



LIBERTY & LAW

October 2026

Volume 35 Issue 5



VICTORY!

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PROTECTS LANDOWNERS FROM
WARRANTLESS SPYING**

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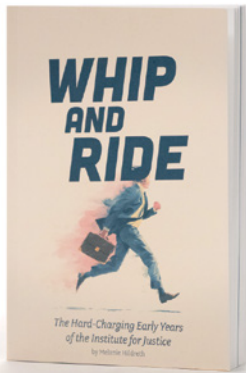
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About the publication:

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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You Know IJ. Learn How It Began.



IJ's early clients: Milwaukee families defending their school voucher program; IJ co-founder **Chip Mellor** with NYC commuter van entrepreneur **Hector Ricketts**; and **Susette Kelo** with IJ's current president **Scott Bullock**.

BY MELANIE HILDRETH

IJ was founded in 1991, but the story of how it came to be started nearly a decade earlier, in Chip Mellor's backyard in Denver, Colorado. That's where Chip, reeling from a principled stand that had cost him his job, and his friend and colleague Clint Bolick promised each other that they would create a new kind of public interest law firm.

They had ambitions to change the world. They just had to figure out how to do it.

Whip and Ride: The Hard-Charging Early Years of the Institute for Justice tells

the story of how IJ grew from that backyard promise into a national public interest law firm and a force for liberty across the country.

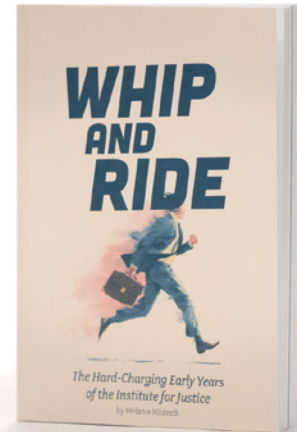
It follows the real people behind some of IJ's defining early cases. Longtime readers of *Liberty & Law* will recognize many of them. IJ's first client, a D.C. hair braider who saw a news story about another entrepreneur fighting the city for the right to keep his business alive and thought, "That's me." Milwaukee parents determined to find better schools for their children. New York City van drivers keeping their communities moving. Homeowners fighting eminent domain abuse.

But the book is also a chance to see IJ from the inside.

As IJ marks our 35th anniversary, more and more people who know and support IJ today did not know Chip personally. They did not know Clint in those early years. And they did not see firsthand the cases, arguments, missteps, and hard-won lessons that shaped the organization IJ would become.

That is critical because so much of why—and how—IJ does what it does comes from that history.

We can and do pass on institutional knowledge through our training programs and leading by example. But culture is also



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ij.org/whip-and-ride

carried through stories: the moments people repeat because they explain who we are and what we value.

The goal of *Whip and Ride* is to show, not just tell, how IJ became the kind of organization it is.

IJ is a very human place. Clients and their stories have always been the focus because our cases are not just about legal theories; they are about real people whose lives, homes, businesses, families, and futures are at stake. But that emphasis on people matters internally, too. IJ's history is more than a record of cases. It is a story of attorneys, staff, supporters, and friends who took big risks for a cause they believed in.

The title comes from a phrase Chip often used in the early years to close staff meetings and project kickoffs: "Whip and ride." The phrase captures so much of his spirit—and of IJ's character. There is Western grit in it, inspired by Chip's love for the Mountain West, but also urgency, creativity, humor, and a refusal to sit around waiting for perfect conditions before getting started.

That ethos still propels IJ. If you are with us in the fight for a more free and just America, you understand the urgency of the work and the fact that each of us has a role to play in carrying it forward. Whip and ride. ♦

Melanie Hildreth is a longtime IJ writer, development leader, and author of *Whip and Ride*.



A Note From the Editor

This is not your typical issue of *Liberty & Law*.

Thirty-five years ago, a handful of idealistic lawyers set out to build a different kind of law firm, with more nerve than resources and no guaranteed success. *Whip and Ride*, IJ's history of those earliest years, captures just how scrappy, improvised, and driven by sheer determination that period really was.

That same determination is the thread running through this expanded issue. Several of the articles here look back on IJ initiatives that have spanned decades—adapting strategy, pressing every opening, and building the law case by case until what once seemed radical became obvious. These retrospectives are a reminder that real change takes creativity sustained over years until freedom is secure.

This issue also brings news of what's next for IJ. As always, that same determination will continue to drive us as we evolve our work and sharpen our focus.

Thirty-five years in, IJ isn't slowing down; we're just getting started. Thank you for standing with us. ♦



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iam.ij.org/oct-2026-newsletter



A GOVERNMENT OF LAWS, NOT OF MEN

IJ'S RULE OF LAW PILLAR

BY SCOTT G. BULLOCK

For much of human history, one person or a small group of people could rule at whim, imprisoning people the ruler did not like or confiscating property as he saw fit. One of the great advancements of classical liberalism was the creation of structures, like constitutions and bills of rights, that limit and control the arbitrary power of rulers. As philosopher John Locke wrote: "The end of law is not to abolish or restrain, but to preserve and enlarge freedom."

In other words, the rule of law is the subordination of power to law. Perhaps its simplest formulation is in the Massachusetts Bill of Rights of 1780—we are to be "a government of laws and not of men."

Since our founding in 1991, IJ has defended and strengthened four pillars of a free society: economic liberty, private property, free speech, and educational choice. The rule of law has been essential to all of these. But as IJ has grown to take on new challenges and restrain ever-encroaching government, some of that work is now squarely about the rule of law itself.

In parallel, as discussed on page 26 of this issue, we have achieved the primary objective of our educational choice pillar: to establish the constitutionality of choice programs. With that mission accomplished, we now have an opportunity to unite cases and projects that we've already been doing for a while under a new banner—the rule of law—and formalize a new IJ pillar for the first time in 35 years.

This area of work includes four familiar themes:

Warrantless Surveillance—Protecting innocent individuals' right to be secure against dragnet surveillance programs that invade privacy without warrants or due process.

Fines and Fees—Challenging fines and fees schemes that impose excessive financial penalties or are aimed at generating revenue for the government rather than protecting public health and safety.

Unjust Proceedings—Guaranteeing that Americans have a fair opportunity to be heard before they lose their property or their freedom. That means actual notice, a hearing before real judges and juries, and independent checks at every step from rulemaking to judgment.

Immunity and Accountability—Ensuring that abusive government officials are held accountable rather than shielded by unjustified doctrines, such as qualified immunity, and that people harmed by government have a path to vindicate their rights.

What so many of these cases have in common is that everyday people are peacefully living their lives and yet the government gets in their way. It surveils them while they drive, fines them for innocuous acts, subjects them to rigged court systems, mistakenly invades their homes in the early morning hours, and so on. When government actors sweep up people just doing the ordinary activities of life, our work in the rule of law pillar will guarantee a just process and accountability in government decision-making—almost the very definition of the rule of law.



In other words, we will hold the government to the law before, during, and after the fact.

Before, when we challenge schemes that deprive people of liberty and due process before any court case even commences, like our work challenging the surveillance of innocent drivers through automated license plate readers; so-called predictive policing schemes that target and harass people who *might* commit a crime; and excessive fines and fees that really amount to taxation by citation.

During, when we ensure that individuals have a just process, involving real judges and juries, when the government commences an action against them—whether that involves taking their property in a sham courtroom run by prosecutors; demolishing homes without giving them any warning or opportunity to be heard; or a single agency acting as legislator, prosecutor, and judge to impose steep financial penalties.

And **after**, when we secure remedies for victims of government misconduct and ensure accountability for law-breaking officials at the federal, state, and local levels.

As with our other pillars, IJ will not become involved in every issue that could conceivably arise under the rule of law. For instance, the writ of habeas corpus is a touchstone principle of the rule of law, but

We now have an opportunity to unite cases and projects that we've already been doing for a while under a new banner—the rule of law—and formalize a new IJ pillar for the first time in 35 years.

IJ will not jump into cases that seek to free wrongfully held people from prison, however important that may be. Our friends at the Innocence Project, along with other groups, will vindicate those rights and others

that the concept of the rule of law encompasses.

But the issues delineated above—ones that are already touchstones of IJ's mission and ones that we will expand in future years—are essential to advancing freedom and securing justice under the rule of law.

There is a renewed appreciation today that, without the rule of law, one is at the arbitrary will of those in power—and there is nothing you can do if your rights are violated. As timely as our work under this new pillar is, it is also timeless: The rule of law is a foundation of a free and prospering society.

The great liberal scholar F. A. Hayek noted that the U.S. Constitution was conceived “as a protection of the people against all arbitrary action, on the part of the legislative as well as the other branches of the government.” It was meant, in Hayek's words, to be a “Constitution of Liberty.” IJ's new rule of law pillar embodies that principle—and we'll continue to advance it for decades to come. ♦

Scott G. Bullock is IJ's president and chief counsel.



IJ's rule of law pillar will protect Americans from abuses like warrantless surveillance, excessive fines, unjust legal proceedings, and more. Left to right: IJ clients **Tony Tan**, **Brittany Coleman**, **Esperanza Gomez**, and **José Oliva**.



VICTORY!

**PENNSYLVANIA SUPREME COURT
UNANIMOUSLY PROTECTS LANDOWNERS FROM
WARRANTLESS
SPYING**



BY JOSHUA WINDHAM

In a landmark win for property rights, the Pennsylvania Supreme Court unanimously struck down a pair of statutes that authorized state game wardens to enter and surveil private land without a warrant.

The decision, *Punxsutawney Hunting Club v. Pennsylvania Game Commission*, held that Article I, Section 8 of the Pennsylvania Constitution requires state officials to obtain a warrant to search land that is “posted, fenced, or otherwise marked to exclude intruders.” This victory protects not only IJ’s clients—two private hunting clubs—but over 21 million additional acres of private land across Pennsylvania.

The case arose after a state game warden spent years intruding on two neighboring properties in northern Pennsylvania: Punxsutawney Hunting Club and Pitch Pine Hunting Club. Both are historic clubs where generations of members have come to hunt, vacation, and enjoy the great outdoors with close friends and family. The clubs aim to provide a private place—a sanctuary—from the hustle and bustle of daily life. And they are visibly marked with “no trespassing” signs and purple paint (which signals “no public entry” under state law) to prevent intrusion.

Despite these clear demands for privacy, the game warden entered the clubs at least 22 times, roamed around for hours in secret, and repeatedly stopped members while they were hunting or even just using private trails to check whether they were following hunting laws. In one instance, the warden even put a surveillance camera on one of the properties that stayed up for 78 days and took hundreds of photos. All without the clubs’ consent, their members’ knowledge, or a warrant from a judge.

To his credit, the game warden relied on a pair of state statutes that allowed him to “enter any private property, posted or otherwise.” And to the legislature’s credit, those statutes did not spring from nothing. They were based on an old rule called the “open fields doctrine.”

Over a century ago, the U.S. Supreme Court mistakenly held that so-called open fields—all land not immediately near a house—get no Fourth Amendment

protection from warrantless searches. And in 2007, in a case called *Russo*, the Pennsylvania Supreme Court held the same under the state constitution.

All of that put the hunting clubs in a tough spot. State statutes and a century of precedent held that the game warden’s warrantless intrusions were justified. But, with IJ’s representation, the clubs stood up and filed a lawsuit anyway.

Their point was simple: *Russo* was wrong and should be overruled. Article I, Section 8 of the Pennsylvania Constitution, like over a dozen other state constitutions and unlike the Fourth Amendment, explicitly protects “possessions” from warrantless searches. And land is a possession.

The hunting clubs had good reason to be hopeful. In 2024, IJ secured a major victory in a nearly identical challenge to game wardens’ warrantless

spying in Tennessee. There, the state court of appeals held that private land is a possession and refused to apply the open fields doctrine because warrantless searches are “a disturbing assertion of power on behalf of the government that stands contrary to the foundations of the search protections against arbitrary governmental intrusions in the American legal tradition.” We designed the Pennsylvania lawsuit to achieve the same result.

And it did. The Pennsylvania Supreme Court unanimously held that “slavish adherence to our decision in *Russo* must give way to the greater privacy and property protections afforded under Article I, Section 8 of our state charter.” Private land that is posted, fenced, or otherwise marked to exclude intruders is a possession, and therefore game wardens and all other state officials must obtain a warrant before searching it.

That not only empowers *all* landowners in Pennsylvania to protect their property—it sends a message to officials across the country who still think they can treat private land like public property: Watch your step. Because you can be sure IJ is watching. ♦

Joshua Windham is an IJ senior attorney and the co-director of IJ’s Project on the Fourth Amendment.



Members of the **Punxsutawney Hunting Club** stood together with IJ to challenge Pennsylvania game wardens’ warrantless intrusions on their private land, winning a unanimous state supreme court victory.

RAISE A GLASS TO Entrepreneurship

BY BETH KREGOR

Greg Fischer, the founder of Wild Blossom Meadery and Winery, is the paradigmatic entrepreneur. His story shows how a lifetime of experiences can add up to a unique entrepreneurial vision—and how IJ's Clinic on Entrepreneurship can help cut through Chicago's bureaucratic red tape to make that vision a reality.

When Vision Meets Bureaucracy

From an early age, Greg loved to tag along as older relatives engaged in their hobbies. Through that shared time, he learned about beekeeping, winemaking, cycling, and more. As an adult, Greg pursued a career in the wine industry working across the country. But his passion for bees remained. In his free time, he sought out the fields and forests that bees love.

All these experiences snapped together when Greg first tasted artisanal mead, a wine-like drink made by fermenting honey with yeast. Mead is believed to be the world's oldest alcoholic beverage, with roots tracing back thousands of years. It became Greg's mission to make meads as popular as grape wines and beer. Increased demand for mead would be a boon for Greg's bees and for the environment. According to Greg, for each bottle produced, bees pollinate some 2 million

flowers—which in turn produce some 20 to 40 million seeds destined to become new flowers.

One day, on a bike ride through a forest preserve on the far South Side of Chicago, Greg found a vacant, deteriorating warehouse where his vision could become reality. He transformed it into an elegant, sunlit tasting room and production facility and set up his hives nearby. He completed all the city's requirements, including environmental remediation, building permits, and zoning changes. He acquired the "wall of licenses" he needed to make and sell food and alcohol, to have an outdoor patio, and more. Wild Blossom became the first meadery in the state of Illinois.

Then Greg hit a wall. To survive and grow his business, he needed to attract new customers. He decided to offer entertainment, such as poetry readings, karaoke, or salsa lessons. But to do that, he'd need an entertainment license—a requirement the city makes almost impossible to secure.

An Entrepreneurial Experiment

Enter the IJ Clinic. Our involvement did not suddenly make licensing easy—in fact, we are still pushing against the forceful tide of bureaucracy on Greg's behalf, along with a broader campaign to reform



the entertainment licensing requirement altogether—but it did give Greg the hope and confidence he needed to continue building his business.

Our Clinic on Entrepreneurship was itself founded in an entrepreneurial manner. After attending an early IJ Law Student Conference, two students from the University of Chicago were determined to establish the first transactional clinic in the United States dedicated to helping entrepreneurs navigate regulatory barriers to opening a business. Law school clinics allow law students to learn through real-world practice while in law school, like a teaching hospital does for medical students.

Those enterprising students were Mark Chenoweth (now the head of the New Civil Liberties Alliance) and James Ho (now a federal judge on the 5th Circuit). IJ collaborated with them to found the IJ Clinic on Entrepreneurship at the University of Chicago Law School in 1998. In the years since, the IJ Clinic has:

- Provided extensive legal counsel for more than 100 small businesses.
- Trained more than 360 students to assist entrepreneurs with a focus on individual liberty and free markets.
- Inspired countless community members with events like South Side Pitch, which highlight the stories of courageous entrepreneurs.
- Reformed state and local policies to make it easier to be a street vendor, to hang a sign, to be a barber, and much more.

The Clinic gives IJ a home in one of the country's top law schools—at the intersection of legal academia and everyday legal practice. There, we train law students to apply our theories of economic liberty to real businesses with real problems. They learn about contract drafting, of course, but they also learn deeper lessons about the role of entrepreneurs in struggling neighborhoods and the real-world harm caused by government's frequent interference.

From Chicago To The Nation

That learning runs in both directions. Just as students gain theory grounded in practice, IJ gains a perspective on small businesses that we can't get anywhere else. The Clinic sees the effects of excessive regulation and slow bureaucracy up close, one client at a time. It knows where the problems came from, how Chicago's decisionmakers

think about these issues, and which arguments actually move them.

That ground-level knowledge flows back into strategic planning across every IJ department, sharpening which fights IJ takes, how we frame them, and where reform is within reach. The Clinic doesn't just serve clients and train students in Chicago; it helps IJ advance our broader mission nationwide.

If Austrian economists visited Chicago today, they might enjoy sitting in the pollinator garden behind Wild Blossom, drinking a tasting flight of jewel-toned meads, and discussing the story of Greg's business. Hayek would recognize that Greg cultivated knowledge no urban planner could have assembled, or even known to look for, yielding a business that no one else would have imagined. Schumpeter would have seen an entrepreneur's defining act: growth through experimentation and permissionless innovation, pivoting and redesigning a business to suit customers who didn't know what they wanted until Greg poured it for them. Wild Blossom, like many of the Clinic's clients, is classical liberalism made concrete—its core ideas, and the cost of ignoring them, in a single warehouse on Chicago's South Side.

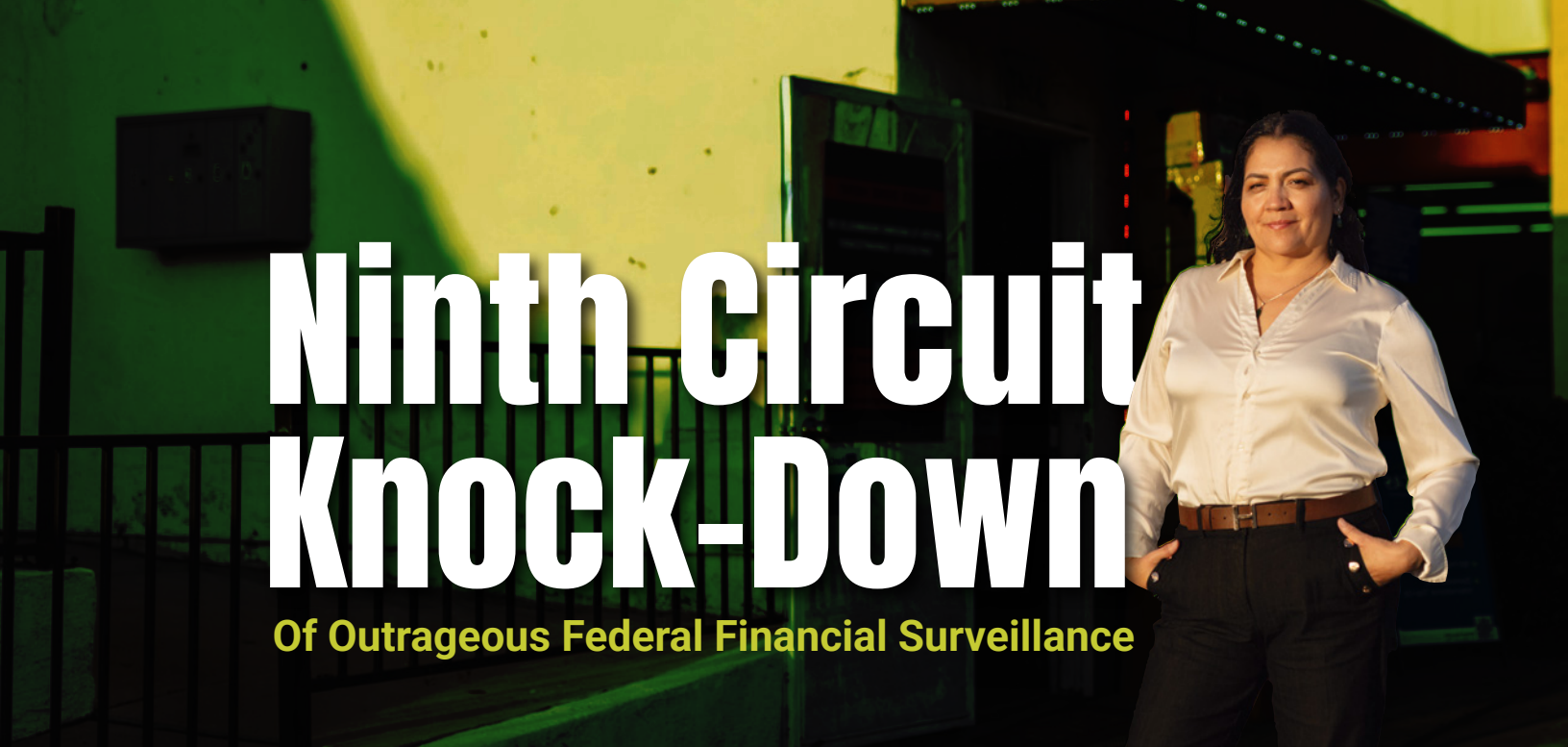
Now that law students have worked closely with Wild Blossom, they could echo that same conversation. They've heard Greg's wonderful vision firsthand. They've seen him struggle to meet the city's confusing and counterproductive requirements so that vision can survive. In short, they have learned economic liberty through hands-on work more effectively than they ever could by simply sitting in a classroom or discussing a reading assignment.

And that is what the IJ Clinic is all about. So please join us in raising a glass of Wild Blossom mead to the entrepreneurial spirit—and to IJ's Clinic on Entrepreneurship!♦

Beth Kregor is director of the IJ Clinic on Entrepreneurship.



The IJ Clinic on Entrepreneurship trains law students to apply our theories of economic liberty to real businesses with real problems.



Ninth Circuit Knock-Down

Of Outrageous Federal Financial Surveillance

BY BETSY SANZ

Last spring, the U.S. Department of the Treasury snapped its fingers and subjected more than 100 small money services businesses (MSBs) in California and Texas to a new legal regime. The new policy simultaneously imposed crushing paperwork burdens and invaded the financial privacy of thousands of average people. In the months that followed, we represented clients in three separate lawsuits and won injunctions against the Treasury's overreach in all of them—and the 9th Circuit just affirmed.

Treasury's subagency Financial Crimes Enforcement Network (FinCEN) requires MSBs to report to the federal government any cash transactions over \$10,000. That had been the rule for decades—until March 2025, when FinCEN issued its “Southwest Border Geographic

Targeting Order” (GTO) and, inexplicably and practically overnight, lowered the reporting threshold to just \$200 in certain ZIP codes in two states.

Suddenly, everyday folks who use non-bank MSBs to do normal life things—like cash their

paychecks, get money orders for rent or bills, transfer money to family, or exchange currency—were being reported to the feds, including their Social Security numbers, birth dates, and transaction details.

No suspicion of crime or wrongdoing. Just a federal financial dragnet. And it caused an avalanche of forms that our clients, whose businesses are modest operations, couldn't

possibly keep up with.

FinCEN claimed that these new regulations would stop money laundering by drug cartels. But FinCEN couldn't explain why it thought cartels were laundering money in \$200

Suddenly, everyday folks who use non-bank MSBs to do normal life things—like cash their paychecks, get money orders for rent or bills, transfer money to family, or exchange currency—were being reported to the feds.



Money services business owners were swept up in FinCEN's dragnet reporting order on cash transactions over \$200.

increments—or why criminals wouldn't be able to simply go to other non-affected ZIP codes to do their dirty deals. It couldn't even decide what the new rule should be; the threshold was later raised to \$1,000, and the geographic focus is (at best) a moving target.

Neither did FinCEN do anything to understand the burden the GTO would place on our clients. And it certainly paid no heed to the constitutional right to be free from unreasonable searches of private information. It just assumed it could demand whatever it wanted, with no serious justification.

FinCEN assumed wrong. We sued in three federal courts, including in San Diego, California, on behalf of our client Esperanza Gomez and her one-woman business. The district court preliminarily enjoined the targeting order for the entire Southern District of California.

Now the 9th Circuit has affirmed Esperanza's win. Like the district court, the appellate court held that FinCEN violated the

Administrative Procedure Act, the statute that governs how federal agencies must operate.

With the launch of IJ's new rule of law pillar, this victory is especially timely. FinCEN imposed dragnet surveillance that swept up the private financial details of people suspected

of nothing—without a warrant and without due process. Our victory is a reminder that the rule of law forbids government agencies from rewriting the rules for thousands of Americans overnight with no justification.

We currently await a decision in a parallel appeal. The 5th Circuit will hopefully affirm a lower court's holding that the

targeting order violated not just the APA, but also the Fourth Amendment's limits on unreasonable searches. We look forward to soon providing another *Liberty & Law* update on what we hope is an additional victory against this unconstitutional overreach. Stay tuned!♦

Our victory is a reminder that the rule of law forbids government agencies from rewriting the rules for thousands of Americans overnight with no justification.

Betsy Sanz is an IJ attorney.



NO LICENSE REQUIRED:

The Long Fight For The Right To Speak

BY ROBERT MCNAMARA

At IJ, we often warn our clients that fights for liberty can take a long time to win. It's not at all unusual for our cases to last for five or even 10 years before we wrestle the government to a final judgment. But we doubt most IJ clients even expect the fate of Texas veterinarian Ron Hines, who first appeared in the pages of this magazine more than 13 years ago when we filed a First Amendment challenge on his behalf—a challenge he finally won, once and for all, just a few months ago.

Longtime readers will remember Ron as the veterinarian who offered helpful advice to pet owners over email—some of them in Texas, but many in other countries and, one time, even on an oil rig. The Texas veterinary board punished him for that, claiming it was illegal for him to offer any advice about an animal he hadn't examined in person. Ron teamed up with IJ to sue, eventually winning a sweeping victory from a federal court of appeals establishing that Ron's advice about people's pets was protected by the First Amendment. When the U.S. Supreme Court turned away Texas' request to hear the case this past summer, that victory became permanent.

Ron's hard-fought victory isn't the only free-speech win we notched in recent months. Indiana death doula Lauren Richwine won a permanent victory establishing her First Amendment right to give advice to families navigating the grieving process. And Virginia-licensed counselor Elizabeth Brokamp clinched a first-round victory for her telemedicine practice when a trial court held that she has the right to talk to people about what they're going through—even if her clients happen to be sitting in D.C. using their computer instead of sitting physically in Elizabeth's Virginia office across the river.

These victories are momentous. But to a lot of reasonable people, they might seem obvious. After all, how hard can it be to convince a court to hold that the First Amendment protects sending people emails about their pets?

Very hard, it turns out. Not because there was anything wrong with Ron's advice or that of our other clients, but because there was something very wrong with the way courts treated rules that made it illegal to speak without a license.

It Started With A Tour Guide

Back in 2008, when we first filed a lawsuit challenging Philadelphia's licensing law for tour guides, a lot of reasonable people would have thought that was easy, too. After all, Philadelphia's law made it illegal to talk about the Liberty Bell without the city's permission. Surely that was unconstitutional.

At the time, most lawyers thought laws licensing people who talked for a living should be treated like any other economic regulation. And courts are extremely eager to uphold economic regulations. Not always—we win those cases, too—but more often than they should.

But that consensus opinion was why we knew this area was important. Particularly with the rise of the internet (this was, remember, in 2008), we knew more and more people would earn a living by selling their ideas or their stories or their advice, and we knew that we didn't want to live in a world where the government could freely decide who was or wasn't allowed to sell their ideas or their stories or their advice. So we sued—and prepared to turn a case about tour guides into a broader campaign.

Here, too, success took a while. In response to our lawsuit, Philadelphia declined to enforce its licensing law. Our first courtroom victory came in 2014, when the D.C. Circuit finally agreed with our legal arguments and struck down D.C.'s similar licensing requirement for guides.

The court's opinion began: "This case is about speech and whether the government's regulations actually accomplish their intended purpose. ... When, as occurred here, explaining *how* the regulations do so renders the government's counsel literally speechless, we are constrained to disagree."

IJ's efforts have revolutionized legal protections for those who speak for a living, such as veterinarian Dr. **Ron Hines**; therapist **Elizabeth Brokamp**; and Philadelphia tour guides **Ann Boulais**, **Josh Silver**, and **Mike Tait**, standing between **Robert McNamara** (far left) and **Chip Mellor** (far right).

A Powerful Engine, Indeed

Unsurprisingly, this alarmed lawyers who were very invested in the status quo. After that initial win, two legal academics (one the then-dean of Yale Law School) wrote an article warning of the disastrous consequences of our “startling” victory. “It is no exaggeration,” they wrote, “to observe that the First Amendment has become a powerful engine of constitutional deregulation.” (They meant this as a bad thing.)

Our critics weren't wrong—at least, they weren't wrong that our occupational-speech practice was important. From that initial win about tour guides, we went on to successfully defend the right to speak for a living all across the country, in widely different contexts. We defended the rights of startups that wanted to use technology to draw maps for use by others. We defended the rights of people who wanted to run schools teaching people practical, useful skills like horseshoeing. And we defended the rights of people with useful things to say—people ranging from veterinarians to counselors to health coaches—to give their advice without first asking the government's permission.

That doesn't mean we're done, of course. The Supreme Court has signaled interest in our position, though it has yet to take a case that would squarely resolve the issue. Meanwhile, there are still plenty of courts just getting it wrong. We've won several important victories in the past year, but we've lost cases as well. Even as we saw appellate courts hold that Lauren Richwine has the right to talk to families about death or that Ron Hines has the right to send emails about pets, we saw courts in other parts of the country hold that taking (or even just drawing) a picture wasn't really speech at all but just economic “conduct” the government could regulate as it pleased.

And there are, as ever, plenty of lawyers who think we're wrong. But that's as it should be. The point of IJ is to identify important fights, sometimes years in advance, and then to win them one carefully chosen case after another. We plan to win this one—not just in some places, but in all places. ♦

Robert McNamara is IJ's deputy litigation director.



CERT GRANTED!

IJ Brings Excessive Fines And Forfeitures Back To The Supreme Court

BY MIKE GREENBERG

IJ is headed to the U.S. Supreme Court for a third time this term! In July, the Court granted our cert petition on behalf of pilot Ken Jouppi. That means the Alaska high court will not be the last frontier for the state's efforts to forfeit Ken's \$95,000 airplane—over a six-pack of Budweiser.

Ken long made a living using his Cessna as a one-man air-taxi service, shuttling people and cargo over the Alaskan wilderness. On April 3, 2012, Ken was scheduled to fly a passenger and

A photograph of Ken Jouppi, an older man with a mustache, wearing a light blue and white checkered short-sleeved shirt. He is holding a six-pack of Budweiser beer in front of him with both hands. Behind him is a small, light-colored Cessna airplane with a propeller, parked on a grassy field. The background shows a cloudy sky and some distant trees.

Ken Jouppi was an Alaska air-taxi pilot. When one of his customers hid cases of beer in her luggage, the government seized Ken's plane—and the state supreme court held that even a six-pack would have been enough to justify forfeiture.

her groceries from Fairbanks to the village of Beaver. The day began like any other for Ken. But hidden in the passenger's luggage were three cases of beer intended as a gift to her husband for his private consumption.

But Beaver is a "dry village." It is illegal to possess or bring beer into the village. State law makes most violations a misdemeanor, with a minimum sentence of three days' incarceration and a \$1,500 fine.

And, as Ken would find out, state law also potentially subjects violators to forfeiture.

Ken knew of Alaska's dry village system, and he wouldn't deliberately fly alcohol illegally. But he also respected his clients' privacy and wouldn't go hunting through their luggage. No law required him to search their belongings, and he felt it would be demeaning to do so.

Just before Ken took off that morning, troopers arrived, searched his plane, and found the beer. Both Ken and the passenger were charged with misdemeanors. Ken insisted he knew nothing about the beer; the troopers contended one six-pack of Budweiser would

have been visible to him in a shopping bag. Ken was found guilty at trial. The court sentenced him to the minimum possible: three days in jail and a \$1,500 fine.

For most vehicles used to import alcohol illegally—cars, boats, snowmobiles—forfeiture is mandatory only for particularly egregious offenses. But using a plane makes forfeiture mandatory, no matter the quantity of alcohol or the seriousness of the offense. Even so, the trial court thought forfeiting Ken's \$95,000 airplane for such a small offense was an unconstitutionally excessive fine.

Alaska's high court thought differently. "The Legislature," the court wrote, "determined that the harm from even a six-pack of beer knowingly imported into a dry village is severe enough to warrant forfeiture of an aircraft." The Excessive Fines Clause notwithstanding, the court felt obligated to defer to that determination.

The cert grant hopefully signals that the U.S. Supreme Court views the Clause more robustly. And indeed, the Excessive Fines

Alaska Plane continued on page 30



The Excessive Fines Clause
was built for cases like this,
ensuring that financial
punishments bear some
relationship to the gravity of
the offense.

JAMES KING'S CASE IS OVER. THE WORK IT STARTED ISN'T.

SIX YEARS OF IJ'S PROJECT ON IMMUNITY AND ACCOUNTABILITY

BY PATRICK JAICOMO AND ANYA BIDWELL

In July 2014, James King was walking to a summer job in Grand Rapids, Michigan, when two men stopped him, pinned him against an unmarked SUV, and took his wallet. James, a 21-year-old college student, thought he was being mugged, so he ran. The men tackled him, choked him unconscious, and beat him bloody. Concerned bystanders called 911.

The men were undercover members of a joint state-federal task force, looking for someone else entirely: a nonviolent local fugitive wanted for stealing empty cans and liquor. When uniformed officers arrived, they forced witnesses to delete evidence and charged James with felonies for resisting. A jury acquitted him.

Then James sued—but because several obstacles stood in his way, his case became the launchpad for IJ's work to hold government officials accountable for violating the Constitution.

One obstacle was qualified immunity: a judge-made doctrine that often prevents victims of government misconduct from even getting their cases heard unless there is a previous court case denying immunity for the same misconduct.

Another was the task force itself. Because one of the plainclothes officers was an FBI agent and the other had been federally deputized, they claimed special protections reserved for federal employees—an even more impenetrable shield than qualified immunity.



James King was beaten by undercover task force officers as a college student, and **Shaniz West's** home was destroyed by police looking for someone who wasn't there. Their cases were the launchpad for IJ's Project on Immunity and Accountability.

Qualified Immunity Extends Beyond Police

When IJ launched the Project on Immunity and Accountability in January 2020, we had already encountered qualified immunity in civil forfeiture and other IJ cases. And we knew the doctrine had no basis in the law or the Constitution. So we started developing a strategic and comprehensive public interest program to challenge it and other immunity doctrines.

This was before the issue swept into public awareness later that spring—by which point it was everywhere, from editorial pages to Congress to the Supreme Court.

We were ready to make major moves. Our first was a petition to the Supreme Court on qualified immunity on behalf of Idaho mother Shaniz West. But in June 2020, the Supreme Court declined to hear it—and seven other qualified immunity cases.

That refusal told us something useful: The fix would not be coming from the Court, at least not soon. So IJ went everywhere else.

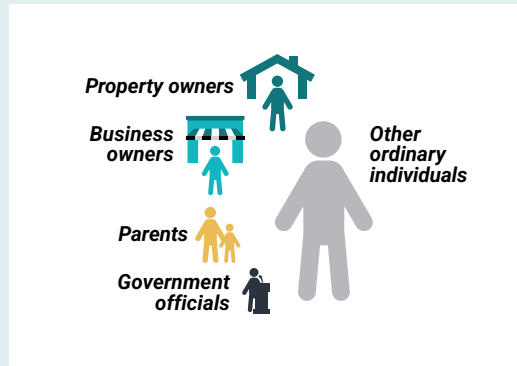
We drafted model state legislation. We built Americans Against Qualified Immunity, a grassroots coalition of police officers, veterans, pastors, and parents. We published *Unaccountable*, the largest study of qualified immunity ever conducted, so the argument for reform could run on data instead of anecdote. Legislatures listened; Colorado and New Mexico have both passed laws that let their citizens sue in state court without qualified immunity.

And we kept litigating, case by case. We've defeated qualified immunity numerous times. These cases all look different—representing parents, business owners, and even city council members in suits against not just law enforcement, but also mayors, prosecutors, and local bureaucrats. Yet they are all aimed at Supreme Court review whenever it is ready to rein in qualified immunity.

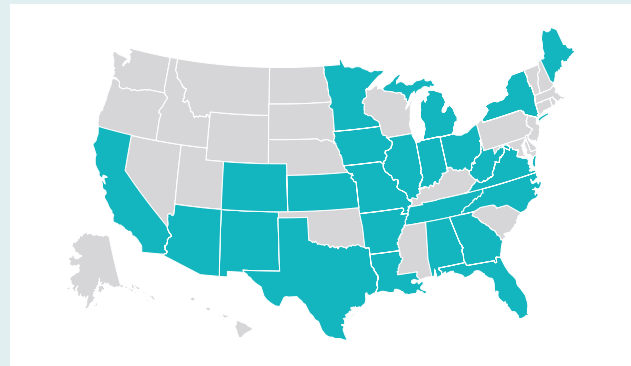
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THE BROAD LANDSCAPE OF IMMUNITY AND ACCOUNTABILITY CASES

WHO WE REPRESENT...

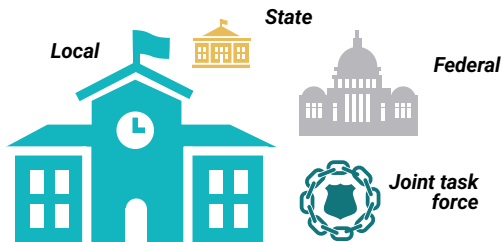


WHERE WE LITIGATE...

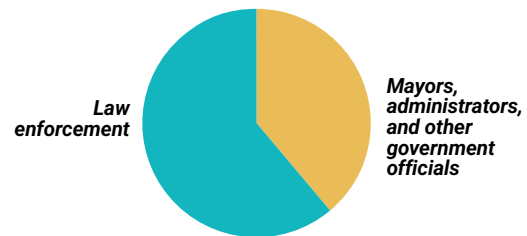


WHO WE SUE...

LEVELS OF GOVERNMENT

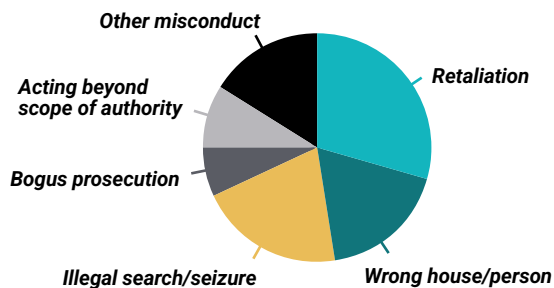


TYPE OF OFFICIAL

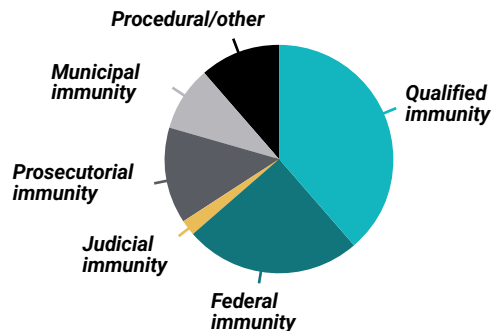


WHAT WE SUE ABOUT...

CONSTITUTIONAL ISSUE



TYPE OF IMMUNITY



The Impenetrable Shield Of Federal Accountability

The other obstacle in James' case—the task force—helped crystallize our approach to federal accountability.

Deputize a local officer onto one of roughly a thousand federal task forces, and he enjoys almost absolute federal immunity. That is how a St. Paul officer who fabricated evidence against Hamdi Mohamud, sending her to federal detention for nearly two years when she was 16, escaped accountability.

Immunity clings to federal officers even when they are off duty. In his personal time, a Homeland Security agent held Kevin Byrd at gunpoint to prevent him from looking into a drunk driving incident involving the agent's son. The agent wasn't acting in any official capacity, and the badge shielded him anyway.

We asked the Supreme Court to fix both cases. It declined.

Federal immunity is one of the most difficult obstacles a constitutional suit can face. It has become a key focus of our work because, for IJ, that difficulty presents opportunity for real and lasting change.

Since 1971, the primary route to sue a federal agent for a constitutional violation has run through a decision called *Bivens*. In recent decades, courts have narrowed it so far that a federal badge effectively puts federal officers into a constitution-free zone.

A New Approach Pays Off

So we changed instruments. If courts would not let our clients sue federal employees under the Constitution, we would sue their employer—the United States government—under the Federal Tort Claims Act (FTCA). It's a complicated statute riddled with exceptions. And though it isn't designed for constitutional claims, it's our best first step.

We first encountered the FTCA from the wrong end. In James' case, the government eventually stopped defending the officers' conduct at all, preferring to hide behind a technicality buried in the FTCA. Fighting that technicality taught us the law inside and out. What was once used to close a door for James, we now use to open doors for others.

Last year, that approach produced a unanimous Supreme Court victory for Trina Martin. An FBI SWAT team raided her home by mistake, waking her 7-year-old

son at gunpoint. The Court overturned one immunity crafted to shield the FBI agents and refused to expand another in one of the FTCA's exceptions. Trina's case now proceeds in the 11th Circuit.

Nearly a dozen cases are lined up behind it. Again, the circumstances vary, from wrong-house raids and mistaken-identity arrests to warrantless searches and detentions. Some involve immigration enforcement, but these cases aren't about immigration policy. Leo Garcia Venegas' case, for example, is about federal officers entering private property without a warrant and detaining U.S. citizens without cause.

These cases are different manifestations of the same problem: Federal officials can violate rights with impunity. Each case helps us expose the accountability gap and build a path to ensure that the Constitution's protections are enforceable in court.

This past June, the Supreme Court declined to hear James' case for a third time. After more than a decade, his fight for accountability ended before it ever really began. But James' case left a lasting mark, launching a project that has now litigated more than 50 cases across 24 states and repeatedly defeated obstacles much like those he faced.

What started with immunity will end with accountability. Whether it takes years or decades, IJ will see to it. ♦

Patrick Jaicomo and Anya Bidwell are IJ senior attorneys and directors of IJ's Project on Immunity and Accountability.



IJ fights for accountability on behalf of clients like **Kevin Byrd**, held at gunpoint by an off-duty Homeland Security agent, and **Trina Martin**, whose home was wrongly raided by an FBI SWAT team.



IJ Challenges Warrantless CBP Raid

BY DYLAN MOORE

IJ client Leo Feler owns a Chicago triplex. He lives in one part of the home and rents the others to tenants. In fall 2025, he decided to replace the windows and siding on his home. Unbeknownst to Leo, the federal government viewed that decision as an open invitation to rampage through his property without a warrant.

Leo hired a large, reputable contractor to complete the renovations. That contractor hired a subcontractor, who in turn hired four construction workers to complete the job. Leo did not know the contractors or workers personally, but like anyone doing home renovations, he trusted them to do the work even while he traveled for a business trip.

During his trip, Leo received an unexpected notification from his Ring doorbell. He checked the app, and what he found horrified him. The live feed showed masked, armed U.S. Customs and Border Protection officers jumping over Leo's spiked front gate, chasing the workers through his property, climbing onto his second-story balcony, storming his private garage, and damaging his possessions along the way.

Three of the workers got away, either by running on the sidewalk away from Leo's house or by entering Leo's home. The fourth was not so lucky. He ran into Leo's garage, where an agent caught up to him, threatened to pepper spray him, and arrested him.

Throughout the raid, Leo's tenant—the only resident home at the time—repeatedly demanded to see a warrant. The CBP officers ignored her. Leo used his security cameras' built-in microphones to tell the officers they were trespassing on his property and to leave. They ignored him, too.

The United States later admitted that the CBP officers had no warrant. The government has offered no evidence that the CBP officers even knew who the workers were. Yet the officers still chose to invade Leo's home. The ordeal left Leo with thousands of dollars' worth of damage, puddles of an injured worker's blood, and a severe sense of insecurity on his property.

The Fourth Amendment was ratified to prohibit warrantless searches like this one. No homeowner should have to live in fear that the federal government will raid their house just because they hired a construction crew to renovate it.

That's why, in July, Leo and IJ filed a federal lawsuit to ensure that officials who violate the Fourth Amendment's command can be held accountable. The federal government can enforce immigration laws, but it cannot do so in a manner that violates the Fourth Amendment rights of homeowners like Leo. We will continue fighting until courts recognize that no federal official is above the Constitution. ♦

Dylan Moore is an IJ attorney.



Leo Feler's Chicago triplex was raided without a warrant by Customs and Border Protection officers pursuing workers renovating Leo's property. When the officers arrived, the workers were peacefully eating lunch outside Leo's house.



Then And Now:

Training The Next Generation Of Litigators For Liberty

BY MELISSA LOPRESTI

There has never been an IJ without student programs. We hosted our first clerk and held our first law student conference in the summer of 1992—the very first summer after we opened our doors, back when we had just eight employees.

This past summer, we hosted 24 law clerks (now called Dave Kennedy Fellows, in honor of our inaugural board chairman) across five offices, plus an additional 11 law students and undergraduate interns working to support five different departments.

Our 2026 law student conference—still our flagship student event—featured a deep dive into what it takes to litigate a case up to the U.S. Supreme Court (something we’ve been doing a lot recently!) and what we look for in potential cases and clients when developing that strategy.

Every year since our founding—practically every day—we’ve worked with students. Beyond the summer programs, we host semester law clerks in our state offices and (beginning during the pandemic) virtual law clerks who wouldn’t have otherwise been able to work with us. In addition, we regularly host student groups for tours and talks, travel to law schools for

speaking engagements, and pair students and attorneys for mentorship conversations.

Educating and inspiring students is inextricably linked with who we are as a public interest organization. It’s in our DNA. And we genuinely love to do it.

Educating and inspiring students is inextricably linked with who we are as a public interest organization.

More Than A Summer Program

Our student programs may be rooted in tradition, but they aren’t static. We are constantly evaluating how we can maximize our impact on students, just as we do in the law. Over time, we’ve incorporated more practical legal skills—the skills we know often *aren’t* taught in law schools—with hands-on, interactive exercises, such as vetting mock cases and designing litigation strategies for them.

But not all of the changes have been incremental. In 2019, we created a second student conference series, our Legal Intensives. Intensives are designed to meet students where they are: on law school campuses around the country during their regular school term. We’ve been to places like UCLA, the University of Chicago, and Harvard. Intensives are high-energy, one-day introductions to students who are less familiar with IJ or who might not be able to travel to our Arlington, Virginia, headquarters over the summer.

And in 2022, we formalized our longtime undergraduate litigation internship as a paid Hellman Fellowship (sponsored by Arthur D. Hellman, professor emeritus of law at the University of Pittsburgh School of Law). It now regularly attracts more than 400 applications for just two spots each summer.

From Students To Colleagues

For the lawyers at IJ, helping students navigate their early legal careers isn’t just a job responsibility; it’s personal. Half of our current lawyers started out as IJ law clerks or conference attendees themselves. Some always dreamed of working at IJ and joined us at their first possible opportunity. Others saw a clerkship or conference as a chance to check us out—and then



Law students, clerks, and attorneys gathered at IJ's 2026 Law Student Conference, continuing a tradition of training litigators for liberty that stretches back to 1992.

returned to IJ after judicial clerkships or a few years in private practice.

We've always considered former students when hiring new lawyers, but in recent years, student programs have evolved into a powerful and sophisticated recruiting tool. The process typically goes something like this: A student hears an IJ lawyer speak at his or her law school. The lawyer promotes an upcoming Law Student Conference. The student applies, is accepted, and is inspired (including by hearing from a panel of IJ clients—always a conference favorite) to want to do this work. After graduation, she applies for our litigation fellowship for new attorneys. And we know from her previous participation that she has a strong IJ foundation and would be able to hit the ground running.

Of course, we don't have space to bring on every single promising student we meet, and we are happy to support and build relationships with students whose career goals will take them outside our four walls as well. Spanning the generations from 1992 until today, lawyers we first met as students have gone on to impressive and impactful careers in every state and in every corner of the legal profession.

A Network For Liberty

Graduates of our conferences and clerkships collectively make up our Human Action Network (HAN). And over 35 years, they've really added up! More than 1,300 HAN lawyers, trained by IJ on our issues and our strategies, are poised to advance the cause using their own unique expertise.

On any given day, those lawyers are each advancing liberty in their own ways, and we stay in touch. We might call on a senior appellate practitioner at a prestigious firm to write an amicus

Spanning the generations from 1992 until today, lawyers we first met as students have gone on to impressive and impactful careers.

brief; connect with a professor about presenting an emerging legal issue at an upcoming IJ event; write to an experienced lawyer at a medium-sized firm about taking on a client who has dealt with something awful but whose case isn't quite right for impact litigation; or field an update from a lawyer representing IJ pro bono in FOIA litigation as we fight to get government records. We have had HAN members who are now judges and justices. And we delight in teaming up with lawyers trained by IJ who now work for like-minded organizations and public interest firms around the country.

Perhaps most critically, these lawyers form a powerful network of legal watchdogs, alerting us when they see a case or issue that might be a fit for IJ. In fact, HAN members and other lawyer contacts outside IJ tipped us off to nearly 20% of the cases we ended up launching in 2023 and 2024. Students who first learned about forfeiture abuse sitting in rows at a summer conference grow up to be the lawyers who call us when they see it.

Our next Legal Intensive is coming up in November. Attendees will be some of the first students to learn firsthand about our work and plans to advance the rule of law under our new pillar. And in a few years, some of them may just be our colleagues doing it. ♦

Melissa LoPresti is IJ's director of litigation operations.



A Pain In The ZONING CODE:

Leavenworth Prohibits Home-Based Physical Therapy

Her business was so quiet and unobtrusive that many neighbors didn't even know it existed. She never expected that her business would be illegal.

BY RILEY GRACE BORDEN

In 2025, longtime licensed physical therapist Nicole Bulow moved with her young family to the picturesque town of Leavenworth, Washington, to live closer to her sister. In two different Seattle neighborhoods, Nicole successfully operated her physical therapy business, SolFuel, from her home without causing problems or complaints. Her business was so quiet and unobtrusive that many neighbors didn't even know it existed. She never expected that her business would be illegal.

For more than 15 years, Nicole has specialized in physical therapy to help active adults recover from injuries and guide women through pregnancy and postpartum recovery. Working from home gave Nicole flexibility to spend time with her children and allowed her to offer clients a private, comfortable, and personalized place for treatment.

When she moved to Leavenworth, a Bavarian-style village in the Cascade Mountains, Nicole had every reason to believe she could continue operating SolFuel the same way she always had. Some clients were willing to travel more than two hours from Seattle to continue working with her.

And she thought she satisfied all the requirements; Leavenworth allows massage therapists and similar businesses to operate from home. Nicole even went to city hall to make sure she checked every box for a home occupation license, and a city employee initially assured her she would have no problem. Her application confirmed she would follow the city's rules on guests, business hours, and parking.

Then the city abruptly changed its tune. Leavenworth eventually issued a formal interpretation of its zoning code concluding that physical therapy was too similar to prohibited home businesses, including doctors, dentists, and chiropractors. Among the city's reasons: Physical therapists sometimes have waiting rooms, treat people's conditions, and are licensed by the state Department of Health.





Nicole Bulow ran her home-based physical therapy business, SolFuel, without complaints in Seattle, but Leavenworth's zoning code declared it illegal after she moved there.

But none of that has anything to do with zoning.

Zoning regulations are supposed to address things like traffic, parking, and noise. They are not a blank check for cities to arbitrarily favor some occupations over others. Yet through IJ's Zoning Justice Project, we see all too often local governments weaponizing their zoning codes to exclude harmless, unobtrusive businesses—trampling private property rights and economic liberty in the process.

SolFuel has no greater impact on Nicole's neighbors than businesses Leavenworth already allows in homes, including hair salons and even combined massage and yoga studios. Yet for now, Nicole must rent unnecessary office space in town, separating her from her children and depriving clients of the private, personalized environment at the heart of her business model.

Leavenworth can enact reasonable zoning rules that protect public health and safety. But under the U.S. and Washington Constitutions, it cannot arbitrarily pick and choose which harmless home-based businesses are welcome based on distinctions that have nothing to do with zoning.

That's why Nicole has joined with IJ to fight back. With IJ's help, she has appealed the city's interpretation, challenging its justifications and its attempt to exercise power it doesn't have. A victory for Nicole would vindicate the right of all Americans to earn an honest living from their own homes. ♦

Through IJ's Zoning Justice Project, we see all too often local governments weaponizing their zoning codes to exclude harmless, unobtrusive businesses—trampling private property rights and economic liberty in the process.

Riley Grace Borden is an IJ attorney.



BACK TO SCHOOL & BACK TO WORK:



IJ LAUNCHES EDUCATION ENTREPRENEURSHIP PROJECT

BY MICHAEL BINDAS

For parents and kids across the country, September is a time of transition as summer vacation ends and a new academic year begins. This September was a time of transition for IJ, too, as we embarked on a bold new Education Entrepreneurship Project, shifting our focus from defending educational choice programs to defending the rights of education entrepreneurs.

Since IJ opened its doors 35 years ago, we have fought daily to ensure that parents can access the best educational opportunities for their children's unique educational needs. For most of our history, that meant helping state legislators craft legally sound educational choice programs, then defending those programs in court when they were almost invariably challenged by the teachers' unions and their cronies.

Supreme Court Success And Innovation In Education

We were remarkably successful in that work: In four trips to the U.S. Supreme Court, we made clear not only that educational choice programs are permissible under the federal Constitution, but also that opponents of choice cannot weaponize discriminatory state constitutional provisions to take away the opportunity that choice programs provide.

The last of those trips to the Supreme Court happened to coincide with the COVID-19 pandemic, when parental frustration with the public school system was boiling over. The failures of the public education establishment had stoked an overwhelming demand for new educational options.

Thankfully, entrepreneurs rose to the occasion, developing unique and innovative models of education that continue to grow in popularity: microschools, hybrid schools, learning pods, and the like. Meanwhile, the education savings account and other school choice

programs we'd defended helped parents access these new options for their children.

Although government was happy to tolerate these new forms of education while its own school system was in utter disarray, when things started to normalize, it again began doing what government instinctively does: regulating. It began cramming these new models of education into old regulatory boxes or enacting new laws specifically aimed at these new models. In either case, the result was the same: a stifling of education innovation.

A Period Of Transition

As IJ witnessed this troubling trend, and as entrepreneurs and parents increasingly reached out to us for help, we decided the time was right to change gears with our education work. In fall 2023, we partnered with our longtime friend and ally EdChoice to help that organization open a litigation shop. As described in previous issues of *Liberty & Law*, EdChoice would gradually take over IJ's historic role of defending legislatively enacted educational choice programs. That, in turn, would free IJ to shift our focus to tackling legislatively enacted barriers to education entrepreneurship.

The Education Entrepreneurship Project is the culmination of that transition. The project is committed to protecting the right of entrepreneurs to offer meaningful alternatives to the public school system—and the right of parents to access those alternatives for their children. By dismantling barriers to innovation, flexibility, and creativity in private education, the project will ensure that every parent can find the education that will best meet his or her child's unique, individual needs.

Those regulatory barriers, unfortunately, come in all forms and from all levels of government, including:



IJ's new Education Entrepreneurship Project fights to protect innovative schooling options like microschools and learning pods so that every parent can find the education that fits his or her child.

- Zoning laws that restrict private educational uses of private property.
- Fire code provisions that saddle tiny microschools with building requirements designed for schools with hundreds of students.
- Statutes that prevent homeschooling families from banding together to form co-ops or learning pods.
- Childcare licensing laws that treat innovative hybrid homeschool programs as though they are daycare facilities.
- Teacher licensing laws that hamper a private school's ability to hire unquestionably qualified teachers, simply because they don't have the state's preferred "credential."
- Over-the-top compulsory education laws that regulate down to the minute what instruction a private school or homeschooling parent must provide.

The list goes on.

The Education Entrepreneurship Project will bring the full force of IJ—litigation, grassroots activism, strategic research, communications, and more—to bear on these and other barriers that government needlessly erects for those who simply want to provide the best possible educational opportunities for children.

Reviving Century-Old Precedent

One of the project's overarching goals is to reinvigorate a trio of cases from the 1920s—*Meyer v. Nebraska*, *Pierce v. Society of Sisters*, and *Farrington v. Tokushige*—in which the U.S. Supreme Court provided robust constitutional protection for the right of parents to direct the education of their children and the right of private education providers to offer their services to willing families.

Although these cases are today considered part of the Court's canon, the Court has rarely relied on them in the century since they were decided. This dearth of Supreme Court precedent has left the lower courts utterly confused about the scope of protection that the cases provide, especially in an education environment so different from that of 1920s America. Government, meanwhile, has been happy to exploit that confusion, finding within it free rein to foist arbitrary, prohibitive, and crippling regulatory requirements on private education providers.

IJ's Education Entrepreneurship Project will pursue cutting-edge cases to ensure that *Meyer*, *Pierce*, and *Farrington* are restored to their rightful place as bulwarks of the rights of education entrepreneurs and the parents who seek their services. In that way, constitutional principles articulated a century ago provide powerful tools for safeguarding today's and tomorrow's most innovative approaches to learning.

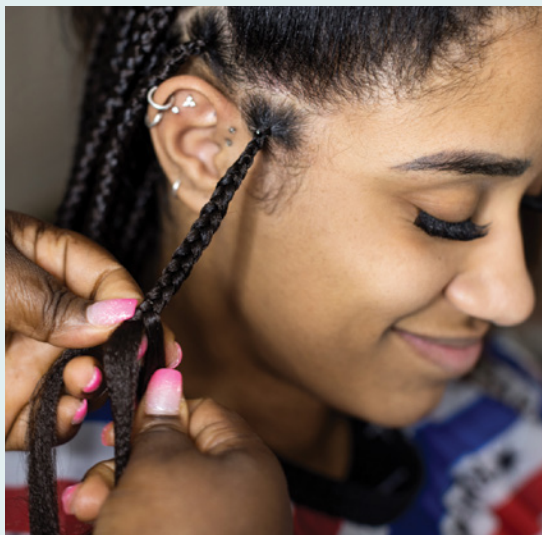
As noted above, we've already made four education-related trips to the U.S. Supreme Court. We look forward to making a fifth, sixth, or however many more it takes to secure robust constitutional protection for parents and education entrepreneurs.

Of course, the ultimate objective is not to secure that protection for its own sake. Rather, it is to ensure that America can have a truly diverse, pluralistic education marketplace in which every parent can find the education that will work best for his or her children. ♦

Michael Bindas is an IJ senior attorney and the leader of IJ's education entrepreneurship team.



FROM **ONE** BRAIDING SALON TO NATIONWIDE REFORM



Pamela Ferrell and Taalib-Din Uqdah, founders of Cornrows & Co., became IJ's very first clients in 1991, launching decades of nationwide braiding-freedom reform.

BY PAUL AVELAR

IJ's very first case was an economic liberty challenge on behalf of hair braiders. Thirty-five years later, IJ's braiding work demonstrates how far we have come—and how much our combination of litigation, legislation, activism, media outreach, and research can accomplish as we continue to clear the way for small entrepreneurs.

In 1991, IJ officially launched by representing Taalib-Din Uqdah and Pamela Ferrell, the husband and wife owners of Cornrows & Co., a successful African hair braiding salon. D.C.'s board of cosmetology wanted to impose burdensome licensing requirements on braiders: 1,500 hours of training at a cost of thousands of dollars. Not a single hour of that training had anything to do with the centuries-old art of African hair styling.

At that time, every jurisdiction in the U.S. (50 states and D.C.) had a similar requirement. But the launch of that first case changed things.

Breaking Braiding Barriers

IJ's public pressure forced D.C. to back down and forced others to take note. D.C. replaced the 1,500-hour requirement with a 100-hour one focused on braiding. New York also adopted a "specialty" license for braiding that same year. By 2000, Michigan, Maryland, and Ohio (in response to IJ litigation) had followed suit. And in California, IJ won a landmark judicial decision protecting the right to braid.

That California victory was momentous. It demonstrated that economic liberty cases could be won in court. It set a template—an "easy" example for other judges in other cases to follow. And it therefore increased the public pressure that IJ brought to any given case.

The next couple of years saw braiding cases filed in multiple states: Arizona, Minnesota, Mississippi, and Washington. All of these states, and several others, changed their laws.

By 2006, IJ could report, with well-earned bragging rights, a big change in the law. Only 29 jurisdictions still required burdensome and irrelevant cosmetology licensing for braiding. Eleven states had adopted a less burdensome specialty license. And better still, 11 others required no license at all.

But more could be done.

Expanding The Effort For Transformative Impact

In 2013, our work expanded to challenge Texas' rules governing braiding schools—rules that prevented experienced braiders from teaching their craft to others. Our victory there spurred the state to eliminate all braiding licensing.

And this prompted us to start our Braiding Freedom Initiative. Clearly, braiding had always been a part of IJ, but the initiative brought to bear all the tools of public interest law that are now the hallmark of IJ's work. Multiple research reports supported multiple case launches, which attracted national media attention, which created public pressure on lawmakers both in the states we sued and elsewhere, which was amplified by activists on the ground.

Today, IJ's effect on the world of braiding is manifest. Our efforts—directly and indirectly—have led to a massive reform of braiding licensing laws across the country.

In all, we have sued over braiding regulations in 14 states, leading to multiple court victories and many more legislative reforms. We have worked for braiding freedom with activists and lawmakers in at least 20 more states. And through media and strategic research, we have elevated the visibility of the issue—and of occupational licensing in general—such that many states have reformed their laws without IJ needing to step in.

Entering 2026, IJ's 35th anniversary year, there was only one state—Hawaii—whose law still required a full-blown cosmetology license just to braid hair. And thanks to our continued efforts, Hawaii has finally changed its law.

There were once 51 full-license jurisdictions; now there are none. Instead, 38 states have full braiding freedom: no license at all. Only 13 jurisdictions require a specialty license, and just five of these require more than 50 hours of training. And along the way, we have introduced the idea of economic liberty and its importance through outlets as varied as National Public Radio, *Essence*, and *Us Weekly*. We helped make

a movie about braiding freedom and IJ client Melony Armstrong. IJ has changed the world, and we are continuing to do so.

Braiding As A Model For Economic Liberty

IJ's braiding work has set the standard for how we fight for economic liberty. We find outrageous laws that protect entrenched interests at the expense of entrepreneurs and consumers. We show judges, lawmakers, and the public the horrible effects those laws have on the lives of real people. And we convince judges, lawmakers, and, ultimately, the public, that if they want to do justice, they can.

IJ has represented drivers, winemakers, casket sellers, bakers, vendors, and many more. Where we once focused on arguments under the 14th Amendment, we have expanded to include parallel state constitutional protections, antimonopoly provisions, and separation of powers doctrines. We are getting state high courts—in Georgia, North Carolina, Pennsylvania, Texas, and beyond—to reimagine meaningful protections for economic liberty. Our economic liberty litigation now routinely overlaps with our other pillars, such as property rights through our home-based business clients and free speech on behalf of engineers and veterinarians.

Our economic liberty research is renowned in both academic and policy circles. *License to Work* (now in its third edition) remains the touchstone in the field of licensing research. We have multiple peer-reviewed published studies under our belts, and academics frequently cite our work. We have been relied upon by reformers across the political spectrum and from city councils to the White House. We have 16 economic liberty-related model bills that have been adopted across the country. Our activism team works in cities everywhere to make it cheaper, faster, and simpler to start a small business. And our law school clinic trains the next generation of lawyers who can help entrepreneurs navigate the hurdles that remain.

It all started 35 years ago with braiders and the simple yet powerful insight that economic liberty—the right to earn a living in the occupation of your choice without unnecessary government interference—is at the heart of the American Dream. ♦

Paul Avelar is managing attorney of IJ's Arizona office and the head of IJ's Braiding Freedom Initiative.



Alaska Plane continued from page 17

Clause was built for cases like this, ensuring that financial punishments bear some relationship to the gravity of the offense.

IJ's 2019 Supreme Court victory for Tyson Timbs ensured that the Clause applies to all governments: federal, state, and local. Ken's case will be the first since that milestone—and only the second in the Court's history—to grapple with what makes a fine "excessive." A clarified standard would benefit all Americans facing unjust monetary punishments, from civil forfeitures to runaway code-enforcement fines.

The stakes are high. As Justice Scalia warned in the 1990s, fines are a source of revenue for the government, making them uniquely susceptible to abuse. And today, police and prosecutors nationwide still rely on fines and forfeitures for their budgets. Against that backdrop, the Excessive Fines Clause is a vital constitutional bulwark for property rights. IJ has been making the law in this area for years, and we'll now be able to further solidify its protections for all at the U.S.

Supreme Court. ♦

Mike Greenberg is an IJ attorney.



As Justice Scalia warned in the 1990s, fines are a source of revenue for the government, making them uniquely susceptible to abuse.



IJ MAKES HEADLINES



One Six-Pack Of Beer Could Significantly Alter How The Constitution Regulates Law Enforcement

By Robert Schmad | July 20, 2026

Kenneth Jouppi, now 82, was operating a one-man air taxi service using his personally-owned 1969 Cessna plane in 2012 when Alaska state troopers executed a search warrant on his plane and found alcohol on board, including one six-pack that they said was plainly visible. At the time, Jouppi was on a runway in Fairbanks preparing to take a customer and her groceries to the remote village of Beaver near the center of the state.

Having beer on board wasn't illegal on its own. However, since Beaver had banned the possession or sale of alcohol within its limits, Jouppi was convicted of alcohol importation, a misdemeanor. The Alaska Supreme Court held that, under the alcohol importation ban, the state was required to confiscate Jouppi's Cessna.

Jouppi has since argued in court that the state's seizure of his plane, valued at \$95,000, runs afoul of the 8th Amendment's ban on excessive fines. Now, the Supreme Court will weigh in on whether he's right.

The Washington Post

How Rogue Officers Turned A Nationwide Camera Network Into A Tool For Stalking

By Drew Harwell, Douglas MacMillan and Aaron Schaffer | August 2, 2026

... In 26 of these cases, police investigators and prosecutors said the officers used the technology to spy on their wives, their girlfriends, their exes, their exes' new partners or women they wanted to meet. In other cases, police or prosecutors have not specified the alleged surveillance targets. Flock's system was used in 46 of the cases analyzed by The Post, while the other cases involved competing products.

Many of the plate-reader misuse cases were previously covered by local media outlets, and some were first compiled by the Institute for Justice, a civil liberties law firm in Arlington, Virginia.

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Alaska Beacon★

**Alaska Bush Pilot's Bootlegging Case Heads
To The U.S. Supreme Court Later This Year**

July 20, 2026

People

**An Alaska Pilot Was Going To Lose His Plane
Over A 6-Pack Of Beer. Now The Supreme Court
Will Hear His Case**

July 22, 2026

THE WALL STREET JOURNAL.

A Case Of Beer For The Supreme Court

July 23, 2026

The New York Times

**An Alaskan Pilot. A Six-Pack Of Beer.
An Important Supreme Court Precedent.**

July 28, 2026

Bloomberg Law

**Supreme Court Agrees To Hear
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Of Humboldt's Cannabis Abatement Program, County
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MEDIAITE

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Have Turned Off Their Flock Cameras Amid
Growing Backlash**

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but the government tried to shut it down.

As IJ's first clients, we fought back and won.

We changed the law and
created opportunity for others.

We are IJ.



Taalib-Din Uqdab and Pamela Ferrell
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