



LIBERTY & LAW

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VICTORY!

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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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VICTORY!

FARMERS VINDICATE THE RIGHT TO A REAL JUDGE

BY ROB JOHNSON

Sun Valley Orchards is a fourth-generation family farm. Its owners, brothers Joe and Russell Marino, grow vegetables—including peppers, eggplants, cucumbers, and asparagus. Or, rather, they did, before they shut down in the face of over \$500,000 in penalties imposed by the U.S. Department of Labor.

Those penalties were imposed in an agency court, where the judge and prosecutor were both agency employees. There was no jury and no independent judge. An agency bureaucrat proposed the penalty, and a second bureaucrat approved it.

Most allegations were ones only a bureaucrat could love. Over half the liability was imposed based on a harmless paperwork violation, misdescribing the workers' meal plan. Much of the rest was imposed for dastardly deeds like selling beer to workers without a liquor license. To the extent the agency accused the farm of anything of substance—like prematurely firing some workers—the farm hotly disputed the agency's version of the facts.

By constitutional design, allegations like these would have been heard in real federal courts, before independent judges, and Joe and Russell would have had a right to make their case before a jury of their peers. But, starting in the 1970s, agencies began imposing penalties in their own in-house agency courts, staffed by their own agency employees.

By 2021, when IJ took the case, that once-novel practice had become a settled part of the bureaucratic landscape of the administrative state. Agencies had been imposing penalties in their own in-house courts for almost half a century. But IJ delights in challenging the status quo.

JOE AND RUSSELL CAN FINALLY REST EASY KNOWING THEY ARE SAFE FROM THE LOOMING THREAT OF DOL'S HALF-MILLION-DOLLAR JUDGMENT.

Sun Valley's was the first of several cases that IJ filed challenging the legality of agency courts. And when the U.S. Supreme Court took up the legality of agency courts in a case called *SEC v. Jarkesy*, IJ filed an amicus brief on behalf of all our clients in those cases—including Sun Valley.

The decision in *Jarkesy* transformed the legal landscape: In 2024, the Supreme Court held that the SEC could not use its in-house courts to impose penalties for securities fraud. But now the lower courts must decide how *Jarkesy* applies to other federal agencies and other types of penalties.

So it was a big deal when the 3rd Circuit sided with Sun Valley. The panel held that forcing the farm to defend itself in the agency's court violated Article III of the U.S. Constitution—the constitutional provision that guarantees an independent judiciary.

If the question is how broadly *Jarkesy* applies, the 3rd Circuit answered: very broadly, including to the powerful Department of Labor.

The decision is also a big deal for Sun Valley. The farm has already closed—a victim of bureaucratic excess and the difficulties of finding and retaining farm workers today—but Joe and Russell can finally rest easy knowing they are safe from the looming threat of DOL's half-million-dollar judgment.

Other farmers and small-business owners can rest easier as well, as the 3rd Circuit decision vindicates the right to a real court with a real judge—not an agency bureaucrat. ♦



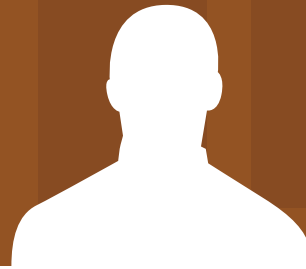
Joe Marino of family-owned Sun Valley Orchards teamed up with IJ to vindicate the right to an independent judge after a federal agency fined the farm half a million dollars. We secured a pathbreaking victory at the 3rd Circuit.

Rob Johnson is an IJ senior attorney.



ROGUE DETROIT PROSECUTOR

MUST STAND BEFORE JUDGE



BY CHRISTIAN LANSINGER

Regular *Liberty & Law* readers can appreciate how difficult it is to hold government officials—especially prosecutors and judges—accountable when they violate constitutional rights. So when a state appellate court unanimously rules that a Wayne County prosecutor is not immune from our client's retaliation lawsuit, we celebrate!

In 2021, and again in 2022, Robert Reeves stood before a Detroit judge, falsely charged with felonies for receiving and concealing stolen property. The charges weren't based on real evidence. Rather, they were manufactured by county prosecutor Dennis Doherty to punish him.

You see, Robert was not like other criminal defendants. At the time, he was already an IJ client—a named member of our proposed class action lawsuit against Wayne County's vehicle forfeiture scheme. The county had seized his 1991 Camaro, two cell phones, and cash, all without charging him with a crime. And the county refused to provide him with an opportunity to get his property back.

So we filed a class action lawsuit not just to help Robert, but to challenge the county's entire civil forfeiture regime.

A public-facing IJ lawsuit is usually where the government abuse ends (even though it might take a few years). But the day after Robert sued, Doherty revived a dormant investigation of rental equipment thefts in the hopes of pinning something on Robert. When no evidence turned up, he filed felony charges anyway—not once, but twice. Both times the judge dismissed the charges at the outset: The prosecution failed to bring their alleged video evidence at the first hearing, and the footage they presented at the second hearing showed *someone else* illegally removing a GPS device from rented equipment.

But even with the charges dismissed, the damage was done. Because of the bogus charges, Robert spent a weekend in jail. He lost his job and other work after failing background checks. And he lived in fear that Doherty might come after him a third time.

The message was clear: drop the federal lawsuit and stop challenging the county's forfeiture of vehicles.

Robert was not moved. Together, we filed a second lawsuit in state court, alleging that the retaliatory prosecutions violated his constitutional rights. In response, Doherty argued that his role as a prosecutor shields him from accountability.

The state appeals court didn't buy it. Though prosecutors enjoy almost complete immunity for actions tied to their job as a prosecutor, courts will—on rare occasion—deny immunity to prosecutors when they are effectively doing the job of an administrator or investigator. And here, Doherty took off his prosecutor hat and put on an investigator hat, kickstarting an investigation and digging for dirt on Robert (rather than evaluating any evidence the police had already collected).

This might sound familiar; that's because this isn't the only time IJ has held accountable a government official who stepped outside of their role. In 2023, the 4th Circuit unanimously ruled that a West Virginia judge could be sued after leading a search party through our client Matt Gibson's home. And we're waiting for the U.S. Supreme Court to decide whether to take up our case against a Texas prosecutor who moonlighted as a judicial clerk on his own cases.

Robert's retaliation case will move forward. There are still several barriers to accountability we may be forced to overcome, including the all-too-familiar qualified immunity provided to most other government officials. But for now, it is Doherty who must stand before a judge. ♦

Christian Lansinger is
an IJ attorney.



Because of the bogus charges, Robert spent a weekend in jail. He lost his job and other work after failing background checks. And he lived in fear that Doherty might come after him a third time.



After Robert Reeves joined IJ's class action lawsuit against Detroit's forfeiture practices, a prosecutor twice filed bogus charges against him. IJ fought back, and a judge ruled that prosecutorial immunity didn't shield the prosecutor from suit.

WHERE'S THE (CULTIVATED) BEEF?

IJ Takes On Texas' Ban On Cultivated Meat

BY PAUL SHERMAN

Ask people what they think of when they imagine Texas cuisine and it's a fair bet they'll say barbecue, especially beef brisket. That's no surprise, given that Texas leads the nation with more than 12 million head of cattle and produces nearly 4.5 billion pounds of beef annually.

But for some consumers, these staggering numbers give them pause. They may love meat but want a way to enjoy it without the ethical and environmental qualms they feel about large-scale animal agriculture. Still others may have health concerns about antibiotics, environmental contaminants, parasites, or zoonotic diseases.

Entrepreneurial companies like Wildtype and UPSIDE Foods saw these demands and aimed to meet them. Both companies produce "cultivated" meat—meat grown from real animal cells but without the need for large-scale animal slaughter.

Both based in California, Wildtype was founded in 2016 by Dr. Aryé Elfenbein, a cardiologist with a background in stem-cell biology, and Justin Kolbeck, a former U.S. State Department diplomat, while UPSIDE was founded in 2015 by Dr. Uma Valeti, also a cardiologist. And following years of research and investment, both companies have received federal approval to sell their products—cultivated salmon for





Wildtype was founded in 2016 by **Dr. Aryé Elfenbein** (right), a cardiologist with a background in stem-cell biology, and **Justin Kolbeck**, a former U.S. State Department diplomat. Photo courtesy of Wildtype.

Wildtype and cultivated chicken for UPSIDE—throughout the United States.

Although these products have barely entered the market, powerful state interests are already lining up to shut down this new competition. That includes Texas cattle interests, who in June of this year convinced Texas to enact SB 261, which, starting on September 1, banned the sale of cultivated meat anywhere in the state.

Texas' ban has nothing to do with protecting public health and safety. Not only did proponents of the bill present no evidence to challenge the FDA's and USDA's conclusions that cultivated meat is safe for human consumption, the law doesn't even prevent the distribution of cultivated meat to consumers—it prohibits only the *sale* of cultivated meat.

Why prohibit only sale and not distribution? Because Texas' law is designed to protect the Texas version of Big Agriculture from economic competition. The law's sponsors openly said as much in committee hearings and on the floor of the Texas house.

But Texans have the right to decide for themselves what to eat; using government

power purely to protect a favored state industry from interstate competition is unconstitutional.

In America, the market decides winners and losers, not the government. That principle is behind all of IJ's challenges to economic protectionism—from our food freedom cases on behalf of food trucks, home cooks, and innovative food companies like UPSIDE, to our challenges to occupational licensing cartels that let existing florists, braiders, and more keep out newcomers. Informed consumers can buy what they want, and entrepreneurs can

earn a living providing that product or service, subject to reasonable regulations for health and safety.

Last year, we filed a lawsuit against Florida's first-in-the-nation ban on cultivated meat. And in the name of economic liberty and consumer choice, we will continue to fight against

bans on safe new foods and other protectionist restrictions nationwide.◆

Following years of research and investment, both companies have received federal approval to sell their products—cultivated salmon for Wildtype and cultivated chicken for UPSIDE—throughout the United States.

Paul Sherman is an IJ senior attorney.



HOW IJ STOPPED THE BIGGEST FORFEITURE HEIST IN AMERICAN HISTORY

BY ROB FROMMER

When FBI agents stormed US Private Vaults in Los Angeles in March 2021, they claimed they were only after the business. Their warrant even explicitly forbade the criminal search or seizure of customers' safe deposit boxes. But the FBI broke that promise, prying open more than 800 boxes and scouring through their contents.

Inside, agents found over \$100 million in cash, gold, and jewelry. Though the FBI didn't know who owned what, or if any renter had done anything wrong, it had already decided to try to forfeit everything worth more than \$5,000. Why? Because that was the FBI's internal threshold to ensure they made enough on the forfeiture to make it "worth the paperwork."



The Snitko Case: Stopping the Search

Paul and Jennifer Snitko got caught in the dragnet. They, along with Jeni Pearsons, Joseph Ruiz, and other brave clients, joined with IJ to file a class action challenging the raid. We quickly uncovered that, months before the warrant, the FBI had secretly decided to take and forfeit customers' property—and concealed that plan from the court.

The 9th Circuit's ruling in *Snitko v. United States* was scathing. The court held that the FBI violated the Fourth Amendment by conducting the kind of general searches the Founders sought to forbid. It ordered the government to destroy all the records it gained from its illegal rummaging, vindicating the rights of our clients and hundreds of other innocent renters.



The Notice Victories: Exposing "Take Now, Explain Never"

The FBI's transgressions didn't end with the raid. Rather than return property as promised, the FBI sent nearly identical forfeiture notices to over 400 box renters, including Jeni and Joseph. But those notices didn't say what specific facts or law justified keeping renters' property forever.

Leaving people in the dark like that violates due process. And a federal court agreed, stopping the FBI from forfeiting Jeni's and Joseph's property with "anemic notices" that failed to "identify the specific factual and legal basis" for the forfeiture as the Constitution requires.

Unfortunately, the D.C. Circuit rejected our broader class action on a court-created procedural issue.

IJ represented multiple victims of the FBI's US Private Vaults cash grab, getting their money back. Left to right: Paul and Jennifer Snitko, Joseph Ruiz, Jeni Pearsons, and Don Mellein.



The Missing Valuables: Making The FBI Pay

The raid had another ugly consequence: Valuables went missing. For Jeni Pearsons and Michael Storc, \$2,000 vanished. Don Mellein's retirement nest egg—63 gold coins, worth more than \$150,000—never made it back.

The FBI initially denied responsibility, invoking a patchwork of immunities to claim it couldn't be sued. But the court rejected that shell game, holding that when the government seizes property, saying "we lost it" is no reason to shut the courthouse doors. After that ruling, the FBI repaid Jeni and Michael. But it held fast with Don.

So we kept fighting. And in discovery, we learned the FBI's mishandling of property was so bad that Don's coins sat for months in a general evidence locker rather than a secure vault. Once the court ordered the FBI to report similar situations where property went "missing," the FBI repaid Don the full market value of his coins—and told the court it was giving up largely because IJ had litigated with "unusual intensity." (The same intensity we bring to every IJ case!)

Why It Matters

The U.S. Private Vaults saga is one of the starkest examples of how civil forfeiture's perverse incentives can turn law enforcement into lawbreakers. IJ's work halted the largest mass forfeiture in American history. And our victories over the FBI set national precedent ensuring that:

- Federal agencies cannot use a limited warrant as a blank check to search whatever they want.
- The government must give property owners clear, factual notice before attempting forfeiture.
- Agencies can be held financially accountable when they lose or steal seized property.

The message to other federal agencies couldn't be more clear: IJ will keep challenging the doctrines and incentives that make these abuses possible until every American is secure in their property. And we will continue to do so with "unusual intensity." ♦

Rob Frommer is an IJ senior attorney.



IJ And SPN Establish *Chip Mellor Prize For Excellence In Public Interest Litigation*

When we announced the passing of our beloved co-founder Chip Mellor in October of last year, we said we would continue to carry forward Chip's legacy in everything we do at IJ—and recognize what Chip meant to IJ and others fighting to better secure individual rights and to limit abuses by the government.

We are very pleased to announce the creation of the *Chip Mellor Prize for Excellence in Public Interest Litigation*. Partnering with our friends at the State Policy Network (SPN)—a free-market advocacy group focused on policy and legal change at the state level—the Mellor Prize was created to recognize teams of litigators and advocates who work together to earn significant litigation victories to hold government officials accountable, advocate for civil society and the rule of law, and help the most vulnerable among us who are least able to fight back against injustice.

The Mellor Prize, which comes with a \$100,000 grant to the recipient, will be awarded periodically by SPN with significant input from IJ. Mellor Prize recipients are innovative organizations and teams that demonstrate how, as Chip did throughout his life, principled and strategic advocacy, goodwill, and a long-term adherence to mission can change the law and improve the lives of everyday Americans.

In August, at SPN's annual meeting, we announced the inaugural winner of the Mellor Prize: the New Civil Liberties Alliance (NCLA), for its groundbreaking legal work that led the U.S. Supreme Court to end "*Chevron* deference." By litigating to overturn *Chevron*—a decades-old doctrine that let bureaucrats decide what laws meant, giving federal administrative agencies virtually unchecked power—NCLA helped restore the basic constitutional principle that judges must decide what the law is, not simply defer to what government officials want it to be.

Accepting the award on behalf of NCLA was its president, Mark Chenoweth, previously the co-founder of IJ's Clinic on Entrepreneurship at the University of Chicago Law School and a longtime friend of Chip's. We were delighted that Chip's family was also able to join us for the award ceremony.

Congratulations to NCLA and its entire team for this well-earned honor!◆



IJ's co-founder **Chip Mellor** (above) inspired generations of civil liberties litigators. In August, NCLA President **Mark Chenoweth** (below middle) accepted the inaugural Mellor Prize, flanked by IJ's **Scott Bullock**, Chip's family, and SPN's **Tracie Sharp**.



The Mellor Prize was created to recognize teams of litigators and advocates who work together to earn significant litigation victories to hold government officials accountable, advocate for civil society and the rule of law, and help the most vulnerable among us who are least able to fight back against injustice.



Support IJ The Savvy Way With A Gift From Your IRA

If you are age 70½ or older, you can transfer up to \$108,000 tax-free in 2025 from your traditional IRA to qualified charitable organizations like the Institute for Justice. This can be a great option for those who are required to take a distribution but don't need the funds and don't want to add to their taxable income.

Making this type of gift to IJ allows 100% of your hard-earned IRA dollars to push back against restrictive government, rather than funding it.

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1. Write to your IRA administrator.
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3. Provide IJ's name, address, and tax ID number:

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901 North Glebe Road, Suite 900
Arlington, VA 22203
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 an IRA gift in 2025?

We strongly recommend mailing your check **before the Thanksgiving holiday**. If you want it to be credited toward your 2025 required minimum distribution, it needs to clear your account by December 31. Please note that the date of your qualified charitable distribution is not the date you or your IRA administrator send the distribution check, but the date that the funds transfer to the charity. ♦

ARE FEDERAL OFFICIALS ABOVE THE LAW?

BY MARIE MILLER

The rights set out in the U.S. Constitution are supposed to protect us from invasions of civil liberties by federal, state, and local officers alike. But when our rights are violated by federal officials, redress in the courts is especially hard to obtain. As a result, federal officers and agents effectively operate in what one judge (Judge Willett of the 5th Circuit) has deemed a “Constitution-free zone.” This is disturbing because when federal officers know they can violate constitutional rights without consequence, they disregard our rights more readily and violations proliferate.

Exhibit A is the case of IJ client and military veteran George Retes. On July 10, 2025, George was driving to work as a security guard at a farm in Southern California. Unbeknownst to him, Immigration and Customs Enforcement had arrived at the farm and protesters were demonstrating in response.

Federal agents blocked his path, pepper sprayed him, violently arrested him without

a warrant, and ignored his insistence that he was a U.S. citizen simply trying to get to work. Instead, they locked him in jail for three nights. He was never given a phone call, access to an attorney, or a hearing before a judge—not even a shower to wash chemical irritants off his skin.

While locked up incommunicado, George missed his daughter’s third birthday, his PTSD flared up, and his family (who did not know where he was) frantically searched for him. On the fourth day, George was simply released with his belongings and told that he faced no charges. He was given no apology or explanation.

Federal officers brazenly violated George’s constitutional rights, not to mention California law. The Fourth and Fifth Amendments prohibit officers from denying a phone call. People arrested and detained without a warrant generally must be given a probable-cause hearing with a judge within 48 hours. And the physical treatment of a detainee must be justified as reasonable.

To hold federal officials accountable for violating people’s rights, IJ is representing **George Retes** (left), an innocent citizen detained by ICE for days; **Penny McCarthy** (middle), violently arrested in an inexplicable case of mistaken identity; and **Trina Martin** and her family (right), whose home was raided by an FBI SWAT team at the wrong address.



George is far from alone. IJ client Penny McCarthy was snatched off her driveway while she was doing yardwork and locked in a federal detention center by U.S. Marshals who inexcusably mistook her for someone else. IJ client Trina Martin and her then-7-year-old son were awakened by a flash-bang grenade when an FBI SWAT team didn't bother to check if they had the right address before executing a pre-dawn raid on an innocent family's home.

But for people like George, Penny, and Trina, the road to accountability is rife with unjustified barriers. We are determined to take those barriers down.

To start, victims used to be able to sue federal officials directly under the Constitution. But the Supreme Court has almost completely blocked off that avenue for relief. In fact, judges and practitioners question whether that avenue now remains open to anyone.

Nor can victims of federal abuse sue under the civil rights statute that Congress enacted in the wake of the Civil War, because it only allows suits against *state or local* officials. Courts have interpreted this to also shield members of state-federal task forces, even if those officers were acting entirely in a state-law capacity.

As a result, if a federal official violated your rights, you generally must resort to the Federal Tort Claims Act (FTCA)—which is a viable, though not ideal, path to federal accountability.

In theory, the FTCA lets victims sue the United States government for certain wrongs

by federal employees. But it is also riddled with exceptions, immunities, and procedural traps.

For example, the FTCA has an exception for acts by officers carrying out a “discretionary function.” Courts across the country disagree about how to apply this rule, but many have stretched this immunity to cover most acts by law enforcement and other government agents.

Still, we at IJ are charting paths through the FTCA's barriers. To start, we argue that when officers violate the U.S. Constitution, the FTCA is not the only potential remedy; victims must be able to sue federal officials under state law, as they did at the Founding. We also argue that the discretionary-function immunity is actually quite narrow and, in any case, does not apply to constitutional violations.

And if the FTCA forecloses all remedies for constitutional violations, the FTCA itself must be unconstitutional. If you have no recourse when your constitutional rights are violated, those rights don't really exist at all.

George's, Penny's, and Trina's cases are all on the cutting edge of the law in this area. They stand for the basic idea that where there is a wrong—even by federal officials—there must be a remedy. And no one is above the law, let alone the Constitution. ♦

Marie Miller is an IJ attorney.



Home Sweet Business



Victory For Garage-Based Entrepreneurs In Nashville

BY PAUL AVELAR

In the course of litigation, there are always twists, turns, and setbacks. But IJ and our clients are dedicated to the long-term fight for individual freedom. That dedication makes victory—such as the win we recently scored for Lij Shaw and Pat Raynor in Nashville—even sweeter.

Pat is a hairstylist and cosmetologist. Shortly after her husband passed away, she built a state-licensed single-chair salon in her garage so she could work from home as she got older. But just a couple of months after she opened, the city shut her down.

Lij is a professional record producer. In 2005, he built a soundproof recording studio in his garage so he could work from home and raise his daughter. But in 2015—shortly after an album mixed in his studio won a Grammy—the city shut him down, too.

Having a home studio or salon was perfectly legal. But Nashville banned home-based businesses from having clients. Except, of course, Nashville also had a web of carveouts for certain privileged businesses.

We even tried to help Lij and Pat secure one of these exceptions through an 18-month rezoning process that was frustrated by objections from a small group who lived nowhere near Lij and Pat.

We then filed our case in late 2017 and spent two years building a compelling record that showed there was no reason to prevent Lij and Pat from operating their home-based businesses. But the trial court determined that those facts did not matter; the government won. This is often par for the course in economic liberty and property rights cases at the trial court level, so we appealed.

Then COVID-19 happened. The city told everyone to work from home, only to realize its home-based business rules made that illegal in most instances. So they reformed the law to allow a small number of customers—but imposed onerous regulatory burdens on anyone who wasn't already operating under the carveout. For instance, business owners had to keep detailed logs of every person who visited and make those logs available to the city without a warrant.



Lij Shaw mixed a Grammy-winning record in his garage, but Nashville, Tennessee's unreasonable and unequal home business regulations almost shut him down before he joined with IJ.

This effectively created two separate classes of home-based businesses subject to vastly different requirements. Meanwhile, it took three years and a trip to the Tennessee Supreme Court to revive our case.

The landscape of the case had changed. But that meant nothing to the trial court, which again insisted that facts don't matter and again ruled against us. More determined than ever, IJ appealed once more.

In August 2025, we finally got a decision—and it was worth the wait. A unanimous appellate court panel declared that there was “no rational reason” to regulate Lij and Pat more onerously than other home-based businesses.

This case is bigger than just Lij and Pat. It affirms—as we have been saying since the beginning—that facts matter.

We are not quite done yet. The city could appeal to the state's high court. Or the city could decide to work with us to amend its ordinance. Regardless, this case is bigger than just Lij and Pat. It affirms—as we have been saying since the beginning—that facts matter. Government can't place unreasonable burdens on businesses or treat them differently without any evidence. It also builds momentum in our growing Zoning Justice Project.

Not just anyone can fight city hall for a decade. Most people could never afford to persevere through all the twists and turns over so many years. But because of the dedication of clients like Lij and Pat, and of our supporters, IJ can fight that long-term fight. And in the end, we are all more free because of it. ♦

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





IJ Fights For Family's Freedom To Build Backyard Cottage

BY MATT LILES

You might call it an in-law cottage or granny flat. City zoning ordinances call it an “accessory dwelling unit,” or ADU. These small backyard homes offer an affordable place to live for people who don’t need a large house—like a grandparent, a retired couple, or a small family. Many cities have legalized ADUs in response to pressing housing shortages, letting property owners use their own land to address the public problem of sky-high housing costs.

That’s exactly what Alex and Lynda Pepin want to do.

Blaine’s planning staff approved the Pepins’ application, recognizing that they had met every requirement to build under the city’s law.

For years, the Pepins have worked with nonprofits that assist people who have low incomes or are vulnerable to homelessness. As their involvement deepened, the couple decided the next step in their charitable mission was to more directly help a vulnerable family get back on their feet by providing a stable and affordable place to live. So they drew up plans to build an ADU behind their own home and hoped to rent the cottage at a below-market rate to a small family transitioning out of homelessness.

Alex and Lynda’s town—Blaine, Minnesota—legalized ADUs a few years ago for the express purpose of giving people the freedom to build affordable housing. Relying on this law, the Pepins used their own money to submit an ADU application that met every detailed requirement: height, number of bedrooms, square footage, occupancy, setbacks, roof pitch, architectural style, and parking accommodations. Alex and Lynda’s application was the first one Blaine had received since legalizing backyard homes.



Alex and Lynda Pepin (left) want to build an ADU behind their home to help a family in need. It fits all the requirements under their town's new law on ADUs, but the city council rejected it anyway.

No neighbor—or city official—gets to decide who can and cannot live on private property.

Blaine's planning staff approved the Pepins' application, recognizing that they had met every requirement to build under the city's law. But the city council rejected the application, protesting that the Pepins wanted to add a new unit of housing in a predominantly single-family neighborhood—even though the law expressly allowed it.

Blaine's mayor even admitted that Alex and Lynda were allowed to build their ADU. Nonetheless, the city council defied its own law to revoke the Pepins' property rights. The council falsely claimed that the backyard home conflicted with the unwritten "intent" of the ADU ordinance—though, by its plain terms, the Pepins were free to build.

Some residents object to the Pepins' plans because they don't want to bring a family down on their luck into the neighborhood. But

no neighbor—or city official—gets to decide who can and cannot live on private property. The Pepins have a right to build a legally compliant structure and use it in a way that doesn't harm others. Any prospective tenant will be someone local to Blaine, identified by a local nonprofit, and rigorously screened by the Pepins; after all, they're raising their own small children just across the yard, less than 20 feet away.

As part of our broader Zoning Justice Project, IJ sued Blaine on behalf of the Pepins. This case isn't just about one family's backyard; it's about protecting property rights nationwide. Zoning exists to regulate land, not people. The government can't block new housing simply because it doesn't like who might live in it. ♦

Matt Liles is an IJ attorney.



NEW CAMPAIGN SEEKS TO SHUT DOWN MASS SURVEILLANCE

BY JESSICA BIGBIE

In August, IJ launched the Plate Privacy Project, a nationwide campaign to stop the unrestrained use of automatic license plate reader (ALPR) cameras in thousands of American communities. The campaign, part of IJ's Project on the Fourth Amendment, brings IJ's trademark combination of cutting-edge litigation, boots-on-the-ground activism, bipartisan legislative advocacy (including a new model bill), and media capabilities to oppose this new and growing form of warrantless mass surveillance.

These cameras, many from the company Flock Safety, constantly track vehicles, capturing where people go and when, without suspicion of wrongdoing. More than just license plate readers, they create unique "vehicle fingerprints" using things like bumper stickers, dents, and more. This information goes into a database that officials can access without a warrant and, if desired, share with other officials across the country. Unlike red-light or speed cameras, these cameras don't just record individual traffic violations, but track all drivers' movements continually.

**BY TRACKING PEOPLE
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THESE CAMERAS REVEAL
THE MOST INTIMATE DETAILS
ABOUT PEOPLE'S LIVES.**

By tracking people wherever they go, even across state lines, these cameras reveal the most intimate details about people's lives. ALPR cameras are found near sensitive locations like churches, gun ranges, abortion clinics, halfway houses, immigration attorneys' offices, and more. And the harm is not merely theoretical; it's already happening. Officials have used Flock cameras for immigration enforcement (despite a Flock policy that prohibits this), to find a woman who left Texas for an abortion, to monitor visitors to gun shows, and to stalk an ex-girlfriend.

IJ's opposition to ALPR cameras began in earnest with our lawsuit against Norfolk, Virginia's use of more than 170 Flock Safety cameras late last year. In July, IJ's legal team conducted depositions of Norfolk city officials and representatives from Flock.

As part of the discovery process, the city tried to compel our clients to turn over personal information, including details about their private lives and movements. IJ objected to this fishing expedition, arguing the requests infringed on the very privacy rights at issue in the case. The court sided with IJ on every point, stating

THE CONSTITUTION DOESN'T BEND FOR NEW TECHNOLOGY IN THE HANDS OF GOVERNMENT SNOOPS.

“the Court is not persuaded that plaintiffs must surrender their own privacy interests to vindicate their constitutional rights.”

Our litigation is moving quickly. Briefing will begin after depositions of IJ’s clients and industry experts, and the case is set for trial in February.

The Plate Privacy Project will also build on our efforts to mobilize public opposition to ALPR cameras. Earlier this year, IJ secured a victory in Greers Ferry, Arkansas, when the city agreed to remove a license plate reader in front of a local couple’s house. That win sent a clear message: The Constitution doesn’t bend for new technology in the hands of government snoops. That message is now echoing nationwide as cities like Austin, Scarsdale (New York), and Sedona (Arizona) have opted to end their contracts with Flock.

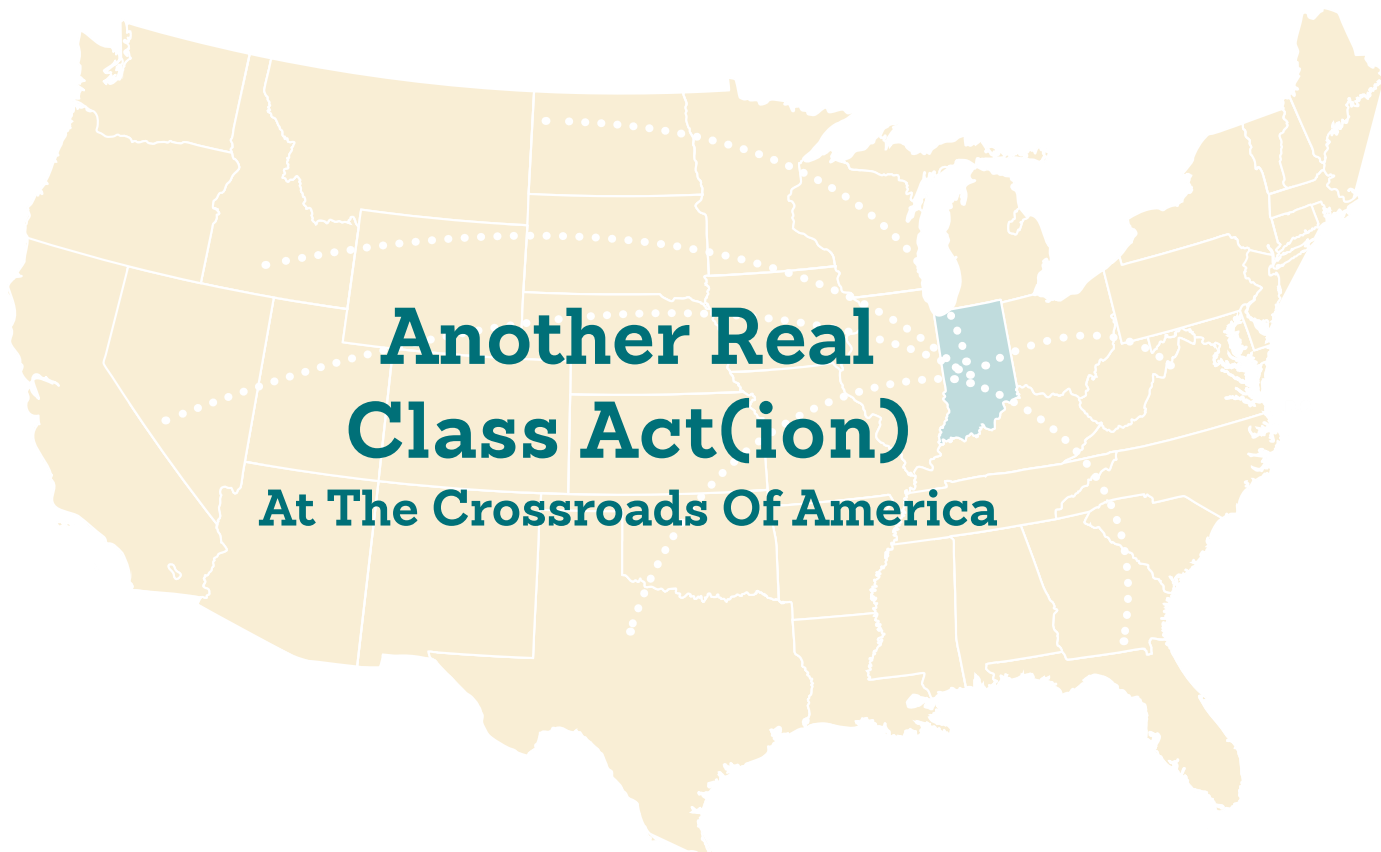
While the government marches toward ever-expanding surveillance, IJ demands that new technology comply with constitutional guarantees. See how you can get involved at plateprivacy.com. ♦



Lee Schmidt of Norfolk, Virginia, joined with IJ to sue the town over its network of AI-powered cameras that track all drivers without a warrant.

Jessica Bigbie is an IJ attorney.





Another Real Class Act(ion) At The Crossroads Of America

BY SAM GEDGE

It's no secret that Indiana's civil forfeiture abuses are abundant, making the state a repeat player in our civil forfeiture litigation.

Our unanimous U.S. Supreme Court victory in *Timbs v. Indiana* established that the Eighth Amendment's Excessive Fines Clause applies to the states—and two follow-up victories at the Indiana Supreme Court set the gold standard for evaluating whether fines and forfeitures are excessive. We won a separate case establishing that civil forfeiture defendants in Indiana have the right to trial by jury. And an ongoing IJ class action gets at why forfeiture is so prevalent in Indiana: It's the only state that outsources forfeiture prosecutions to private for-profit firms, who are paid more if they forfeit more.

Our latest update from the Hoosier state comes in yet another class action that we launched last year.

For years the state has exploited its place at the Crossroads of America. The Indianapolis airport houses the second-largest FedEx hub in the nation, where nearly 100,000 packages are routed each hour to their destinations. Police officers nab parcels they deem suspicious—for example, because the parcel was mailed to

California or is taped on all sides. And when officers search those packages and find cash, the state sues to keep it.

We represent a mom-and-pop jewelry business that fell victim to these practices. The company's sole owners and employees, Henry Cheng and his wife, Minh, live in California. When they learned that Indiana took and kept a cash payment mailed by a customer in Virginia, they fought back—not just for their business but for everyone finding themselves in a similar boat.

After IJ got involved, the state unsurprisingly returned the money to Henry and Minh. But that wouldn't end the state's abusive practices for everyone else. So we asked the court to certify the case as a class action—and in July, the court agreed.

That means that we can continue litigating on behalf of everyone nationwide who is facing or will face a similar FedEx forfeiture in Indy—all while we press forward to eliminate the perverse financial incentive at the heart of Indiana's forfeiture regime. ♦

Sam Gedge is an IJ senior attorney.





The Seattle Times

Seattle Sued Over Its Mandatory Housing Affordability Program – Again

By David Kroman | July 8, 2025

... The lawsuit, brought by the libertarian-minded Institute for Justice, alleges the program fails to establish a nexus between new residential construction and the need for more affordable housing — arguing new construction in fact helps make the city more affordable — and therefore constitutes an illegal taking of private property and income by the city of Seattle.

This is the second lawsuit from the Institute for Justice against the city over its formally titled Mandatory Housing Affordability program. The first was brought in 2022 and dismissed on procedural grounds last year. It is currently under appeal in the federal Ninth Circuit, but lawyer Bill Maurer said they wanted to “keep up the pressure to try to get a resolution of this case.”

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THE WALL STREET JOURNAL

Out Of Business But A Winner In Court

July 30, 2025

Chicago Tribune

Chicago Storefront Sign Restriction Efforts A 'Quality Of Life' Issue For Some, But Others Worry About Overreach

August 10, 2025

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Wyoming's School Choice Court Battle

August 11, 2025

Austin American-Statesman

Central Texans Push Back On Police Tech That Threatens Privacy Rights

August 12, 2025

NEW YORK POST

Big Brother Is Watching You – But This Homeowner Made Him Back Down

August 13, 2025



A Salon Owner Spent Thousands On Her Business. She's Suing After Clayton County Denied Her A Permit

August 19, 2025

I was standing in my front yard when marshals drove up, guns drawn, and arrested me.

They claimed I was someone else but refused to check my ID.

I was innocent, but officers strip-searched me three times and held me in jail overnight.

I am fighting to hold the government accountable so this doesn't happen to anyone else.

I am IJ.

