

This state of affairs is unjust and unconstitutional. Critics often call civil forfeiture "policing for profit." (In fact, that's the title of IJ's leading publication on the subject.) But Indianapolis' FedEx forfeiture scheme is, if anything, worse: It's *no* policing, *all* profit for law enforcement.

Since 2022 alone, more than 130 of these forfeiture actions have been filed, seeking to confiscate more than $2.5 million in total.

That's why Henry and Minh have teamed up with IJ to spearhead a class action lawsuit to put an end to Indy's money grab once and for all. ◆

Sam Gedge is an IJ senior attorney and Marie Miller is an IJ attorney.

CUTTING-EDGE PRODUCTS MEET OLD-FASHIONED ECONOMIC PROTECTIONISM

BY PAUL SHERMAN

Americans love meat, but increasingly some people have ethical or environmental concerns about factory farming. Entrepreneurs and innovators like UPSIDE Foods have responded to these concerns by developing "cultivated" meat.

Unlike conventional meat, cultivated meat is grown directly from animal cells, without the need to slaughter animals. Cells are first isolated and then fed the same sorts of nutrients they would receive in an animal's body. After the cells are harvested, they can be formulated into products that replicate the taste and texture of meat. UPSIDE, for example, has received the green light from the Food and Drug Administration (FDA) and the United States Department of Agriculture (USDA) to sell a cultivated chicken product that looks, cooks, and tastes just like a boneless chicken cutlet.

UPSIDE HAS RECEIVED THE GREEN LIGHT FROM THE FDA AND THE USDA TO SELL A CULTIVATED CHICKEN PRODUCT THAT LOOKS, COOKS, AND TASTES JUST LIKE A BONELESS CHICKEN CUTLET.

UPSIDE Foods cultivates meat, like the chicken in this salad, from real animal cells. It's an innovative product approved by the USDA and FDA.

But not everyone is a fan of these innovative products, and Florida recently became the first state in the country to ban the manufacture, distribution, or sale of cultivated meat. The law, SB 1084, went into effect on July 1.

Florida's law has nothing to do with protecting public health and safety. Instead, the law was enacted after intense lobbying by cattle interests who see cultivated meat as a future threat to their industry. And this protectionist purpose is no secret. At the signing

ceremony for the law, Florida's governor stood behind a podium bearing a sign that read "Save Our Beef" and openly praised the law for protecting in-state agricultural interests from out-of-state competition.

But protecting favored in-state interests from competition is not a legitimate use of government power. Indeed, a major reason for the enactment of the U.S. Constitution was to create a national common market—in the words of Alexander Hamilton, "a unity of commercial, as well as political, interests."

This principle is reflected in multiple clauses of the Constitution, most notably the Commerce Clause. From our nation's earliest rulings interpreting that clause, it has been understood to prohibit states from enacting laws with the purpose and effect of restricting the free flow of goods in interstate trade. But that's exactly what Florida has done.

That is why UPSIDE Foods has joined with IJ to file a federal lawsuit challenging Florida's ban on cultivated meat. Our lawsuit is the latest in IJ's National Food Freedom Initiative, which seeks to defend the right of entrepreneurs and consumers to buy, sell, grow, and advertise food free from unreasonable government regulations.

UPSIDE isn't looking to replace conventional meat, which it believes will always have a place at our tables. But it does want the opportunity to share its innovative product with consumers so that they can taste and decide for themselves how they feel about cultivated meat.

Protecting established interests from competition is not a legitimate use of government power, so UPSIDE Foods and founder **Uma Valeti** have partnered with IJ to push back on Florida's economic protectionism.

OUR LAWSUIT IS THE LATEST IN IJ'S NATIONAL FOOD FREEDOM INITIATIVE, WHICH SEEKS TO DEFEND THE RIGHT OF ENTREPRENEURS AND CONSUMERS TO BUY, SELL, GROW, AND ADVERTISE FOOD FREE FROM UNREASONABLE GOVERNMENT REGULATIONS.

The Constitution gives UPSIDE that right. And if some Florida consumers don't like the idea of cultivated meat, there's a simple solution: They don't have to eat it. What they and the state government cannot do is make that decision for everyone else. ◆

Paul Sherman is an IJ senior attorney.

MICHIGAN COURT TOLLS THE *Death Knell* FOR *Targeted Zoning*

BY KATRIN MARQUEZ

Earlier this year, IJ sued Brooks Township, Michigan, for enacting (and then doubling down on) a ban on cemeteries. At a recent hearing, the trial court rejected the township's attempt to dismiss our case.

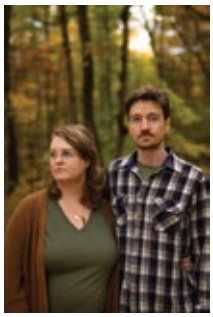
But it didn't stop there. The court went further to declare the ban unreasonable and unconstitutional. Such a ruling is nearly unprecedented at this stage in litigation—and it's a huge win for the property and economic liberty rights of all Michiganders, as well as a step toward ending zoning abuse.

So how did we get here?

THE MICHIGAN SUPREME COURT HAS SAID THAT THE MICHIGAN CONSTITUTION DOES NOT ALLOW A MUNICIPALITY TO BAN A SAFE LAND USE JUST BECAUSE IT'S UNIQUE OR MISUNDERSTOOD.

Readers may recall our case launched earlier this year to fight back against the township's efforts to block Peter and Annica Quakenbush's plans to open a conservation burial ground—a special type of cemetery that allows for simple and affordable green burials while an easement ensures the land remains protected in its natural state forever.

Brooks Township responded to our January lawsuit the way most governments do: by trying to dismiss the case. But at a hearing, the township didn't dispute two vital facts: (1) Cemeteries are a lawful land use under Michigan law, and (2) the challenged ordinances are a flat ban on all cemeteries. The township's argument died once it conceded these facts.



THE CONSTITUTIONAL RIGHT TO USE YOUR PROPERTY MAY BE SUBJECT TO LEGITIMATE HEALTH AND SAFETY CONCERNS—BUT NOT THE WHIMS OF LOCAL BUREAUCRATS.

IJ scored a big win against abusive zoning on behalf of clients **Peter and Annica Quakenbush**, who want to start a conservation burial ground—a special type of cemetery that keeps the land in its natural state.

The Michigan Supreme Court has said that the Michigan Constitution does not allow a municipality to ban a safe land use just because it's unique or misunderstood—and that's especially so when the excluded land use is a human necessity, like a cemetery. In allowing our case to move forward, the judge voiced concern that upholding the ban could give local governments the power to completely exclude all kinds of legitimate land uses, including hospitals and schools.

Although we expected to win the motion, our win reaffirmed that municipalities can't infringe on property and economic liberty rights by claiming sweeping zoning authority, which was much more robust than we hoped. In zoning cases, the government usually gets every benefit of the doubt. So it can take an incredible amount of work just to survive these types of motions. Valid claims are often buried in a procedural morass—but not this time.

This time the court understood our arguments and the law. When it became clear that the ordinances were a complete ban on a legitimate land use, the path was paved for the court to clarify that the zoning power is not absolute and may not be used to trample on Michiganders' rights.

This victory marks an early success in our fight against zoning abuse. In the August issue of *Liberty & Law*, we announced the launch of IJ's new Zoning Justice Project. This ruling is the Project's first win: In vindicating Peter and Annica's rights, the trial court recognized that municipalities can't use targeted zoning to completely exclude a legitimate land use or occupation—a modest but meaningful step toward ending zoning abuse, in Michigan and elsewhere. The township may appeal, and we welcome an opportunity to establish strong precedent affirming this win at a higher court.

Prohibiting entrepreneurs like Peter and Annica from using their property peacefully and productively is un-American. The constitutional right to use your property may be subject to legitimate health and safety concerns—but not the whims of local bureaucrats. ◆

Katrin Marquez is an IJ attorney.

Court Says Neigh To Dismissing Equine Massage Teacher's Case

BY BOBBI TAYLOR

The First Amendment protects the right to speak freely, without government intrusion. At IJ, we believe that protection applies just as forcefully when people speak for a living. And courts are increasingly starting to agree.

Last year, IJ sued the Minnesota Office of Higher Education on behalf of Leda Mox, owner and operator of Armstrong Equine Massage. Leda combined her passion for horses and her entrepreneurial spirit into a thriving equine massage business, operating successfully for over a decade. But when the state of Minnesota learned Leda was teaching equine massage to aspiring professionals, it suddenly claimed she was a "private career school" and needed their permission to continue.

Under the challenged law, Leda can teach "avocational" skills but not "vocational" skills. So she can teach someone how to ride a horse and even how to massage one—as long as that student doesn't intend to use the knowledge to make a living. If they do, Leda is subject to a licensing scheme involving thousands of dollars in fees, a yearly audit, mountains of paperwork, and approval of her curriculum by state bureaucrats—who know nothing about massaging horses.

But teaching is just speech. And when the government regulates your ability to speak based on what you are saying, that regulation is presumptively unconstitutional. In July, a state court agreed and ruled that Leda's case can go forward, denying the state's motion to dismiss. If the state wants to regulate Leda, it has to provide a legitimate justification for doing so.

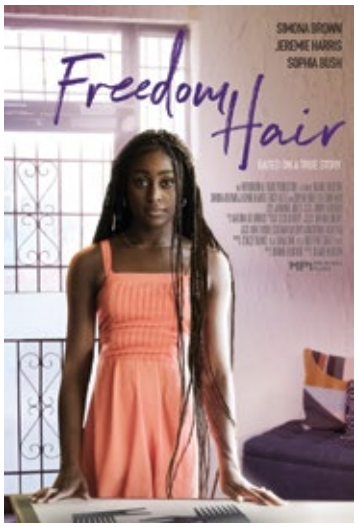
The court relied heavily on our prior success on behalf of a California horseshoeing school. There, we challenged a law prohibiting our client Bob Smith from teaching certain students. IJ has also successfully challenged similar laws protecting the First Amendment rights of engineers and tour guides.

Although this is a great first-round victory, we're not done. As this case works its way through the courts, IJ is actively litigating eight other cases from coast to coast designed to enforce the same principle: The Constitution protects the right to speak for a living. Stay tuned! ◆

Bobbi Taylor is an IJ attorney.

IJ's case on behalf of **Leda Mox (center)**, who has a thriving business practicing and teaching equine massage, will go forward after a court rejected Minnesota's motion to dismiss.

IJ Returns To The Big Screen



IJ's work is coming to life in an inspiring new movie! *Freedom Hair,* produced by our friends at the Moving Picture Institute, is based on the true story of IJ client Melony Armstrong, who successfully challenged onerous laws that kept artists like her from earning an honest living by braiding hair unless they completed hundreds or even thousands of hours of unrelated training.

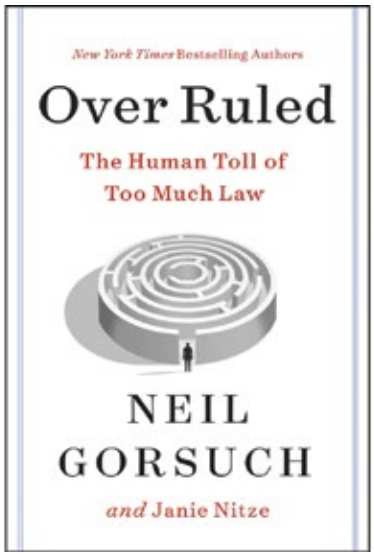
While working at a women's shelter, Melony decided to start a natural hair braiding business to achieve financial independence for herself and others. To do so, she would have to overcome unexpected obstacles imposed by a powerful cartel and the state of Mississippi. As depicted in the film, with help from IJ, she frees herself to practice her trade—and helps thousands of other women do likewise.

The film is a love letter to IJ's courageous clients and our work freeing all Americans to pursue their dreams. And if you look closely, you can spot both Melony and IJ Senior Vice President and Litigation Director Dana Berliner in cameos.

Freedom Hair is the second feature film to bring IJ's work to life. The 2017 film *Little Pink House* dramatized the story of IJ client Susette Kelo, who fought all the way to the U.S. Supreme Court to stop the town of New London, Connecticut, from using eminent domain to give her home to private developers.

You can stream both *Freedom Hair* and *Little Pink House* on Amazon Prime, Apple TV, Google Play, and more. Next movie night, make it an IJ double feature! ◆

IJ Cases Get Big Shoutout in Supreme Court Justice's New Book



U.S. Supreme Court Justice Neil Gorsuch's newly published book, *Over Ruled*—which highlights the recent explosion of new criminal and civil statutes and the overwhelming power those laws give prosecutors and other government officials—prominently features IJ clients and findings from our strategic research. The cases of Texas hair braider Isis Brantley, Texas eyebrow threading salon owner Ash Patel, and the monks of Saint Joseph Abbey (who wanted to support their Louisiana community by selling handmade wooden caskets) resulted in groundbreaking IJ victories that made it easier for everyday Americans to pursue an honest living in the field of their choice.

Our clients' stories, backed up by research like our *License to Work* and *Barriers to Braiding* reports, show how IJ's work matters in the real world. We're thrilled that this message is reflected in the Justice's thinking on the law. ◆

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