

# Liberty & LAW

February 2013

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## VICTORY IJ Hits a Home Run for Vendors and Economic Liberty



IJ client and vendor **Larry Miller**, whose small business has operated outside of Turner Field in Atlanta for more than 20 years, said, "Thanks to this ruling, a weight has been lifted off of my chest."

## Court Strikes Down Government-granted Vending Monopoly

By Robert Frommer

Christmas came early this past year to Atlanta's vendors. On December 21, the Fulton County Superior Court struck down a government-created monopoly that controlled all vending on public property in Atlanta. This victory helps not only the dozens of small businesses that otherwise would have had to shut down, but entrepreneurs of all stripes across the Peach State.

IJ clients Larry Miller and Stanley Hambrick are two long-time vendors who work outside of Turner Field, where the Atlanta Braves play. Their businesses are fixtures in the community. Tens of thousands of baseball fans have bought snacks, souvenirs and

Braves merchandise from Larry and Stanley on the way to a game. Through their years of hard work, Larry and Stanley have climbed up the economic ladder while creating jobs and sending their children to college.

But politicians and a private business contrived to knock the bottom rungs off that economic ladder by making it virtually impossible for Larry, Stanley and others to vend in Atlanta. In 2009, the city signed a contract with the Chicago-based mall operator General Growth Properties that gave the company "the exclusive right to occupy and use all public prop-

**Atlanta Vending** continued on **page 13**



# Entrepreneurs and IJ: Driving Forces for Innovation

IJ client **Ali Bokhari** had an innovative and successful business model of using late-model towncars to keep prices low until Nashville, Tenn., instituted a minimum fare for sedans. IJ is fighting on behalf of Ali and similar entrepreneurs whose right to economic liberty is in jeopardy.

By **Larry Salzman**

If there is any ironclad rule of entrepreneurship, it is that every new innovation is likely to be attacked by businesses and regulators opposed to change.

Entrepreneurs are men and women who take action to bring into reality their vision of what might be. Sometimes that is simply a vision of a better job and a better life for the entrepreneur and his or her family—like the business of IJ client Silvio Membreno, who came to the United States from Nicaragua and has earned his living as a flower vendor in Hialeah, Fla., for the past 15 years. Sometimes an entrepreneur has a vision of offering a unique service in a new place, such as IJ client Jestina Clayton: She found a wide-open market in Utah for the traditional African hairbraiding she learned in her native Sierra Leone.

Silvio's and Jestina's success threatened established businesses, which ran to lawmakers to outlaw them rather than

compete. But with IJ's help, Silvio and Jestina fought back. Silvio joined with us to file a lawsuit challenging regulations being pushed by florists and other established retailers to drive mobile vendors out of business. Thanks to an IJ legal victory over Utah's cosmetology cartel in federal court in August, Jestina is now free to continue her hairbraiding.

**“If there is any ironclad rule of entrepreneurship, it is that every new innovation is likely to be attacked by businesses and regulators opposed to change.”**

Sometimes, however, entrepreneurs have a vision so large it not only threatens local bullies or lazy competitors, but also changes the shape of entire industries in order to create something new and better. Consider, for instance, the Internet communications company Skype. In less than a decade it rose from a small startup with a few employees to an international juggernaut, used by more than 500 million people, in nearly every country, connecting more people around the world on any given day than several of the largest tra-

ditional telecom companies combined—at a tiny fraction of the cost. That success was possible in part because Skype was free to innovate outside the thicket of traditional telecom regulation—and had deep pockets to fend off legislation that might have shut it down.

In just the past year we have begun to see powerfully disruptive entrepreneurship occurring in two fields very familiar to IJ: vending and transportation.

On the vending front, food trucks are changing how Americans eat. Once relegated to construction sites, food trucks are now booming in popularity, selling creative, cutting-edge cuisines to an excited public. Innovative culinary entrepreneurs rely on the Internet, using Twitter and Facebook and other web tools to let patrons know where they will be selling that day and to establish a following. A trend that began at the beginning of the economic downturn due to the

**Innovation** continued on **page 6**

— IJ —  
*As Our*  
**LONG-TERM  
 LEGACY**



By **Jeremy and Katie Bencken**

After major life events that most of us experience—like the birth of a child or the death of a parent—we started to consider our own lives. How do we want to be remembered, what legacy could we leave, and how can we ensure in some small way that America remains a country of opportunity for our children?

As small business owners, we also saw firsthand the importance of legal protections. We operated a website where renters could rate and review apartments nationwide. Today, it is a given that products, restaurants and apartments have online reviews. But when we launched our business in 2000, there was only one other large review website, Epinions.com, and it had small notoriety compared to Yelp.com and the now-ubiquitous reviews on major retailers' websites. Over the seven years that we owned the website, we received stacks of legal letters requesting that apartment reviews be removed—either altogether for an apartment building, or selectively (i.e., the negative ones). There were many executives in the apartment industry who loudly said that our website should not exist, and who told our advertising partners that they would sever their relationship if those partners continued to work with us. Thankfully after 13 years, the website continues to grow and now has 1.4 million reviews of apartments across the United States.

We became aware of the Institute for Justice as a nonprofit legal firm that might be able to help us in the event we faced a



**Jeremy and Katie Bencken** are IJ donors and members of IJ's Four Pillars Society. Learn more about how you can join at [IJ.org/FourPillars](http://IJ.org/FourPillars).

lawsuit, since we knew we could never fight the deep pockets of the apartment industry in court. As a protector of liberty and with the First Amendment as one of its pillars, the Institute for Justice is a perfect fit with our libertarian philosophy. Although we were fortunate to have our worries of a lawsuit stay just a worry, we began to donate to IJ annually as a commitment to IJ's support for entrepreneurs and small business owners who are solving a need and trying to make an honest living. The ability to enforce economic and other rights should not depend on your pocketbook, yet without the Institute for Justice that would be true for many.

When it came time to revise our wills, we wrestled with the legacy questions, and knew that while we wanted to take care of family after our deaths, we also wanted to take care of our country. For what good is an inheritance in a society that is not free? The Institute for Justice rose to the forefront of our minds as a world-class organization with

the foundation and infrastructure to continue the work to protect liberty for as long as it is needed. We are proud to be connected to the Institute for Justice through the Four Pillars Society and through our annual donations. It is important to us to be part of something lasting and big: a group that has its eye on the large issues of freedom of speech, school choice, property rights and economic liberty. So while we work on our next businesses and raise our kids, we rest easy knowing that IJ is fighting the good fight for the present and the future. ♦

**Jeremy and Katie Bencken** are members of IJ's Four Pillars Society.

*A number of different gifts qualify you for membership in the Four Pillars Society. If you are interested in more information about these or other ways to support the Institute for Justice, please contact Melanie Hildreth at (703) 682-9320 ext. 222 or [mhildreth@ij.org](mailto:mhildreth@ij.org).*

# Changing the Law

## Outside the Courtroom



By Steven Anderson

The Institute for Justice is, first and foremost, a law firm. As a public interest organization with subject matter expertise on critical issues like property rights and economic liberty, however, we also search for methods outside the courtroom to restore limits on government power. And at the confluence of our strategic research, outreach, media and legislative advocacy programs, we have found such an approach.

Similar to IJ's conscientious approach to litigation, our legislative work moves forward only after meticulous attention to the mission and the means by which we will achieve it. For this year's legislative sessions, most of which started in January, the work actually began this past July with something we had never done before—a legis-

lative summit at our headquarters in Virginia. Led by IJ-MN Executive Director Lee McGrath, the meeting brought together representatives



Watch the video at [www.ij.org/forfeiturelaw](http://www.ij.org/forfeiturelaw).

lative summit at our headquarters in Virginia. Led by IJ-MN Executive Director Lee McGrath, the meeting brought together representatives from across IJ's offices and businesses in order to devise a unified and coordinated plan of action to introduce our two priorities for 2013: civil forfeiture reform and occupational licensing relief.

Honed and finalized in the weeks that followed, the multi-faceted blueprint treats the launch of this year's legislative effort in the same way we launch a case—while at the same time highlighting the diverse and unique contributions IJ provides to public policy debates. Chief among those is IJ's ability to assemble original social science research to make the case that change is necessary and to package that message in an easily consumable format aimed at the ever-shrinking attention spans of legislators and constituents alike.

The results are striking. To support our argument that civil forfeiture is one of the greatest threats to property rights today, IJ's strategic research arm authored three separate reports that emphasize the problem of policing for profit, where law enforcement officials have a direct financial incentive to

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© Minnesota state Capitol by Capitolshots Photography

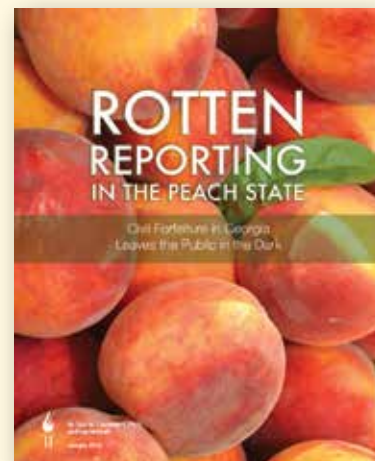
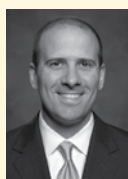
confiscate cash and goods. The reports focused on three states we targeted for legislative reform: Minnesota, Arizona and Georgia. As a complement to the written reports, Social Media Manager Mark Meranta and others on the production and design team composed a hard-hitting video that ties together findings from our forfeiture research, educates the public about the danger of civil forfeiture and provides simple solutions to rein in these abuses—all in just a few minutes. All of this was rolled out with national and state-specific press releases to maximize the media impact at a time when audiences are paying the closest attention to what issues are most important in the upcoming legislative sessions.

Another key component of IJ’s legislative arsenal is our model legislation.

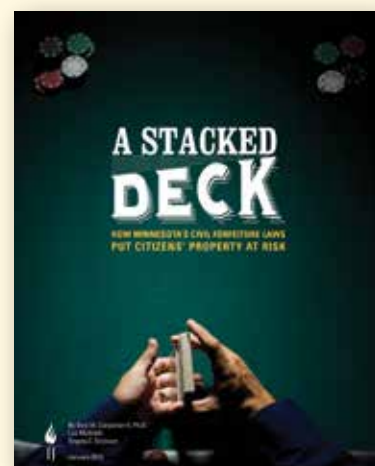
Developed collaboratively within IJ over a number of months—or even years as we learn valuable lessons about promoting our position—model legislation is a critical statement of principle that we use to focus our advocacy and ensure greater freedom across the country. This year we’ll use our civil forfeiture and occupational licensing models—and the ideas they represent—on multiple fronts.

And if our success using model language and marshaling disparate IJ businesses to defeat eminent domain abuse is any indication, we’ll have much more to report on an even greater number of issues in the future. ♦

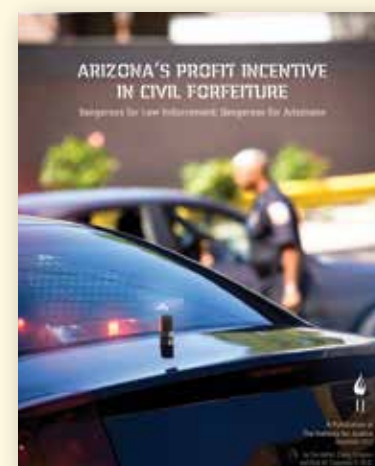
**Steven Anderson** is IJ’s managing vice president.



Download *Rotten Reporting in the Peach State* at [www.ij.org/rotten-reporting](http://www.ij.org/rotten-reporting).



Download *A Stacked Deck* at [www.ij.org/stacked-deck](http://www.ij.org/stacked-deck).



Download *Arizona's Profit Incentive in Civil Forfeiture: Dangerous for Law Enforcement; Dangerous for Arizona* at [www.ij.org/4601](http://www.ij.org/4601).

## Innovation Outside of Regulation Breeds Successful Businesses

**Innovation** continued from **page 2** relatively low startup costs of food trucks has bloomed into thousands of trucks nationwide serving millions of patrons each day. Unfortunately, it has also attracted opposition from regulators and politically connected restaurant associations who seek to use the law to block food trucks from competing with brick-and-mortar establishments.

All but five of the 50 largest cities in the United States now have laws that make it difficult, if not impossible, to successfully operate food trucks. IJ has rebutted the myths that have fueled these ordinances in a report, *Seven Myths and Realities about Food Trucks* ([www.ij.org/7-myths-and-realities](http://www.ij.org/7-myths-and-realities)), and has begun taking cities to court. An IJ lawsuit in El Paso forced the repeal of protectionist legislation that stifled food truck vendors, and this past November, IJ teamed up with two Chicago-area food trucks—The Schnitzel King and Cupcakes for Courage—to kick off a major constitutional challenge to a protectionist ordinance recently passed in the city.

IJ has long fought against regulations that prevent independent taxi and sedan car drivers from earning an honest living. Recently, however, Internet entrepreneurs have started a quiet revolution in the trans-

portation industry. Smartphone apps created by companies such as Uber.com, Hailo.com, TaxiMagic and others use the Internet and GPS to link drivers and riders, routing limos, sedan cars and taxis to passengers within minutes and allowing passengers to pay online with their phone. Since most of the sedan-car operators who use these services are independent entrepreneurs, they pose a major challenge to taxi cartels. The new services make transportation more convenient for riders and more profitable for drivers, who spend less time circling around looking for passengers and more time running their meters. Hailing a car with your smartphone is now possible in more than 20 U.S. cities and dozens of European cities as well.

It is estimated that in the past two years since hail-by-app began in London, more than 50 percent of the cabs there—likely the world’s busiest taxi market—are hailed by smartphones. That success was made possible because the city adopted a hands-off regulatory approach to the new technology, increasing competition. Unfortunately, many U.S. cities, at the behest of a powerful taxi lobby, are considering legislation aimed at prohibiting competition between taxis and livery

vehicles and outlawing the convenience of hailing by smartphone app. These proposed laws have nothing to do with protecting public safety but are merely a way for politically powerful cab companies to try to shut down a flourishing new market. In Portland, Ore., and Nashville, IJ has teamed up with independent sedan car drivers to prove that such protectionist laws are not only wrong, but unconstitutional.

Entrepreneurs expect to fight the status quo. Too often today, however, they must also fight unjust and arbitrary regulations to see their vision become reality. But entrepreneurs who refuse to submit do not stand alone. IJ stands with the innovators—and is itself as entrepreneurial as the clients it defends. We are seizing opportunities presented by these new and emerging business models to establish a rule of law under which individuals can control their destinies as free and responsible members of society—and our past successes show that we can win. ♦

Larry Salzman is an IJ attorney.



All but five of the 50 largest cities in the United States now have laws that make it difficult, if not impossible, to successfully operate food trucks. IJ client **Laura Pekarik** has teamed up with IJ to fight these unconstitutional laws in **Chicago**.



## Help Change Local Laws By Getting Active Using IJ's New HAN Website

As part of IJ's mission to educate, empower, organize and mobilize activists to be effective advocates for liberty, IJ's Human Action Network—made up of IJ-trained grassroots activists across the country—has launched a new activism hub on our website. The new page—[www.ij.org/HAN](http://www.ij.org/HAN)—features stories about current government abuses of power and explains how individuals can get involved at the grassroots level. For example, a recent post explained how Birmingham, Ala., city officials are considering passing food truck regulations aimed at protecting a vocal minority of politically connected brick-and-mortar restaurants from competition. The piece goes on to describe how activists can join IJ in working with local food truck owners to advocate for regulations that do not favor one business model over another, but instead are strictly limited to protecting the public's health and safety, allowing all entrepreneurs—mobile and stationary—the opportunity to thrive.

Expanding beyond situations with which the litigation and activism teams can directly become involved, a rolling blog exposes even more government abuses across IJ's four pillars—property rights, economic liberty, school choice and free speech. Shocking stories, like civil forfeiture funds in Milwaukee being used for Disney vacations and a Nebraska woman facing prison time for massaging horses, provide readers across the country opportunities to become engaged in local battles for liberty.

The new HAN page has already achieved popularity. Newly published stories are promoted using IJ's online social networks and have sparked lively discussion on forums like Facebook and Twitter. Each story routinely garners several thousand hits.

See for yourself what people are talking about by joining the action at [www.ij.org/HAN](http://www.ij.org/HAN). ♦



## *Paul Sherman: A Master of Letters And Op-eds, Too*

When making your point in today's newspapers, space is tight, words need precision and competition is fierce for that scarce media real estate.

These are some of the facts that make IJ Attorney Paul Sherman's achievements publishing letters to the editor and op-eds nationwide so impressive. Only a small percentage of submitted letters and op-eds are ever carried by the targeted news outlets. But when they are, they provide an important means of either correcting errors or omissions in coverage, or letting the public know about an important issue that might not otherwise be brought to their attention.

Over the past year, Paul has published four letters to the editor in the *Los Angeles Times*, two each in *The New York Times* and *The Boston Globe*, as well as others in *The Hill*, *Politico*, *USA Today*, *The Washington Post* and *The Wall Street Journal*. Over that same period he published more than a dozen op-eds, including three in *The Wall Street Journal* and two at *The National Law Journal*, along with others in *The New York Times* and *National Review*.

The Institute for Justice is known for its strategic and effective media relations. This kind of work by Paul and other IJ attorneys and staffers all across the nation is a big reason why. ♦

# Why I'm Fighting Civil Forfeiture

By Russ Caswell

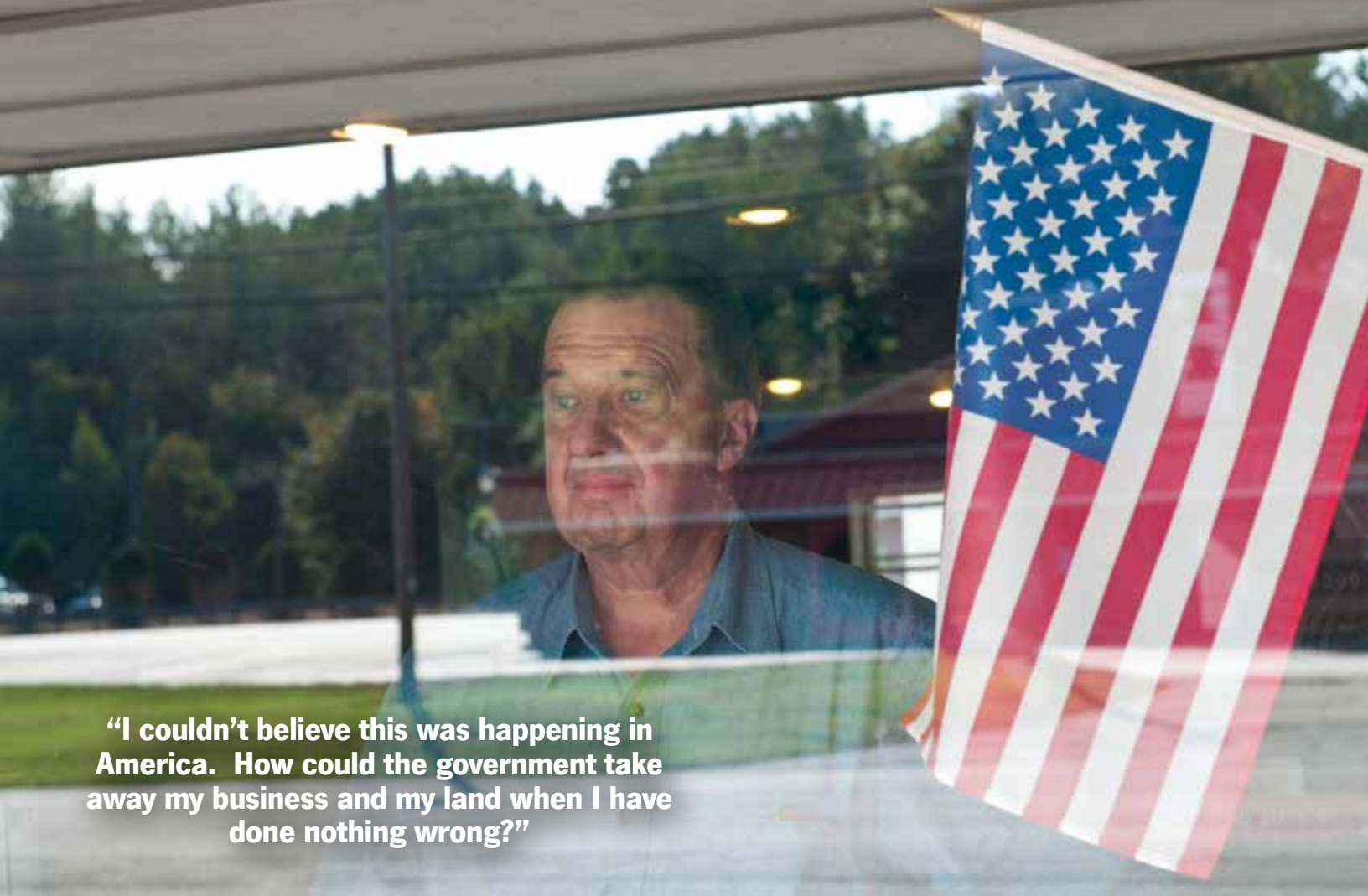
The last thing I thought I would be doing as I approach my seventies is fighting the federal government to save my family-owned business, the Motel Caswell, in Tewksbury, Mass. But after my local police department teamed up with the U.S. Attorney more than three years ago, that is exactly what I have had to do to keep everything my family has worked for during the past 50 years.

I am 69 years old and my wife, Pat, is 71. My father built the Motel Caswell in 1955 when I was a boy. I eventually bought the motel from him in 1984 and I have run it ever since then. My two children work for the motel, and Pat, my 91-year-old mother-in-law, my son, his wife, and my nine-year-old granddaughter and I live right next door. It is a true mom-and-pop operation.

The Motel Caswell is a budget motel. The people who stay here are of modest means. We still have travelers staying with us, but we also have construction crews that need an affordable place to stay while on a job for a few weeks. We have retired folks and military veterans who stay here on a monthly basis. Other people lost their homes or apartments, or just don't have any other place to go. We rent approximately 14,000 room nights each year.

Not surprisingly, given the number of rooms we rent and the variety of people who stay here, we get a small number of folks who cause problems, including those who use drugs. But they do this behind closed doors without our knowing.





**“I couldn’t believe this was happening in America. How could the government take away my business and my land when I have done nothing wrong?”**

Whenever we see anything suspicious, we report it to the police, and when the police come to us with information about people staying at the motel, we always cooperate with them fully. We even provide police with free rooms upon request to do surveillance and undercover work.

That is why I was shocked to get in the mail in September 2009 a notice that the government was taking my property through civil forfeiture. The police never once came to me and said they had a problem with the motel. The town renewed my innkeeper’s license every year. I paid my taxes and I never had a run-in with the law my entire life.

Frankly, I couldn’t believe this was happening in America. How could the government take away my business and my land when I have done nothing wrong?

I tried to find out more information about civil forfeiture. I got in touch with a family friend who is a business lawyer and his firm, Schlossberg LLC of Braintree, Mass., agreed to represent me at a reduced rate.



IJ Senior Attorney **Scott Bullock** with **Russ Caswell**, who is fighting against civil forfeiture.

They did a good job and I was thankful for the help, but I was already spending tens of thousands of dollars. Thankfully, the Institute for Justice heard about my case and agreed

to step in and represent our family free of charge. If IJ had not been there for us, there is no way we could have afforded to fight this.

We had our trial in federal court in Boston in early November last year and we await the judge’s decision. I am hopeful for a good outcome. As I sat there in the courtroom during the four-day trial, I was as stunned by the arguments the government was making about its ability to take property from innocent people as I was when I first learned about civil forfeiture over three years ago. I am fighting this battle not only to save my motel but also to highlight the unbelievable injustice of civil forfeiture laws. My hope is that younger people will not have to live through what our family has had to endure.◆

**Russ Caswell** is the owner and operator of the Motel Caswell in Tewksbury, Mass. He and IJ are challenging civil forfeiture.

## The IJ Clinic on Entrepreneurship GOES LOCAL

The IJ Clinic is a hub for entrepreneurial activity, where dreams can become a reality even for those on a shoestring budget.

The IJ Clinic works with University of Chicago law students to provide free legal assistance and support to low-income entrepreneurs. It helps clients through legal issues like licensing, contract drafting and hiring. And when it becomes clear that the laws are rigged against start-up entrepreneurs, the IJ Clinic fights to change them.

By helping entrepreneurs, the IJ Clinic makes it possible for them to pursue their dreams, provide for their families, serve customers and model entrepreneurship for their neighbors. The best example of the IJ Clinic's impact is in its own neighborhood, Hyde Park, where a growing cadre of IJ clients are changing the world one customer at a time. ♦



Tanya Durr started **Graffiti Pizza** in her apartment, before moving it to the back room of a night club, then to a hair salon café, and finally to her own restaurant. At Graffiti, customers pick their ingredients and get a personal pizza made up fresh with unlimited veggies. Kids can add to the colorful pizza-themed graffiti on chalkboards at their height. In an area of town where fresh veggies and a safe place for kids to play can be hard to find, Tanya's Graffiti Pizza offers both.



**Loving Tax Services** is the first IJ Clinic client to become a plaintiff in an IJ economic liberty lawsuit. Sabina Loving started Loving Tax Services to provide people in her neighborhood with trustworthy tax preparation services, unlike the fly-by-night operations that are commonplace there. She is serving her neighbors well, and she is also serving the nation by fighting burdensome IRS regulations in IJ's lawsuit.

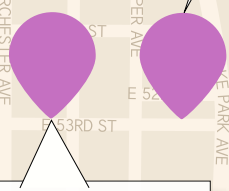


UNIVERSITY OF CHICAGO

**IJ CLINIC ON ENTREPRENEURS**



**Moon Meals** delivers healthy meals to office workers in the wee hours. The team of young entrepreneurs behind Moon Meals serve their neighbors as well as their customers. Founder LaForce Baker is actively involved with local efforts to spread entrepreneurship and achievement fever among inner-city youth.



Former client **Greektown Apparel & Promotions** was founded by Hyde Park native Manny Basely. During college, Manny started selling t-shirts and apparel to fraternities and sororities. Manny turned his hobby into a business selling apparel and promotional items in Hyde Park. His entrepreneurial spirit demonstrates that any young entrepreneur can turn a dorm room idea into a business. Manny has now “graduated” from the IJ Clinic client rolls.



In her youth, Megan Marshall learned Spanish and Chinese by immersion. Her passion for language became a career when she founded **Lango of Chicago South Side** to teach foreign languages to young children on the South Side of Chicago and open new doors for them. Megan has hired several teachers and her business continues to grow.

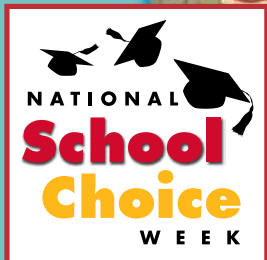


**The Experimental Station**, founded by Connie Spreen, is a nonprofit organization dedicated to building cultural infrastructure on the South Side. The IJ Clinic helped it set up a relationship with entrepreneurial journalists who are exploring new ways to report local stories in the midst of upheaval in the news industry.



NATIONAL SCHOOL CHOICE WEEK *SPECIAL*

# WHISTLE-STOP TOUR



## ALL ABOARD!

### IJ Promotes National School Choice Week's Whistle-Stop Train Tour & Other Choice Events

Millions of American children are denied the opportunity to pursue their dreams because they are forced to attend failing schools. The result is heartbreaking: Only about one-third of America's eighth graders are proficient in reading or math. Only 13 percent of high school seniors are proficient in American history. One child drops out of school every 26 seconds.

But a nationwide whistle-stop train tour aimed to raise awareness about the need to improve education through one simple but powerful option for parents and students: school choice.

"Just as whistle-stop tours were used to promote civil rights like women's suffrage and the end of racial segregation, the National School Choice Week 'Special' drew attention to the great civil rights fight of the 21st century: school choice for all Americans regardless of their race, income, zip code or learning ability," said

Andrew Campanella, president of National School Choice Week. The Institute for Justice has teamed up as a partner in the effort to promote school choice nationwide through activism and media relations.

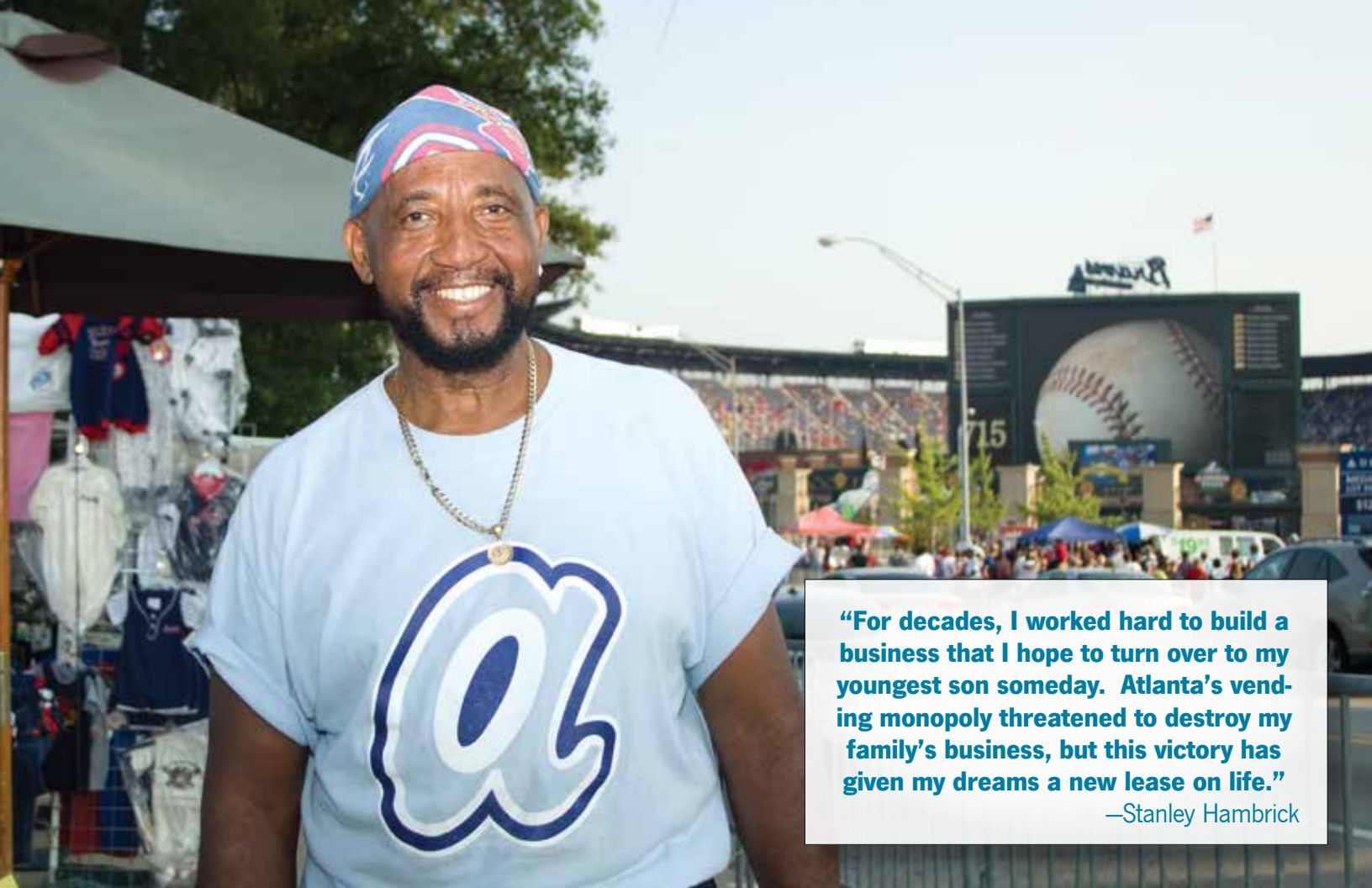
Throughout the tour, thousands of concerned citizens were expected to rally at special events that featured speeches by students who are succeeding in school choice programs, parents, national education reform leaders and elected officials. The tour included major events from Los Angeles to New York City with a dozen stops in between.

Beyond the whistle-stop tour, National School Choice Week 2013 featured more than 3,500 events organized by students, parents and community leaders across all 50 states. The Week focused on six educational choices designed to help children secure the education that is right for them. Those choices include:

high-performing traditional public schools, public charter schools, magnet schools, private schools, digital learning and home schooling.

"These are the kinds of educational options we want for all children," Campanella said.

"School choice helped open the door to a brighter future for my son, Gabriel," said Valerie Evans, a mom from New Orleans, who is represented by IJ in her fight for school choice. "Louisiana's Act 2 school choice program is a lifesaver for my child and ensures he will be in a safe environment first and foremost. It means he can now be educated in an environment that is not only safe, but he will also get the education he needs and deserves. Without a quality education from grade school, he won't have the foundation he needs to get into college, graduate and be a success." ♦



**“For decades, I worked hard to build a business that I hope to turn over to my youngest son someday. Atlanta’s vending monopoly threatened to destroy my family’s business, but this victory has given my dreams a new lease on life.”**

**—Stanley Hambrick**

**Atlanta Vending** continued from **page 1** erty vending sites throughout the City”—the first time any American city has set up such a centralized vending scheme. The first phase of the company’s program forced approximately 16 small vending businesses to close, taking with them dozens of self-supporting private-sector jobs. With their vending locations targeted as part of Phase II of the program, Larry and Stanley’s days as independent businessmen looked numbered.

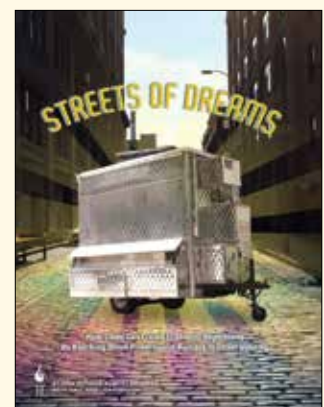
Rather than accept their fate, though, Larry and Stanley fought back. Teaming up with the Institute for Justice, the two filed a lawsuit arguing that the city lacked the authority to hand out exclusive franchises to well-connected political insiders. In its December 21 ruling, the Superior Court agreed, saying that because the city law and contract creating the vending monopoly “grant the exclusive right to occupy and use all public property vending sites in the City, . . . the City exceeded the powers granted to it in [its] Charter by creating an unauthorized exclusive franchise.” The Court declared the city law and contract void and without effect.

The ruling came as a godsend to Larry and Stanley, who only one week before had received an ominous letter from the city telling them that, come 2013, they would either have to get the monopolist’s permission to vend or get out.

“Thanks to this ruling, a weight has been lifted off of my chest,” Larry said. “Now I can focus on selling my t-shirts, jerseys and boiled peanuts instead of worrying that my business will be shuttered forever.”

Larry’s sigh of relief was echoed by Stanley Hambrick, who said, “For decades, I worked hard to build a business that I hope to turn over to my youngest son someday. Atlanta’s vending monopoly threatened to destroy my family’s business, but this victory has given my dreams a new lease on life.”

This victory has done more than just knock out an anti-competitive vending scheme in one of America’s largest cities. It has shown once more that through its National Street Vending Initiative, IJ is the nation’s leading advocate for the rights of vending entrepreneurs. And through our continued litigation, activism and legislative efforts, IJ will keep fighting for a simple, yet powerful, principle: That it’s the job of entrepreneurs and consumers—not the government—to decide which businesses succeed.◆



*Streets of Dreams* examines vending laws in the 50 largest U.S. cities. It finds that all but five place significant barriers in the way of would-be street vendors ([www.ij.org/3939](http://www.ij.org/3939)).



**Robert Frommer** is an IJ attorney.

THE SPEECHNOW ANNIVERSARY  
**How Super PACs Brought  
 FREE SPEECH, not  
 SUPER INFLUENCE  
 to this election**



By Paul Sherman

As any public interest litigator will tell you, beating back unconstitutional government is a long-term project. Usually it is about securing small victories that, over time, add up to a much freer society. But sometimes a case comes along that gives public interest litigators a chance to score a big win for freedom, with nationwide effects that are felt almost immediately. Next month marks the three-year anniversary of one such case: *SpeechNow.org v. FEC*.

Regular readers of *Liberty & Law* may recognize that name, but even those who don't have felt its effects. That's because *SpeechNow.org*, more than any other case, shaped the nature of the political debate in the 2012 election.

*SpeechNow.org* was a group of political activists who were concerned about the growing threat to First Amendment rights posed by campaign finance regulations. So, in 2008, they decided to pool their money to urge their fellow citizens to support candidates who stood up for the First Amendment, and to oppose candidates who supported stricter campaign finance laws. There was only one problem: Although individuals acting alone had long been permitted to spend an unlimited amount on political speech, under federal law, if two or more people pooled

their money to do the same thing, they were considered a political committee and limited to contributing \$5,000 each.

Represented by the Institute for Justice and the Center for Competitive Politics, *SpeechNow.org* challenged this irrational restriction. We argued that the First Amendment protects both the right to speak and the right to associate; if one person acting alone may speak without

**“The only thing these groups did was engage in peaceful political advocacy—speech that is at the core of what the First Amendment was intended to protect.”**

limits, groups of people should enjoy exactly the same right. After two years of grueling litigation, the D.C. Circuit Court of Appeals agreed and struck down the limits.

The importance of the *SpeechNow.org* ruling is difficult to overstate. For the first time in more than 35 years, Americans were free to band together and speak out in elections without limits. And speak out they did. The 2012 election saw the creation of hundreds of groups—dubbed “super PACs” by the media—that combined spent more than \$640 million on political speech.

Despite the relentless criticism heaped on super PACs by advocates of government

censorship, the only thing these groups did was engage in peaceful political advocacy—speech that is at the core of what the First Amendment was intended to protect. And while these critics hysterically claimed that super PACs were “buying” the election, November’s results demonstrated that simply spending more on political speech doesn’t guarantee electoral results; Republican-leaning groups significantly outspent their Democratic counterparts, but had little to show for it on Election Day.

Although November’s results showed that these would-be censors’ concerns were misplaced, for IJ the *SpeechNow.org* case was never about electoral results or partisan politics. Instead, it was about vindicating a simple, but important principle: Under the First Amendment, the government has no power to ban peaceful political expression, whether by individuals or groups. Courts have not always honored that principle—and there is still much work to be done—but after three years there can be no doubt that *SpeechNow.org* was a big step in the right direction. ♦

Paul Sherman is an IJ attorney.



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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, school 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 policy activists in the tactics of public interest litigation.

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

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# Quotable Quotes

**WTVF-TV**  
**(CBS Nashville)**

**IJ Senior Attorney Scott Bullock:** “This is highway shakedowns coming to the U.S. [IJ’s *Policing for Profit* study] shows that the police are really focusing not on trying to get the drugs, not on trying to enforce the drug laws and stop that flow throughout the country, they’re focused on getting the money.”



**WSB-TV**  
**(ABC Atlanta)**



**IJ Client Larry Miller:** “To take my business and rent it back to me, that’s a no no. [With this victory] now I can continue to feed my family without worrying about anybody disrupting my business.”

**The Wall Street Journal**

**IJ Attorney Jeanette Petersen:** “If the First Amendment protects anything, it protects Americans’ right to communicate with fellow citizens and to contact their elected representatives about important issues. That isn’t ‘lobbying’—it’s speaking. The Ninth Circuit would be wise to pull the law up by the roots.”

**Lowell Sun**  
**(editorial)**

“A conviction in this [Institute for Justice civil forfeiture] case would establish a very dangerous precedent for all Americans. We urge Justice DeIn to put a stop to this federal witch hunt, restore sanity to the Justice Department, and protect our civil liberties.”

**Austin American-Statesman**

**IJ Attorney Arif Panju:** “Judicial engagement means nothing more than real judging in all constitutional cases. That means engaging the facts of every case and requiring the government to justify its actions with real reasons backed by real evidence. Unfortunately, however, judges often abdicate their responsibility to ensure public officials respect the limits placed on them by the U.S. and Texas constitutions.”

**“The Institute for Justice [is] a non-profit legal organization that reins in over-reaching governments.”**

*—ABC Minneapolis  
KSTP-TV*



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The city of Portland threatened me with \$635,000 in fines for offering Groupon discounts for sedan rides.

But the government cannot make me charge my customers more just to protect taxicabs from competition.

I am fighting for economic liberty, and I will win.

*I am IJ.*

*Mike Porter  
Portland, Oregon*

[www.IJ.org](http://www.IJ.org)

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Economic liberty litigation*