

# Liberty & LAW

February 2008

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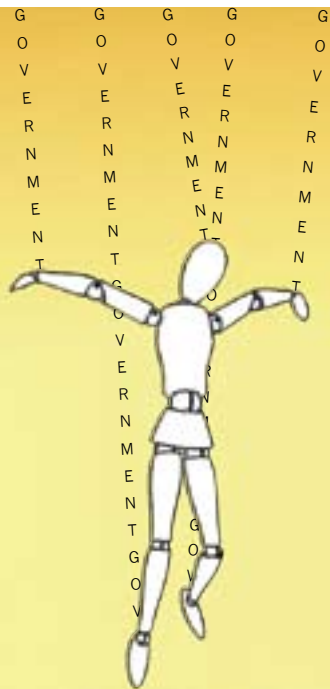
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## Freeing Speech FROM Government Control

### Challenging Arizona's Scheme Of Taxpayer-Funded Campaigns

**A**merica's Founders drafted the First Amendment so every American could speak freely about politics, thus ensuring a healthy democratic system with robust public debate and meaningful citizen participation. Arizona's scheme of taxpayer subsidies for politicians, its so-called "Clean Elections" law, fosters precisely the opposite: It curbs speech, discourages participation and limits what voters hear about politics.

The law curbs speech by setting government caps on how much money politicians can spend in their campaigns—thereby limiting their ability to speak to voters. Even politicians who refuse to accept government funding find their ability to speak restricted. For example, when Arizona Treasurer Dean Martin ran a traditional campaign, forgoing taxpayer money and using only funds voluntarily donated by private groups and citizens, he quickly realized it made no sense to raise and spend more than the

government cap set for his taxpayer-funded opponent, even though he could by law. Why? Because all money donated to Martin's campaign above that limit would trigger more taxpayer subsidies for his government-funded opponent, ensuring she could dramatically outspend him.

Martin was not directly subject to the government cap, but he was forced to abide by it or be drowned out by government funds showered on his opponent. The law chilled his right to speak freely. In truly free elections, candidates with a stronger campaign and a more appealing message should enjoy a funding edge, but in Arizona such hard work is punished with a government check to their opponents. As Martin considers his next statewide campaign, he again faces the "choice" of limiting his speech or being outspent by a government-funded opponent.

Freeing Speech continued on page 10



von Mises



Kirzner



Schumpeter



Satterthwaite



Milnikel

# IJ Clinic Inspires Students With Economic Titans

Among the economists whose lessons inspire IJ Clinic students are, from top, Ludwig von Mises, Israel Kirzner and Joseph Schumpeter. IJ Clinic Assistant Director **Emily Satterthwaite**, center, and Director **Beth Milnikel** educate law students to be the next generation of advocates for entrepreneurs.

**“We aim not just to prepare our students, but to inspire them. We seek to provide perspective on how entrepreneurs fit into the bigger picture of the economy and the legal system.”**

## By Beth Milnikel

Entrepreneurs face countless legal challenges, including setting up a business organization, obtaining licenses, securing real estate, hiring employees, complying with safety regulations, protecting intellectual property and setting up contracts with key suppliers. Law students at the University of Chicago who work with lower-income entrepreneurs at the IJ Clinic on Entrepreneurship might encounter questions on any or all of these topics.

It would be easy to fill our course that IJ Clinic students take solely with a survey of the legal areas that entrepreneurs most often face. Indeed, that is how all the other clinics in the country prepare students to serve entrepreneurial clients. But we take a different approach—an IJ approach. We aim not just to prepare our students, but to inspire them. We seek to provide perspective on how entrepreneurs fit into the bigger picture of the economy and the legal system.

Luckily, we are not alone as we shed light on the questions of entrepreneurs’ place in the

world. We have mentors and advisors such as Joseph Schumpeter, Ludwig von Mises and Israel Kirzner.

With the guidance of these economic titans, students realize that entrepreneurs are instrumental in keeping our economy humming. They come to internalize the idea that an entrepreneur’s freedom to pursue new opportunities and new ideas is essential to progress.

For the very first class session, students read that entrepreneurship is premised on the notion that change is normal and indeed healthy. As Schumpeter explained, entrepreneurs replace old products with innovative solutions. As we discuss in class, von Mises emphasized the role of human action in economics: Entrepreneurs do not just react mechanically to the world, but actively notice new opportunities. By pursuing their dreams of new businesses, they create change.

These notions of innovation, creativity and human inspiration are most often left out when people discuss the supply and demand curves of neo-classical economics. With these new ideas, our students appreciate the creativity of

entrepreneurs. They realize that entrepreneurs are embarking into the unknown, and that we all benefit from their courage.

We do not stop with a discussion of economics, however. After all, our class is called “Entrepreneurship & The Law,” and we have to reach the legal part eventually! But students view the legal system with a fresh perspective once they have come to understand the unique role entrepreneurs play in effecting change in our world.

When we discuss the licensing requirements that IJ has fought against for so many years, our students better understand how those laws get passed. They see how entrepreneurs are sometimes seen as a threat to the established businesses in an industry—the ones most likely to have power to influence the legislature—because true entrepreneurs are offering products or services in a new and improved way that could knock out the old guard. When our students understand the invaluable role lawyers can play in advocating for entrepreneurs within the system, then we know they are ready to join the IJ Clinic team. ♦

**Beth Milnikel** directs the IJ Clinic on Entrepreneurship.



# Will Eminent Domain Reform CAUSE A DEVELOPMENT DOOMSDAY? New Report Says, “No Way”

By Dick Carpenter

Since the infamous *Kelo* ruling, eminent domain apologists—politicians, planners and their developer friends—have tried to block reform by predicting an economic doomsday if eminent domain abuse were reined in. Former Riviera Beach, Fla., Mayor Michael Brown, for example, intoned, “[I]f we don’t use this power, cities will die.” Others predicted massive job loss, decreased tax revenue and depressed economic development.

The Institute for Justice was skeptical of the apocalyptic hand-wringing, so we put it to the test. The results are available in IJ’s newest strategic research report: *Doomsday? No Way: Economic Trends & Post-Kelo Eminent Domain Reform* (available at [www.ij.org/publications/other/doomsday.html](http://www.ij.org/publications/other/doomsday.html)).

Using rigorous statistical models, we examined economic indicators closely tied to reform opponents’ forecasts—construction jobs, building permits and property tax revenue—before and after reform across all states and between states grouped by strength of reform. We controlled for broader economic conditions and used more than three years of data (2004 to early 2007).

The results confirmed our skepticism.

State trends in all three economic indicators were essentially the same after reform as before. Even states with the strongest reforms saw no ill economic effect compared to states that failed to enact reform. Trends in all three indicators remained similar across all states, regard-

less of the strength of reform.

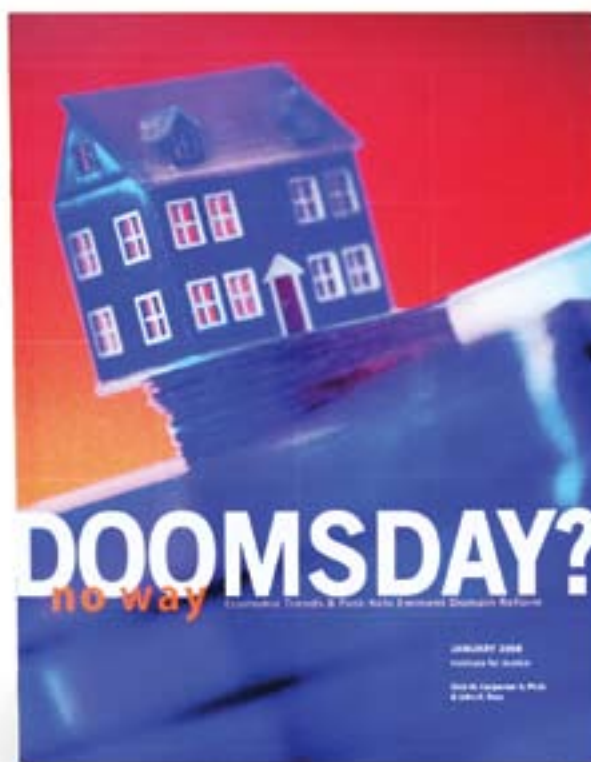
Simply stated, the results bear no resemblance to the Chicken Little predictions of eminent domain reform opponents. In fact, as Curt Pringle, mayor of Anaheim, Calif., documented in *Development Without Eminent Domain: Foundation of Freedom Inspires Urban Growth* (also published by IJ and available at [www.CastleCoalition.org/publications/Perspectives-Pringle](http://www.CastleCoalition.org/publications/Perspectives-Pringle)), significant economic activity is possible and often more profitable through market forces and the protection of property rights. Anaheim declared eminent domain “off the table” when beginning its redevelopment efforts. This private sector approach led to a quadrupling of property values, billions in private investment, increased demand for high-end office space, 7,000 new homes and a variety of new restaurants and retail outlets.

In short, economic growth and property rights go hand-in-hand. Post-*Kelo* reforms have provided greater protection to homes and small businesses without sacrificing economic health. With no ill economic effects—and with the substantial benefits strong reform provides to the rightful owners of property and society as

a whole—legislators nationwide should be encouraged to keep good reforms in place while pursuing new and stronger safeguards against eminent domain abuse.

Of course, despite the success of reform efforts spearheaded by IJ’s Castle Coalition, the battle against eminent domain abuse is far from over. But these new findings provide essential evidence to, among other things, encourage legislators nationwide to protect property owners against eminent domain for private profit.♦

**Dick Carpenter II** is IJ’s Director of Strategic Research.





# A View Behind a Victory

## How the Castle Coalition Helped Save Chicago Businesses From Eminent Domain Abuse

IJ Castle Coalition Coordinator **Christina Walsh** speaks to Chicago property owners about how to save what is rightfully theirs. Save Lincoln Square organizer **Imre Hidvegi** (top right) urges fellow property owners and residents to speak out against eminent domain abuse.

By **Steven Anderson**

The Castle Coalition is sticking to its roots—the grassroots, to be exact—to work with citizens and legislators around the country to reform the nation’s woeful eminent domain laws.

The Institute for Justice cannot litigate to stop all of the many abuses of eminent domain across the country, so we formed the Castle Coalition in 2002 to help property owners keep their homes and small businesses by winning in the court of public opinion. Our website is filled with stories of ordinary citizens doing just that—and now we have another to add.

Thanks to the efforts of Castle Coalition Coordinator Christina Walsh, businesses in Chicago’s Lincoln Square neighborhood have been removed from the city’s “involuntary acquisition” list and are not subject to eminent domain for the time being. Although we will continue to monitor the situation, people like Imre Hidvegi and Edgar Alvarez of Chicago Soccer, Tim and Kim Van Le of Decorium Furniture, and David and Nancy Smarinsky of The Dental Corner can now focus on growing their businesses, not saving them from misguided, city-led attempts at redevelopment through government force.

This success story is emblematic of the initiative and entrepreneurial spirit the Castle Coalition brings to the fight to end eminent domain abuse. Chicago property owner David Smarinsky contacted us through our website, and Castle Coalition staffer Chris Grodecki gathered more details. The city planned to place 16 properties—housing more than 30 businesses—on an acquisition list to make way for future private development, and the property owners rightly suspected eminent domain. Our involvement began in earnest with a telephone call from Christina to Imre—and from there, things moved quickly.

Following initial conversations, Christina met with the affected property owners in Chicago to assess the situation, educate them and discuss grassroots strategy. That night, the business owners formed Save Lincoln Square, and a website was born, filled with information about the ill-conceived project.

The conflict reached a fever pitch in early December, when nearly 300 members of the community gathered for an evening meeting, which featured speakers sharing their personal stories about how eminent domain would affect them, as well as a talk

by Christina, who had, by that time, been dubbed a “big gun” by at least one area media outlet. Tim Van Le shared how he and his wife fled from Vietnam in pursuit of the American Dream, only to encounter injustice here. The event culminated in an impromptu, nearly mile-long march of many attendees to the office of the local alderman, who ultimately met with some of his constituents while the rest chanted “Save Lincoln Square!” and “Stop eminent domain!” from the snowy sidewalk. Another meeting between business owners and the alderman occurred less than a week later, and he introduced the ordinance to de-list most of them.

Buoyed by this development, Save Lincoln Square and its hundreds of members have vowed to continue their fight until the threat of eminent domain is lifted from all properties in the neighborhood. The Castle Coalition will remain there every step of the way—not only in Chicago, but wherever home and small business owners need protection.◆

**Steven Anderson** is IJ’s Castle Coalition director.





During the past year, the Institute for Justice earned a dozen awards for its publications and websites. Among those responsible for this recognition are IJ staffers: **John Ross** (front), (second row from left) **Donald Wilson, Dick Komer, Dana Berliner, Steven Anderson** and **Chris Grodecki**, (back row) **Isaac Reese, John Kramer, Melanie Hildreth, Christina Walsh** and **Lisa Knepper**.

## IJ Wins Davey Award For “Not for Sale” DVD

*IJ Racks Up 12 Awards Throughout 2007*

By John E. Kramer

You know that every day the Institute for Justice battles government Goliaths. Through our lawsuits, media relations, publications, research, outreach and more, we use all the tools at our disposal to take on these deep-pocketed giants and topple them back down to Earth. But more and more, IJ is being recognized by organizations and associations across the nation with awards for not only what we do, but for how well we do it.

The latest example of this was the Institute for Justice's recent receipt of the prestigious “Davey Award,” given to small organizations that display “intelligence, out-of-the-box thinking and exceptional execution.” The award is given out annually by the International Academy of the Visual Arts and co-sponsored by *AdWeek*.

The Institute for Justice received the Davey Award for our grassroots training DVD “Not For Sale,” which was created and produced entirely in-house and led by IJ Production and Design Coordinator Isaac Reese, Design Director Don Wilson and Castle Coalition

Director Steven Anderson. Just as David defeated the giant Goliath with a big idea and a little rock, the annual International Davey Awards honor the achievements of the “Creative Davids” who derive their strength from big ideas, rather than stratospheric budgets.

In just the past year alone, the Institute for Justice has also racked up awards for our Four Pillars Society brochure, Hands Off My Home poster, *Liberty & Law* newsletter, *Opening the Floodgates* eminent domain report, *School Choice and State Constitutions*, websites [www.IJ.org](http://www.IJ.org) and [www.CastleCoalition.org](http://www.CastleCoalition.org), *Eminent Domain Abuse Survival Guide* and even our holiday card.

The Institute for Justice continually challenges itself to be the most effective voice for property rights, economic liberty, school choice and free speech. We appreciate all these honors, and will continue our work fighting for freedom. ♦

**John Kramer** is IJ's vice president for communications.



## New Castle Watch Blog Keeps Owners & Activists In the Know

By Chris Grodecki

The Castle Coalition works to be the one-stop information resource for property owners threatened by eminent domain abuse. Part of this work includes searching the Internet every day for media reports of eminent domain abuse that we then share with IJ attorneys and staff so they have the latest information about situations across the country. To expand those “in the know” about these abuses, we recently launched *CastleWatch Daily*, a blog dedicated to tracking the latest news on eminent domain and guiding the public on how they can help stop this abuse of property rights: <http://blog.castlecoalition.org>.

Despite reforms in 42 states, many local governments still seek to grab land from their own citizens for private economic development projects. The large number of these situations makes it difficult to give each abuse the attention it deserves, but *CastleWatch Daily* will make it easier for people to learn more about eminent domain abuse not only in their own neighborhood but anywhere it is taking place.

In the near future, look for exclusive web content, including features and guest commentary from others at the Institute for Justice, who will provide insight into stopping eminent domain abuse and discussion on the state of property rights. ♦

**Chris Grodecki** is a Castle Coalition writer.



# State Chapter Lessons Prove Universal



The Institute for Justice Arizona Chapter kept teenage entrepreneur **Christian Alf** in business when the government sought to shut him down.

## By Deborah Simpson

As the Institute for Justice gears up to launch its newest state chapter (keep an eye out for the next issue of *Liberty & Law* for all the details), we reflect on the lessons learned over the first six years of the state chapters project. With three chapters operating in very distinct geographic and political climates, there have been many opportunities to experiment with the IJ Way to adapt it to fit each location, each specific chapter mission and each specific case of government over-regulation we decide to challenge. Approaches that are successful in one state may not work in another. A certain litigation model may work for one type of case but not another. Yet certain ways of doing business are universal.

Our chapters have taught us that we benefit from experimentation. Experimentation, or as we like to call it, taking an entrepreneurial approach to every project, has become a hallmark of IJ's work. We take a fresh look at each set of facts and determine what is the best strategic approach to ensure the desired outcome for liberty. Sometimes we can accomplish the goal with a letter, sometimes it takes a law-

suit, and sometimes it takes every weapon we have available, but the lesson is to try different approaches and never get stuck using merely one approach.

One example of this is the Arizona Chapter's (IJ-AZ) three challenges to the Structural Pest Control Commission (SPCC) and its overreaching regulations. In each case we used a different approach and increased the heat on the agency until in October 2007, a legislative panel voted to eliminate the Pest Control Commission entirely.

IJ first encountered the Commission in March 2004 when we wrote a letter defending Christian Alf, an entrepreneurial teenager who was installing wire mesh on roof openings to keep rats out of homes. At the behest of exterminators who felt they were losing business to this young entrepreneur, the SPCC tried to shut him down for operating a pest control business without a license. Within weeks of receiving our letter and being rightfully featured as a villain in media across the state, the Commission backed down and changed its interpretation of the law to exclude Christian's activities.

In October of the next year, the SPCC





The Institute for Justice Arizona chapter filed a lawsuit to fight regulations that serve only to deprive hard-working individuals, like **Gary Rissmiller**, of a legitimate business opportunity.

In just a bit over three years, with only a modest expenditure of resources, IJ not only vindicated the rights of the individuals we represented, but we just may have succeeded in eliminating an entire state agency, freeing many more folks from unnecessary government regulation.

overreached again by regulating landscapers who sprayed over-the-counter weed killer (like Roundup) as an incidental part of their work. This time a letter was not enough; it took a different approach—a lawsuit and legislative reform. Ultimately, reform was passed in May 2006 that now allows gardeners to spritz weeds without having to obtain a pest control license.

Our most recent and hopefully last challenge to the SPCC occurred in April 2007, when we skipped the letter approach and immediately threatened litigation to protect Rich Hanley, who was operating a business similar to Christian Alf's. This approach succeeded as well when the Commission reversed its decision in June 2007 and lifted the cease-and-desist order against Mr. Hanley.

The lesson here is not only that each challenge should be met with a fresh approach, mindful of past experiences, but also that incremental sustained pressure can accomplish much more than any single lawsuit. In just a bit over three years, with only a modest expenditure of resources, IJ not only vindicated the rights of the individuals we represented, but we just may have succeeded in eliminating an entire state agency, freeing many more folks from unnecessary government regulation.

Arizona's legislative "Sunset Committee" recommended to sunset the SPCC, and, if the legislature does nothing this year, the Commission will automatically sunset out of existence.

Having an entrepreneurial approach is very effective, but it is made possible because we have a strong foundation upon which to experiment. That is the second lesson we learned—stay true to our founding principles. Under-girding everything IJ does are the founding principles that have served us so well for so long—adherence to our mission in each of our four pillars, entrepreneurial vision and drive, and top-notch legal work coupled with strategic media relations, outreach and research. Without this foundation, we would not feel as confident taking risks. Without it as our rudder, it would be easy for IJ to go adrift. The best way we have found to stay true to our mission is through careful and thoughtful case selection. And one of the most effective ways to achieve success in those cases is to forge strong relationships with local organizations and other allies in the pro-freedom movement as well as those in the historical civil rights movement.

IJ has developed strong relationships with state-based think tanks and other like-minded organizations in states where we have chapters

and elsewhere to great effect. Combining efforts leverages the work of both organizations and produces greater impact than our efforts could produce independently. This is especially true given the complementary nature of policy work and litigation. Perhaps the best result from these alliances came through the post-*Kelo* eminent domain reform efforts where the Institute for Justice worked closely with policy groups that had established relationships with legislators in Florida, Georgia, Michigan, Minnesota, South Carolina, Washington and other states to help pass important reform. The one-two punch of well-reasoned and well-executed policy advocacy together with the ever-present threat of IJ litigation proved successful in state after state in the effort to expand freedom.

These are a few of the important lessons we learned over the years that we take with us as we continue to bring our brand of strategic litigation to the states. We believe we have a road-tested model for successful state-based litigation that we, and we hope others, will embark upon for years to come. ♦

**Deborah Simpson** is IJ's managing director.



# Litigating for Liberty, Swedish-Style

By Gunnar Strömmer

In 2001, I had an incredible nine-month internship at the Institute for Justice in Washington, D.C., an experience that has paid off in big ways in my native country of Sweden. At the time, I was a young Swedish lawyer and the goal of my internship was to study “the IJ Way” in order to start a similar non-profit, pro-liberty litigation shop in Sweden.

To be sure, there are fundamental differences between Sweden and the U.S. in terms of their respective legal systems and traditions. Historically, constitutional protection for individual liberties in the Swedish welfare state has been weak. Swedish judges have been very skeptical of judicial review. And different government agencies designed to protect individual rights have in practice promoted group rights and entitlements instead.

However, in 1995, Sweden joined the European Union, and the European Convention on Human Rights became Swedish law. All of a sudden, there was a substantial ability to protect individual liberties, and the national courts were expected to play a more assertive and independent role. In this context, there was new potential for a successful Swedish public interest litigation program. From its inception in 2002, the Centrum för Rättvisa (Center for Justice) has been able to apply many of the lessons I learned during my time at IJ: the importance of principles rather than politics; the value of a strategic litigation plan; and the need to argue your cases in the court of public opinion as well as in the courts of law.

After five years in business, the Centrum för Rättvisa has litigated about 40 cases, concentrating primarily on property rights, economic liberty, equal protection and freedom of association. And, luckily, we have been successful in promoting our issues, both in the courts and in the public debate.

Our most prominent legal victory came in January 2006, when the Swedish Supreme Court unanimously voided an ethnic quota admission system at the Uppsala University Law School, ruling that it violated the Swedish Equal Treatment Act. The law school had earmarked 30 out of 300 first-year law student places for applicants “both of whose parents were born abroad.” The Centrum för Rättvisa filed a lawsuit on behalf of two applicants who did not have



The Centrum för Rättvisa’s eminent domain clients in Burlov, Sweden. Local authorities want to take the couple’s home and give it to DHL, the giant German transport company.

two parents born abroad, and who failed to gain admission in spite of having better high school grades than all 30 of the applicants accepted through the special quota.

Looking back on a solid track record is, of course, satisfying. But in November 2007, when the Centrum celebrated its five-year anniversary, we sought to build on our successes by expanding our program even further. Therefore, we were very happy to have my old friend from IJ, Scott Bullock, as a keynote speaker at our anniversary celebration in Stockholm in order to launch our next litigation program—Public Power, Private Gain. As in the United States, property in Sweden is being taken not just for public uses, but also for private businesses in the name of economic development. Inspired by IJ’s incredibly successful work on this issue, the Centrum för Rättvisa decided to do something about it. Our first lawsuits have already been filed and we will make the issue a top priority.

Finally, like IJ, the Centrum för Rättvisa has been blessed with the most important thing for a successful public interest law group: clients with amazing character and important things to say.

I am sure that we will have many inspiring experiences to share overseas in the next five years and beyond.◆

**Gunnar Strömmer** is the founder of the Centrum för Rättvisa, Sweden’s first public interest law firm.





## New Scholarship Helps IJ Attract Best & Brightest



By Shaka Mitchell

Let's face it: the Institute for Justice is made up of free marketeers. We know how the marketplace works.

With the average private law school student graduating more than \$76,000 in debt, and that tally ringing up to \$48,000 for public law school graduates, we recognize that students must spend their precious 2L summer making money. But how is a small public interest law firm

to compete to attract the best and brightest law students as summer clerks when these same folks can make thousands of dollars working at mega law firms?

Thanks to a generous and insightful donor, we will compete by offering the first-ever Torchbearer Scholarship, an award of \$10,000 to a qualified second-year law student who wants to spend his or her summer litigating for liberty. Each summer, IJ brings together a dozen or so students from law schools across the nation to train them in the tools and tactics of public interest law. These clerks

provide valuable service conducting legal research, drafting documents and so much more.

Applications for the Torchbearer Scholarship are now online at [www.ij.org](http://www.ij.org). Additionally, even for students who do not receive the scholarship, IJ partners with other organizations, such as the Institute

for Humane Studies, to underwrite the cost of spending a summer in the D.C. region. What's more, law schools

generally have grants available through a school's Public Interest Law Group. Students are encouraged to apply early for all of these opportunities.

If you know students of who may be interested, please direct them to our website. The deadline to apply for IJ's Torchbearer Scholarship is February 29, 2008. ♦

**Shaka Mitchell** is IJ's outreach coordinator.



## An Evening at FEE With Chip Mellor

IJ President and General Counsel Chip Mellor delivers his speech, "Jurisprudence of Liberty," at the Foundation for Economic Education's prestigious Evenings at FEE lecture series.

FEE is one of the oldest free-market organizations in the United States and has a deep history of publishing and hosting lectures by the greatest advocates of liberty, including Ludwig von Mises, Henry Hazlitt, Czech Republic President Dr. Vaclav Klaus and Nobel Prize-winning economists James Buchanan, Milton Friedman, Friedrich Hayek, Vernon Smith and George Stigler. ♦

**Freeing Speech** continued from page 1

Arizona's elections scheme also discourages independent groups, like the Arizona Free Enterprise Club's Freedom Club PAC and the Arizona Taxpayer Action Committee, from participating in the political process. Both groups are political committees that support candidates who believe in private enterprise and low taxes. Any time an independent group spends money on speech—such as a radio ad—supporting a candidate running with private funds, the taxpayer-funded opponent will get still more public money. Not surprisingly, independent groups now think twice before supporting some candidates—and sometimes choose not to speak at all.

The system's arbitrary caps limit the voices and perspectives voters hear, diminishing their ability to make informed decisions. Reaching a large number of voters is expensive, and spending caps prevent candidates from effectively communicating with voters. They also discourage citizens from pooling their resources to persuade their fellow citizens of the wisdom of a particular political position or the virtues of a particular candidate. The result is less speech and less debate.

Direct government limits on expenditures are unconstitutional. Instead of a direct limit, Arizona created so-called "matching funds" to enforce the caps. The system's drafters knew that many candidates like Martin would reject taxpayer funding on principle and simply opt out, freeing them of the government caps. That would give them an advantage over those who accept taxpayer funds and thus discourage participation in the scheme. So there had to be a way to punish those who opt out. "Matching funds" is the punishment: Whenever a privately financed candidate or an independent group outspends a taxpayer-funded candidate, the government steps up to the ATM (in this case, Arizona Taxpayers' Money) and matches those expenditures dollar-for-dollar, up to two times the initial payout.

"Matching funds" are how Arizona rewards those who take taxpayer money for politics and punishes those who refuse it—as well as private citizens or groups who want to support them. "Matching funds" are how Arizona reins in speech about politics.

Indeed, the dirty little secret of Arizona's law is that it is *designed* to limit speech: Government controls the purse strings, so government decides how much speech is "enough." But, in a free society, the government has no business micromanaging how citizens debate, of all things, who should run the government.

State-imposed limits, even indirect limits, on grassroots advocacy and campaigns for public office violate the free

speech and association guarantees of the First Amendment. That is why Dean Martin, the Freedom Club PAC and Taxpayer Action Committee joined with the Institute for Justice to ask the federal courts to vindicate their First Amendment rights. The 9th U.S. Circuit Court of Appeals recently reinstated this lawsuit, originally filed in 2004 by IJ and Martin. Now we return to the trial court to argue the merits of the case.

Arizona's election scheme, one of the most far-reaching in the nation, adds up to less speech from fewer voices resulting in a less robust public debate. If the Arizona model spreads, as so-called campaign finance "reformers" hope, our core rights as citizens to speak on political matters will give way to government control. But IJ is fighting back with a case that can set an important precedent against taxpayer-funded campaigns and in favor of unfettered First Amendment rights. ♦

**Tim Keller** is executive director of the Institute for Justice Arizona Chapter.



The dirty little secret of Arizona's law is that it is designed to limit speech: Government controls the purse strings, so government decides how much speech is "enough." But, in a free society, the government has no business micromanaging how citizens debate, of all things, who should run the government.



## "For Sale" Victory Now Final

IJ client Chris Pagan's hard-fought victory for free speech became final in late November when the U.S. Supreme Court denied a petition for review filed by Glendale, Ohio.

Glendale asked the U.S. Supreme Court to overturn last summer's narrow 8-7 win in a rare proceeding before the entire 6th U.S. Circuit Court of Appeals. The case began in 2003 when Glendale ordered Chris to remove a "For Sale" sign from his car window.

Chris promptly filed suit in federal court under the First Amendment, where, inexplicably, he lost. The trial court ruled that the government has broad discretion to decide what signs citizens may display. A three-judge panel of the 6th Circuit affirmed on appeal.

IJ took up Chris' cause in 2006, persuading all 15 judges of the 6th Circuit to reconsider the case because the rulings of the trial court and original appellate panel seriously undermined the basic First Amendment principle that government has very little power to restrict free speech. Following new briefing and oral argument, the 6th Circuit ruled in our favor last summer, striking down the challenged ordinance in a powerful, though closely decided, 8-7 decision explaining that the government bears a heavy burden when it wants to restrict speech. Glendale then unsuccessfully asked the Supreme Court to intervene.

Chris' tenacity in the face of two disappointing losses resulted in a major victory that will influence First Amendment law across the country. His way was the IJ Way, and we were proud to stand with him. ♦

Volume 17 Issue 1

**About the publication**

*Liberty & Law* is published bimonthly by the Institute for Justice, which, through strategic litigation, training, communication and outreach, 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

**REASON.TV**  
*Video Blog*



**Jeff Rows on Reason.tv segment “Eminent Domain Gone Wild”:** “The government should not be taking your hard-earned property and your American Dream to give to rich people to build condos for other rich people.”

**Arizona Republic**

“Citing allegations of cronyism, inefficiency, overregulation and instability, a committee of lawmakers voted . . . to disband the independent state agency that oversees pesticide applicators. ‘The Structural Pest Control Commission has a history of abusing its power to protect special-interest groups at the expense of Arizona entrepreneurs and consumers,’ said Jennifer Perkins, an attorney with the Arizona chapter of the Institute for Justice, citing the case of a teenage boy targeted by the commission for starting a business to roof-rat-proof homes.”

**Kansas City Star**

“A national public interest law firm is threatening Sugar Creek with legal action if the city does not abandon ‘eminent domain’ in its efforts to acquire properties for private development. In a letter, the senior attorney for the Washington-based Institute for Justice told Sugar Creek City Administrator Ron Martinovich that the possibility of using eminent domain had caused great stress and concern for property owners, especially senior citizens who have been in their homes for decades.”

**Reason Magazine**

“A new report from the Institute for Justice looked at 184 areas where the use of eminent domain was approved for private economic development projects. On average, the residents were poorer, less educated, less likely to own property, and more likely to be racial minorities.”

I started a gym with my dad to keep at-risk kids out of gangs.

But the city is trying to take it  
for private development.

I am in the biggest bout of my life,  
standing up for my rights.

I am a fighter.

*I am IJ.*

*Carlos Barragan Jr.  
National City, California*

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

*Institute for Justice  
Property rights litigation*

**“The Institute for Justice . . . [is] devoted to loosening campaign-finance laws. Such regulations . . . [IJ] argue[s], constrain free speech and association rights.”**

*—The Hill*



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