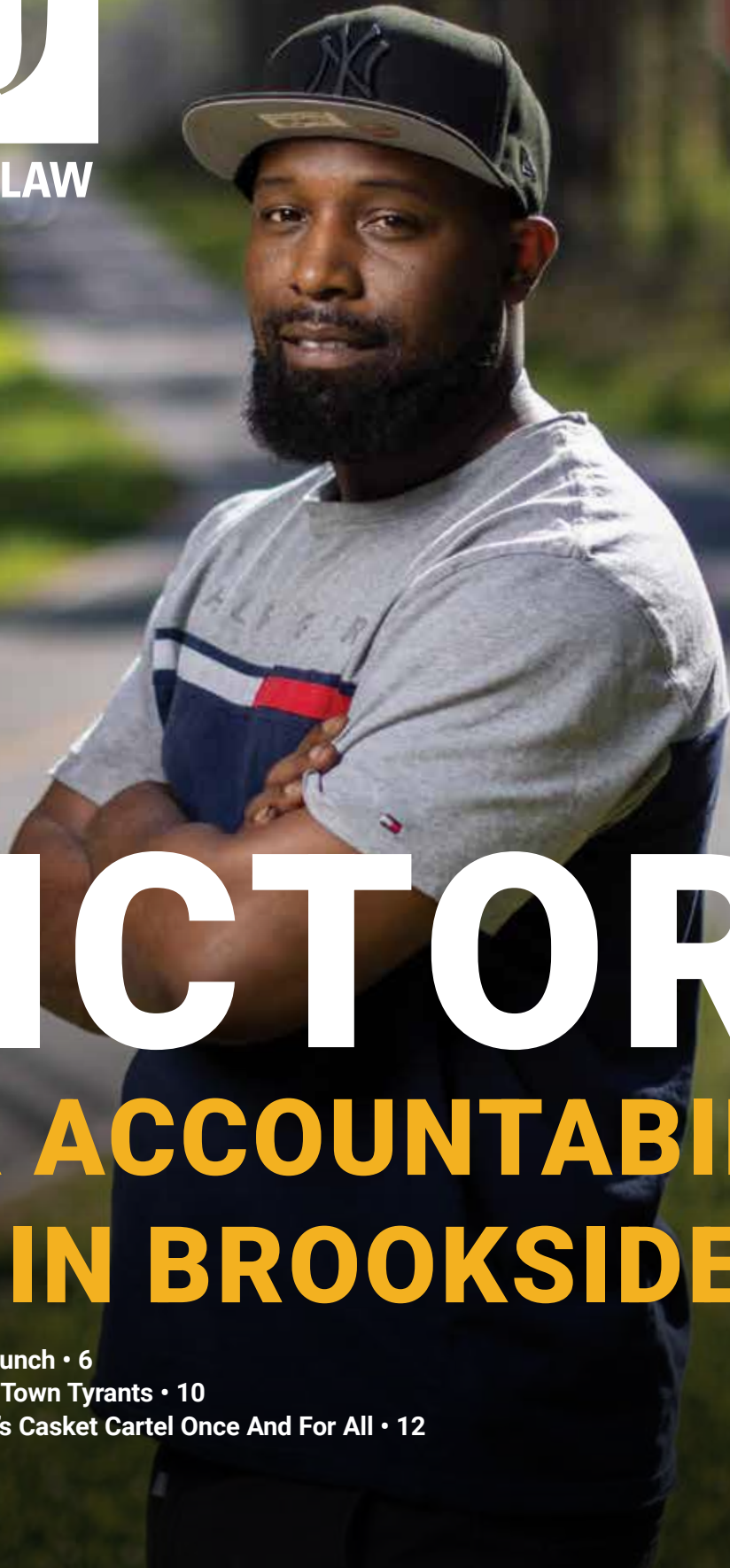




LIBERTY & LAW

April 2026

Volume 35 Issue 2



VICTORY

FOR ACCOUNTABILITY IN BROOKSIDE

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Burying Oklahoma's Casket Cartel Once And For All • 12



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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 FOR ACCOUNTABILITY IN BROOKSIDE

BY JABA TSITSUASHVILI

In early 2022, the town of Brookside, Alabama, made national headlines for running a relentless policing-for-profit scheme that swept up thousands of drivers—and expanded dramatically over a few short years. In 2021, the town's police-generated revenue was 783% higher than it was in 2018. That money came from ticketing drivers, towing their cars, and hauling them into municipal court. It enriched the police department by treating unsuspecting drivers like ATMs, both in town and on the nearby Interstate 22. Now, thanks to a landmark IJ victory, Brookside has agreed to a settlement that both compensates everyone affected by its scheme and severs potential links between the town's policing and its financial gain for the next three decades.

IJ teamed up with four intrepid plaintiffs—representing a class of thousands more—and sued in mid-2022. We steadily gained traction in this area of uphill litigation. First, a federal court rejected multiple attempts to dismiss the case. Then we turned to a yearslong discovery process, in which the town's mayor admitted in deposition that the policing-for-profit scheme was a “conscious choice.” We uncovered that the town deleted all of the police department's emails from the years the scheme was operating—a big litigation no-no, which we brought to the judge's attention. And we hired a municipal-funding expert to dive into the town's records and vividly illustrate just how dramatic the town's revenue spikes were.

With Brookside on the ropes, in February IJ secured a class-wide settlement. In addition to

compensating those affected by the scheme, the agreement also entrenches meaningful and much-needed systemic reforms—which are even more sweeping than what we would have secured through an outright courtroom victory.

Brookside has agreed to pay \$1.5 million to class members, which is nearly how much its system raked in before the town got caught. Of that, \$1 million compensates those whose cars were towed. The remaining \$500,000 compensates those who were charged with offenses in municipal court (a largely overlapping pool).

The town has also agreed to substantial systemic changes designed to prevent a re-emergence of its policing-for-profit scheme. They include:

- Permanently repealing its fee to retrieve towed cars, severing the town's financial incentive to tow.
- Removing the Brookside Police Department from I-22 for 10 years (unless necessary to respond to an emergency).
- Keeping 0% of the revenue generated by its policing and its code enforcement for five years. After that, it will keep only 1% for another 10 years—then only 2.5% for another 15 years. In total, that's a 30-year obligation for the town to sever the link between policing and revenue.
- Implementing a slew of transparency measures designed to ensure compliance with these obligations. And for 10 years, the town will provide IJ with documents needed to monitor compliance.

Thanks to a landmark IJ victory, Brookside has agreed to a settlement that both compensates everyone impacted by its scheme and severs potential links between the town's policing and its financial gain for the next three decades.

Brookside's policing-for-profit scheme victimized many innocent motorists, including IJ clients **Brittany Coleman** (top), **Chekeithia Grant** and **Alexis Thomas** (middle), and **Brandon Jones** (bottom).

Finally, the town has agreed to tell class members what all governments hate to say: Sorry. Specifically, it must make an acknowledgment that its "policy of aggressive policing likely interfered with the town's obligation to administer justice equally under law, undermined the public's trust in the justice system, and raised serious constitutional concerns under the Due Process Clause of the Fourteenth Amendment."

These are the kinds of ambitious goals we set out to achieve when we filed this case. Because it's a class action settlement that resolves the case not just for our clients but for other affected individuals, the federal court is now tasked with deciding whether to approve it as "fair, reasonable, and adequate." We're confident that will be our next update. ♦

Jaba Tsitsuashvili is an IJ attorney.



Detention Before Lunch

BY MARIE MILLER

Picture this: Your son is 16 years old. His high school just released him and his peers from campus for lunch. He's heading to McDonald's with his buddies, thinking about fries, not felonies. His friends pool together in a car, and he's still on the sidewalk about to get in—less than a block from school.

Then police SUVs swarm the street. Officers jump out in tactical gear, point assault rifles straight at him, and call him by an unfamiliar name. Shocked and confused, he puts his hands up and follows their every order: He walks toward them in the street. He kneels on the ground facing away from them. He lies flat on his stomach and puts his hands behind his back.

At that point, the officers realize your son is not the person they're looking for. Still, they handcuff him, pull him to his feet, and frisk and question him.

What's your name? Where do you live? Where do you go to school? Who are your friends?

Your son answers calmly, but the officers still don't remove the cuffs and let him go. They parade him in front of his classmates, who have gathered around wondering what ill deed he's done, and order him to sit on the curb. They ask more questions and finally let him go without explanation or apology.

That's what happened to Amber and Nathan Miller's son, a high school student in Portland, Maine, last May.



**No teenager should have to fear that walking
on the sidewalk near school could end with
a rifle in his face and cuffs on his hands.**

South Portland police were looking for a 19-year-old suspected of stealing shoes and cologne from a house party. Not armed robbery. Not a violent crime. The suspect, Miles Hibbard, had no criminal history. No history of violence or possession of weapons. No history of hostility toward police. And yet, without notifying the school, officers rolled in with SWAT-style force as the school was releasing nearly 900 students for open-campus lunch.

The officers should have known from the start that Amber and Nathan's son wasn't the suspect. Miles has a large tattoo on his arm. Their son is taller and heavier, has longer hair, and—with bare arms in a short-sleeved shirt—has no tattoos at all. His friends also shouted: *That's not Miles!*

The police didn't care. Even after they realized the obvious—that this was the wrong kid—they kept going.

Why didn't they stop? Because, as the police chief later explained, this is *policy*. Once officers start a

detention like this, they don't "stop halfway through." Even if they know they've seized the wrong person, they finish the job: cuff the hands, frisk the body, question the person. That should chill all of us.

The Fourth Amendment doesn't permit police to aim guns at innocent people without justification. And once officers know they have the wrong person, the Constitution does not allow them to keep detaining, searching, and humiliating him just because "that's how we do things."

Amber and Nathan have teamed up with IJ to hold the city accountable.

No teenager should have to fear that walking on the sidewalk near school could end with a rifle in his face and cuffs on his hands. And "standard procedure" is no excuse for violating the Constitution. ♦

Marie Miller is an IJ attorney.



FIRST-ROUND VICTORY FOR FOOD STARTUPS IN TEXAS

BY PAUL SHERMAN

IJ recently scored an important first-round victory on behalf of entrepreneurs and consumers in the Lone Star State when a Texas federal judge denied the state's attempt to throw out our lawsuit challenging Texas' ban on the sale of "cultivated" meat. IJ filed the lawsuit in 2025 on behalf of Wildtype and UPSIDE Foods, two California-based startups that produce cultivated salmon and chicken, respectively.

Unlike conventional meat, which is harvested from slaughtered animals, cultivated meat is grown directly from animal cells in clean, controlled facilities. The innovative technology behind cultivated meat allows consumers to enjoy the taste of meat without the ethical concerns they may have about the large-scale killing of animals or the health concerns they may have about environmental toxins or bacteria found in conventional meat.

Startups like Wildtype and UPSIDE may not look like the sort of economic liberty clients that readers of *Liberty & Law* are most familiar with. But their story—of established industry using government power to shut out competition—is a familiar one.

Just as restrictions on who can sell caskets are pushed not by the public but by licensed funeral directors, bans on cultivated meat are pushed by ranchers and farmers who produce conventional meat. Rather

than compete against cultivated meat in the marketplace, these groups have lobbied hard to kill the cultivated meat industry before it can establish a foothold in the market.

Those efforts highlight an important and sometimes unappreciated aspect of economic liberty. Economic liberty is not just about entrepreneurs' right to earn an honest living. It's also about the right of entrepreneurs to innovate—and to share those innovations with their fellow Americans.

The Founders knew this. After our nation's failed experiment with the Articles of Confederation, they drafted the Constitution to create a national common market. As part of this, the Founders drafted the Commerce Clause, which gave Congress—not the states—the power to regulate interstate commerce.

The Commerce Clause (often correctly) gets a bad rap. Much of that is the result of the Supreme Court, which in the 20th century improperly expanded the scope of the Commerce Clause to give the federal government expansive power over purely local concerns. Understood properly,





IJ represents Wildtype, founded by cardiologist **Dr. Aryé Elfenbein** (middle) and former diplomat **Justin Kolbeck** (left), and UPSIDE Foods, founded by **Dr. Uma Valeti** (right), so their products can freely compete in the marketplace.

though, the Commerce Clause represents a vital balancing between state and federal interests. By creating a national common market, the Commerce Clause ensures that consumers in every state can enjoy the benefits of innovation from any state.

The Texas district court agreed. It rejected the government’s motion to dismiss Wildtype and UPSIDE’s Commerce Clause challenge, which means we will now move forward building the factual record to prove that Texas’ law is about protecting in-state agriculture, not Texas consumers.

Whether cultivated meat will ultimately succeed in the market is anyone’s guess. But under our constitutional system, that question should be resolved not by state regulators acting on behalf of favored industries but by the free choices of entrepreneurs and consumers.

Thanks to the Texas court’s ruling, we’re one step closer to giving them that chance.◆

Whether cultivated meat will ultimately succeed in the market is anyone’s guess. But under our constitutional system, that question should be resolved not by state regulators acting on behalf of favored industries but by the free choices of entrepreneurs and consumers.



Paul Sherman is an IJ senior attorney.



IJ’s clients received approval from the FDA to distribute their cultivated meat products—including UPSIDE foods’ chicken, shown here—across the country.

IJ Takes On Small-Town TYRANTS

Political disagreements must be resolved through open debate and at the ballot box, not with intimidation.

BY JARED MCCLAIN

As America enters its 250th year, our core constitutional rights should be clearly established. But the government-friendly test for qualified immunity—which looks for prior cases with similar facts that should have put officers on notice that their particular conduct is unconstitutional—often gives a free pass to government officials who use novel means to violate the same old rights. By focusing so narrowly on the specifics of an official's *conduct*, rather than on whether the violated *right* is clearly established, courts can miss the forest for the trees.

This happens in cases where government officials retaliate against someone for their protected speech. Trial courts can get so hung up on whether anyone has ever before retaliated in the same exact way that they lose sight of the fact that every cop, mayor, and prosecutor should know that the First Amendment forbids retaliation for speech in the first place—no matter the form.

Last year, IJ won a major victory on this exact point in a federal court in Kansas. Ruth Herbel was vice mayor of Marion when city police searched her home and confiscated her computer and only phone. The raid was retaliatory, to silence Ruth for her political opposition to the mayor and his allies.

City officials argued that they should get qualified immunity because there was no case saying that the First Amendment forbids executing a search warrant for a political rival's cell phone and computer. But the trial court denied qualified immunity, adopting IJ's broader view that the First Amendment's protection against retaliation is so well settled—and a raid of a political rival's home is so egregious—that a case on point is unnecessary.

We're now looking to extend that victory to Arizona. Back in 2024, new IJ client Fernando "Fernie" Madrid was running for superintendent of schools in rural Apache County after a long career in education. The incumbent, coincidentally, was married to the county attorney, Michael Whiting. Fernie would soon learn that Whiting was hell-bent on using his government power to launch a coordinated intimidation scheme to make Fernie drop out.

Whiting directed two cronies on the government payroll to follow and surveil Fernie. They pelted his house with rocks. They physically assaulted him while he was collecting signatures to appear on the ballot. And, finally, they sent him creepy anonymous packages and letters threatening to bring

IJ won a major victory against political retaliation after Marion, Kansas, police raided Vice Mayor **Ruth Herbel's** home to silence her opposition to the mayor.





▶ Watch the case video!
iam.ij.org/Apache



financially ruinous legal action unless he dropped out. Terrified of what Whiting would do to him and his family next, Fernie ended his run, clearing the playing field for Whiting’s wife.

County attorneys hold a special trust—they prosecute crimes for the public, after all. But Whiting and his team instead committed crimes themselves to block an opponent from the political process. (Whiting is being criminally prosecuted, which rarely happens. One assistant has already pleaded guilty.)

Beyond criminality, this retaliatory scheme was a bedrock violation of Fernie’s First Amendment rights. Political disagreements must be resolved through open debate and at the ballot box, not with intimidation. Indeed, seeking out and campaigning for office is core protected speech. And accountability for violating that right shouldn’t depend on whether another prosecutor has already violated someone’s rights in the exact same way.

That’s why, in February, Fernie and IJ filed a federal lawsuit: to hold those who violated his First Amendment rights to account—and to cement that officials across the country who would go after political opponents for exercising free-speech rights can, in response, expect to be met with the full force of a certain merry band of justice-seeking litigators. ♦

Jared McClain is an IJ senior attorney.



Educator **Fernie Madrid** has joined with IJ after harassment by a county official forced him out of a campaign for school superintendent.



BURYING OKLAHOMA'S **CASKET CARTEL** ONCE AND FOR ALL



BY MATT LILES

IJ has long challenged absurd state restrictions on who can and cannot sell caskets. A casket is just a box; it doesn't take any specialized training to sell one. But many states once banned anyone other than licensed funeral directors from selling caskets to the public—not because caskets threaten anyone but rather to protect the funeral industry from competition. IJ's nationwide campaign against these casket cartels has resulted in major victories. Through litigation and legislation, IJ has defeated protectionist casket laws in Alabama, Louisiana, Missouri, and Tennessee.

Longtime readers of *Liberty & Law* may recall the particularly memorable story of the monks of Louisiana's Saint Joseph Abbey. When the monks started making handmade caskets to support their work, they were unknowingly committing a crime. The monks weren't funeral directors, and the abbey wasn't a funeral home. Propelled by complaints from funeral directors, state regulators came after them. With IJ's help, however, the monks challenged Louisiana's restrictions on casket sales in federal court, winning a landmark victory for economic liberty at the 5th Circuit.

But a few states have so far resisted attacks on their protectionist casket laws. Oklahoma is one of three states that still require a funeral director's license to sell caskets. IJ originally challenged Oklahoma's laws in federal court over 20 years ago. But in 2004, the 10th Circuit ruled that Oklahoma could give funeral directors the exclusive right to sell caskets, solely to protect them from competition.

Today, Oklahomans continue to pay for their state's casket cartel. Because residents are forced to

buy caskets from funeral homes and prohibited from accessing more affordable sellers, the average funeral in Oklahoma costs 18% more than in neighboring states.

The Oklahoma Funeral Board recently came after married couple Candi Mentink and Todd Collard for starting their own casket business. A graphic designer by trade, Todd decided to start wrapping caskets in vinyl graphic designs honoring the deceased person's life. From their workshop in Calvin, Oklahoma, Candi and

Todd began selling affordable custom caskets to consumers. But because they sold caskets to the public without being licensed funeral directors—and without transforming their workshop into a fully equipped funeral home—the Board tried to impose devastating fines and shut them down.

Oklahoma may have survived the first round. But one important thing about IJ is that we never give up. In February, we teamed up with Candi and Todd to sue the Oklahoma Funeral Board in state court under the Oklahoma Constitution.

Like many state constitutions, the Oklahoma Constitution gives meaningful protection to the right to earn a living. We've achieved wins for economic liberty in places

like Texas and Georgia by convincing state courts that they don't have to follow bad federal precedent—like that established by the 10th Circuit in our previous challenge—giving extreme deference to the government. Together with Candi and Todd, we plan to destroy Oklahoma's casket cartel once and for all and vindicate the basic economic freedom of entrepreneurs across the Sooner State. ♦



IJ's groundbreaking win for the casket-making monks of Saint Joseph Abbey was a milestone for economic liberty.

Matt Liles is an IJ attorney.



Married couple **Candi Mentink** and **Todd Collard** run Caskets of Honor, which sells caskets customized to celebrate the deceased person's life. An Oklahoma law makes it illegal for them to sell to their neighbors.



DESPITE SETBACK, OPPORTUNITIES ABOUND IN IJ'S EXCESSIVE FINES WORK

BY MIKE GREENBERG

For nearly a decade, IJ has led the charge in reviving the Eighth Amendment's protection against "excessive fines" from a dusty afterthought into a meaningful constitutional bulwark. It started, as longtime readers will recall, with our unanimous U.S. Supreme Court victory in *Timbs v. Indiana*, which held that the Excessive Fines Clause restrains state and local governments in addition to the feds. But that important threshold win dictated neither whether Tyson Timbs' \$40,000 Land Rover could be forfeited for a low-level drug offense nor how courts analyze whether a fine crosses the constitutional line.

So our excessive fines work continued—quickly and comprehensively. Back down at the Indiana Supreme Court in *Timbs*, we secured a ruling requiring that courts seriously engage with the evidence—the seriousness of the person's offense, their culpability for the violation, and their economic circumstances—to determine whether a fine is excessive. Later, the court applied its test and held that forfeiting Tyson Timbs' SUV went too far.

Indiana set the gold standard, and the next steps were clear: Much like in our other litigation areas, we'd export Indiana's framework to other states and, eventually, urge the U.S. Supreme Court to adopt it as law nationwide.

Other victories followed. In reviving IJ's excessive fines challenge to Humboldt County's abusive code-enforcement system, the 9th Circuit articulated a standard mandating that courts look hard at "the specific actions of the violator," as we'd urged, rather than take "an abstract view of the violation." On the other coast, Delaware's largest city agreed to overhaul its tow-and-impound system that saw residents' vehicles scrapped for parking tickets worth orders of magnitude less than the cars (after a court declined to dismiss IJ's excessive fines challenge).

Progress, however, is rarely linear. And in December, IJ's long-running excessive fines challenge against Lantana, Florida, ended in defeat when the state's high court declined to hear our case.

As we first detailed five years ago, Sandy Martinez's working-class family lives paycheck



IJ's excessive fines cases have represented people from all walks of life as they face debilitating financial penalties, the loss of their cars, and even the seizure of a plane.

At IJ, we win more than 70% of our cases. That ratio doesn't make the losses hurt any less. But an unblemished record would mean our goals weren't lofty enough.

to paycheck, and the fines—\$16,125 for a cracked driveway, \$47,375 for a fence that fell in a storm, and over \$100,000 for how they parked their cars on their own property—made matters worse. When Sandy teamed up with IJ to challenge those fines, her case presented an opportunity for Florida to follow in Indiana's footsteps; the Florida Supreme Court hadn't issued an excessive-fines opinion since 1922.

It wasn't meant to be. The trial court adopted a standard that basically read the Excessive Fines Clause out of the state constitution, holding that a fine is not excessive unless it also violates state statute. After an unsuccessful appeal, the state supreme court's denial of review ensured that word would be final.

At IJ, we note—frequently and correctly—that we win more than 70% of our cases. That ratio doesn't make the losses hurt any less. But an unblemished record would mean our goals weren't lofty enough. As our prior victories show, persistence and resilience will pay off.

And persist we shall. At the U.S. Supreme Court, our cert petition on behalf of retired bush pilot Ken Jouppi, whose \$95,000 airplane Alaska is seeking to forfeit over a passenger's illegal six-pack of Budweiser, remains pending for the Court's consideration. We're hopeful the Court will hear that case and clarify the lower-court confusion over what the "excessive" in "excessive fines" means. And we're pressing on in excessive-fines challenges elsewhere, too, including challenges to Chicago's notorious vehicle-impound system and Santa Clara County, California's six-figure fines for a winery owner's allowing an employee to (harmlessly) live in an RV on the property amid a housing crisis.

The setbacks always sting. But momentum is on our side as we continue to build on our landmark win in *Timbs* in state and federal courtrooms nationwide. ♦

Mike Greenberg is an IJ attorney.



IJ clients and attorneys pose for a photo at the 5th Circuit in New Orleans while fighting against a Mississippi town's bogus blight designation.



Happy Warriors AT THE PODIUM

BY WILL LUCARDI

To argue a case at IJ is not just to recite precedent—it is to walk into a courtroom where every question can turn the case and every answer carries the weight of a client's future. It is to step to the podium with a whole team's preparation behind you and a conviction that constitutional limits are worth defending in real time, under bright lights and sharper scrutiny.

The cases are hard. The opponents are powerful. And yet our happy warriors take their place with poise and determination—and this year, they have been called to that moment again and again.

In January, that spirit met the gravity of the 5th Circuit. IJ seeks to revive our lawsuit on behalf of Mississippi property owners whose homes, church, and businesses were branded "slum and blighted" without notice and without any opportunity to appeal. For them, the label was a threat with legal force, and the courtroom was their first real chance to fight back.

IJ's litigation director, Dana Berliner, has litigated eminent domain cases—including as co-counsel in the infamous *Kelo v. New London*—for more than 30 years. Armed with that experience, she delivered a clear, cogent message that sparked recognition in the

IJ attorneys have recently represented our clients at oral arguments challenging eminent domain abuse, unjustified financial surveillance, and the DEA and TSA's seizure of cash at airports.



three-judge panel. One judge even mentioned the *Little Pink House* (the title of the book and movie about the infamous IJ case) and said while posing a hypothetical to the government's attorney, "I'm Susette Kelo!"

Surrounded by clients and cameras outside the courthouse, Dana fielded the question that hangs over every appeal: What if you lose? She didn't hesitate. "We would certainly ask the Supreme Court to review, and I think we would win."

In February, in another courtroom and another circuit, the stakes looked different—but the pressure was just as real. This time, we were defending a victory over sweeping and costly disclosure requirements imposed on money services businesses along the southern border. These rules threatened neighborhood establishments that customers rely on to buy groceries, pay rent, and send money to family members—and the 9th Circuit would decide whether to overturn a ruling that protected this small-business lifeline.

Before the government's attorney could finish his opening thought, the presentation turned into a cross-examination. The panel bombarded him with questions—many lifted straight from IJ's briefing. Judges emphasized the irreparable harm done to our clients and demanded an answer for the government's ever-changing justification for the requirements. Thoroughly excoriated, opposing counsel seemed relieved when his time was up—but the judges refused to let him sit down before they were finished with the interrogation.

IJ Senior Attorney Rob Johnson then stepped to the podium with the panel's full attention trained on

The cases are hard. The opponents are powerful. And yet our happy warriors take their place at the podium with poise and determination.

him. The questioning signaled serious engagement with IJ's arguments. One judge restated IJ's presentation of the facts, and another cut through the noise with a simple declaration: "I agree with you."

Later in February, after more than a year of government delays, we were finally in court challenging the DEA and TSA's "see cash, seize cash" practices. IJ Senior Attorney Dan Alban stood before a federal magistrate judge and distilled the case to its core: The government found no crime, filed no charges, and therefore had no right to keep the money it took from Rebecca Brown at a Pittsburgh airport. With the simple truth on his side, Dan made clear that IJ is prepared to see the case through no matter how long it takes—and that constitutional rights do not vanish when you're walking along a jetway.

What the judges saw in those courtrooms were seasoned advocates—steady under pressure, fluent in the law, and ready when the questions came fast. What they did not see were the weeks that made those minutes possible: the moot courts filled with relentless hypotheticals; the paralegals double-checking citations late into the night; the strategy sessions and rewrites with case teams, communications experts, and support staff working together against long odds.

The cases are hard. The opponents are well funded. But when it's time to stand and defend our clients, IJ's happy warriors rise—resolute, prepared, and convinced that the Constitution is always worth fighting for. ♦

Will Lucardi is IJ's litigation projects and coordination manager.



The Future Of Educational Choice Is In Good Hands

BY MICHAEL BINDAS

Through three and a half decades of relentless advocacy and litigation, IJ created a legal landscape that allowed educational choice programs not only to take root but to flourish. We took stock of this success back in 2023 and, as avid *Liberty & Law* readers will recall, decided that the time was right to shift our focus from defending legislatively enacted educational choice programs to tackling the many regulatory barriers that inhibit or impede education entrepreneurship and innovation.

Of course, that meant ensuring a plan was in place to protect and expand the important precedent we'd set in our decades of defending choice programs throughout the country. That plan was the Partnership for Educational Choice: a multiyear project through which IJ would gradually hand off the work of defending educational choice programs to our longtime allies at EdChoice. We're now more than two years into this four-year transition, and it is clear that the future of choice is in great hands.



IJ has represented families as they fought to access more educational opportunities in dozens of states over more than three decades.

Through three and a half decades of relentless advocacy and litigation, IJ created a legal landscape that allowed educational choice programs not only to take root but to flourish.

The most recent sign of the Partnership’s success comes from Idaho, where we helped defend the state’s Parental Choice Tax Credit program. The program, which was enacted in 2025, provides a refundable \$5,000 (\$7,500 for children with disabilities) tax credit that empowers parents to access an education that works best for their children. Of course, empowering parents rarely sits well with the public education establishment, so a lawsuit quickly followed.

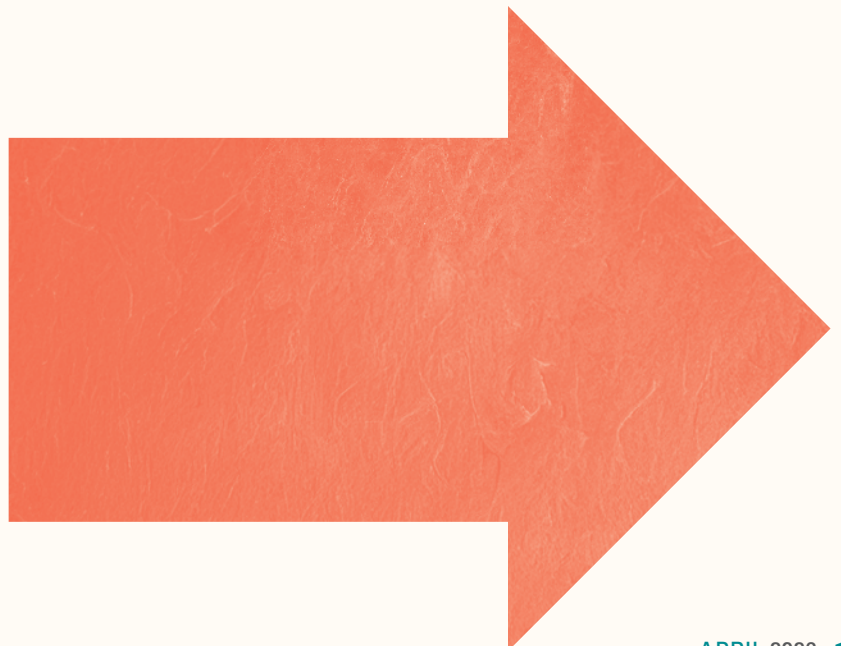
Lawsuits challenging choice programs are nothing new. But this time, our opponents took the unusual step of asking the Idaho Supreme Court to hear the case directly, bypassing the lower courts altogether. The Idaho Supreme Court agreed to do so.


With EdChoice running point and IJ providing guidance and back-up, we moved to defend the program and, in February, received a unanimous opinion upholding the program. The opinion builds on the precedent that IJ set in so many other states over so many years. It holds that the public school system is

“a floor, not a ceiling” and that the Legislature is free to provide for educational alternatives to that system. The opinion is a model for other courts, in other states, to follow in the future.

This latest success leaves us even more confident that EdChoice is ready to carry IJ’s educational choice legacy into the future. And that, in turn, confirms our conviction that it is time to turn our attention to the regulatory barriers that so often stand in the way of education providers—especially those developing new and innovative models. We look forward to creating a legal climate as hospitable for education entrepreneurs as the one we fostered for parents who rely on choice. ♦

Michael Bindas is an IJ senior attorney and the leader of IJ’s educational choice team.





With *Cities Work*, Cities Are Embracing The IJ Way

BY ZOE TISHAEV & AVA MOUTON-JOHNSTON

Longtime readers of *Liberty & Law* are well aware that IJ's approach to public interest law extends beyond the courtroom. While our litigators sue governments over unconstitutional violations, our activism team works directly with communities and sometimes even governments to remove obstacles and improve policies.

One of our major activism campaigns is Cities Work, which partners with sympathetic local officials and entrepreneurs to fix regulations that may not pose good litigation opportunities but still pose barriers to the right to earn an honest living. All cities want to promote economic prosperity, but they often approach that goal by implementing new programs or awarding grants, which don't get at the root of the problem: outdated regulations that stifle entrepreneurship.

Cities Work's goal is simple: to get government out of the way so small businesses can flourish.

One recent example comes from Kansas City, Kansas, where Cities Work sparked several changes—including helping to eliminate the special-use permit requirement for home-based

businesses. Entrepreneurs can now use their property to earn a living by right, without first having to get special approval from the government. The city also adopted our model “spring cleaning” ordinance, establishing a process for city departments to sweep away

inefficient processes. Finally, we helped the city simplify its sign code and pause restrictive commercial parking requirements. Each change removes bureaucratic hurdles for entrepreneurs and improves how the government functions—that's a win-win.

But Cities Work can only be in so many places at once. To truly make a lasting impact, we must

get city leaders to embrace the “less is more” philosophy and get out of entrepreneurs' way—instead of playing favorites with businesses or trapping them in a regulatory maze.

This year, Cities Work set out to do just that. We launched two multi-city efforts designed to guide city officials through IJ's approach to regulatory reform. One is a partnership with the Mayors Innovation Project, a national coalition dedicated to supporting good local governance. It comprises the mayors of five cities across the country: Hartford, Connecticut; Honolulu, Hawaii; Rochester,

**Across the country,
whether in a
courtroom, a city
council meeting,
or a collaborative
workshop, IJ is
clearing away red
tape and fighting for
economic freedom for
every American.**



Minnesota; San Bernardino, California; and Thornton, Colorado. The other is our first statewide project with the five largest cities in West Virginia to improve their local regulatory environments and strategize statewide regulatory changes.

Each month through these programs, cities learn how to map their own permitting and licensing systems, identify bottlenecks, and implement solutions. By the end of our eight-month program, they will have completed the same intensive work Cities Work traditionally conducts one city at a time. The collaborative structure allows participants to learn from one another's successes and challenges, scaling the program's reach without sacrificing depth.

The process is eye-opening for city staff, who routinely admit they didn't realize how complicated their own systems were. That

awareness is a critical first step toward reform. With buy-in from local leaders and hands-on support from IJ through Cities Work, cities can remove unnecessary regulatory barriers and create conditions where entrepreneurship flourishes.

Across the country, whether in a courtroom, a city council meeting, or a collaborative workshop, IJ is clearing away red tape and fighting for economic freedom for every American. ♦

Zoe Tishaev is IJ's city policy assistant and Ava Mouton-Johnston is IJ's city policy coordinator.



Yes In My Bar Association: Americans Are Free To Critique The Government

BY RILEY GRACE BORDEN

Sonja Trauss is the executive director of the California-based nonprofit YIMBY Law. YIMBY stands for “Yes In My Backyard”—a housing movement that began in California. For years, Sonja and her colleagues have sent letters praising or criticizing local policies and trying to hold cities accountable for their housing laws. She never imagined that writing a simple advocacy letter—something as American as apple pie—would prompt a government investigation into whether she was illegally engaged in the unlicensed practice of law (UPL).

The State Bar of California regulates attorney conduct, issues licenses, and handles daily complaints. Many complaints are dismissed outright. But that’s not what the Bar did when it got a complaint against Sonja, submitted by an ideological opponent who complained that a letter she’d sent to a city council said “grossly incorrect” things about housing laws. Instead of throwing the complaint in the dustbin, a Bar investigator sent Sonja a message, alerting her that a UPL investigation had been opened and demanding she answer a string of questions about herself and YIMBY Law.

Sonja isn’t a lawyer, and YIMBY Law isn’t a law firm. They don’t pretend to be. They also don’t need to be. They don’t represent clients in court; they simply write letters. The only thing you need before writing to government officials is an opinion—not a license from the state.

For Sonja and YIMBY Law, the investigation meant they were at risk every day. Even letters praising cities could have been considered the unlicensed practice of law under the Bar’s definition.

When Sonja got in touch with IJ, we jumped into action—and secured one of our fastest victories. Sonja was notified of the investigation the day after Christmas. Less than a month later, we sent our own letter to the Bar. We made clear that we were prepared to vindicate Sonja’s and YIMBY Law’s First Amendment rights in court. And on February 6, 2026, the California Bar shut down the investigation and acknowledged that Sonja and her organization had not in fact violated the state’s lawyer-licensing law.

In the February issue of *Liberty & Law*, we announced the launch of Counsel Unbound as part of IJ’s mission to defend free speech and to allow everyday people to speak out about what is important to them without fear of punishment. We are eager to build on Sonja’s victory through that campaign as we free ordinary Americans to participate in commonplace legal matters. ♦



Sonja Trauss, executive director of California-based nonprofit YIMBY Law, is free to continue critiquing cities’ housing policies after IJ sent a letter to the California Bar on her behalf.

**The only thing
you need
before writing
to government
officials is an
opinion—not
a license from
the state.**

Riley Grace Borden is an IJ attorney.





USA TODAY

Feds Seized Her Dad's Life Savings At The Airport. Now She's Suing.

By Eve Chen | February 6, 2026

A Massachusetts woman says federal agents took her dad's life savings at the airport. A class-action lawsuit says the cash was deemed "suspicious" and wasn't given back for months.

Now, Rebecca Brown and her father are among a handful of people suing the Transportation Security Administration and Drug Enforcement Administration to prevent further cash seizures.

"The fact that someone can put their hand into my pocket and just take it without cause was insulting, as an American," Brown said in a video posted by the Institute for Justice, which describes itself as a nonprofit public interest law firm and is representing the travelers in a class-action lawsuit.

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My abbey has been making plain wooden caskets for a century.
When we wanted to sell them, the state board
and funeral cartel tried to shut us down.

We fought for our right to economic liberty,
and we won.

I am IJ.

