

IJ Celebrates  
10th Anniversary  
1991-2001

# Liberty & LAW

July 2001

Volume 10 Issue 4

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Everybody knows that Vegas is a gambling town where the odds are king. So consider these odds: a small group of independent limousine operators decides to take on an entrenched cartel to open up a 50-million-dollar-a-year industry that has been closed to outsiders since its inception. The cartel is made up of a handful of limo companies that are wealthy, politically connected and, when it comes to keeping out potential competitors, ruthless. The independents

IJ Las Vegas litigation team, from left, Dana Berliner, Deborah Simpson, John Kramer, Clark Neily and Gretchen Embrey celebrate a hard-fought victory for economic liberty for our Las Vegas limousine clients.

are neither rich nor well-connected, but they have two things on their side that the limo cartel does not: the Constitution and the Institute for Justice.

After three years of litigation, after repeated obstructions and delays by their opponents, and

**Vegas Victory** continued on page 4



**Martin Luther King III**, the national president of the Southern Christian Leadership Conference (SCLC), joined with the Institute for Justice at a prayer vigil the evening before a key property rights court hearing. With King are IJ client **Lonzo Archie** and Executive Director of the SCLC's Jackson Chapter **Stephanie Parker-Weaver**. Among the IJ advocates who participated in the vigil were, from left, IJ President **Chip Mellor**, Director of Outreach Programs **Maureen Blum** and Senior Attorneys **Scott Bullock** and **Dana Berliner**.



## Martin Luther King III Joins with IJ To Denounce Mississippi Eminent Domain Abuse

The Institute for Justice has a new ally in its fight against the State of Mississippi's abuse of eminent domain. In June, Martin Luther King III, the national president of the Southern Christian Leadership Conference, joined with IJ advocates, clients and more than 100 supporters at a candlelight prayer vigil in Canton, Mississippi, the evening before a key hearing to decide whether or not the government can take the land of Madison County property owners not for a public use, but for the benefit of

a private company—Nissan Motor Co.—which plans to build an auto plant. King joined with IJ to denounce the State's plans to throw our clients, who have owned their property for generations, out of their homes and off their land. The emotion-filled evening included impassioned presentations by King, Mellor and Bullock interspersed with songs and a moving rendition of "We Shall Overcome."

The next day's hearing lasted 18 hours! We expect the court to rule soon. ♦

## *Litigation Update: IJ Appeals North Dakota Micro-Radio Case To High Court*

On June 12, the Institute for Justice submitted a petition for certiorari to the U.S. Supreme Court asking the Court to hear the case of micro-broadcaster Roy Neset. The petition highlights the crucial question raised by Roy's case: can the government stop a person from broadcasting without allowing the accused to defend himself by raising his constitutional rights?

That is exactly the unfair practice the government followed with Roy Neset, a North Dakota farmer who broadcast a low-power radio signal from his own house to his tractor when he grew tired of his one local radio station. The Federal Communications Commission sued Roy in federal court, but he was not permitted to raise a First Amendment defense and was ultimately shut down.

Our petition makes the sensible point that when the federal government decides to sue you in federal court, you should be permitted to defend yourself there by raising all applicable defenses, especially constitutional ones. The law in this area is unsettled (the Eighth and Sixth circuits have come to opposite conclusions about where constitutional defenses may be raised), increasing the chances that the Supreme Court will accept the case for review. ♦

# How IJ Changed an Outlaw Into a Crusader for Justice

By Taalib-Din Abdul Uqdah

Twenty years ago, I was an outlaw. My crime: braiding hair without a license. My wife Pamela and I own and operate Cornrows & Co., an African-style hairbraiding salon in Washington, D.C. But with the help of the Institute for Justice, we beat back the regulators and spent the past 10 years not only growing our business above board but also crusading against unjust licensing laws across the nation.

When we first met Clint Bolick, he was defending Ego Brown's right to shine shoes in Washington. Clint immediately understood our struggle with government regulation that had kept our business from growing. Under a 1938 Jim Crow-era law, the District of Columbia required hairbraiders to have state-issued cosmetology licenses to legally practice their profession. Our problem with this requirement was that the license required extensive training, none of which was even remotely related to our profession. The regulators kept us from growing and expanding our business as we would have liked because we practiced hairbraiding unlicensed.

From our very first meeting with the Institute for Justice, we knew we had found the organization to represent our position. We didn't have to explain to IJ why we were right and the government was wrong. IJ understood and helped us to clearly define our struggle spiritually, morally and legally in a way



**Taalib-Din Abdul Uqdah** worked with IJ to deregulate African hairbraiding in Washington, D.C. Now he has become the leading advocate for the deregulation of braiding nationwide.

we never had before: we needed economic freedom.

The Fifth and 14th Amendments were not working for us because government was standing in the way of our liberty. With the help of IJ, the Constitution came alive for us as more than just a historical document. It has practical applications for real Americans. We realized that the Constitution is about us, our family and our right to pursue our own American Dream.

Since IJ helped Pamela and me win our legal victory in the District of Columbia, we've founded the American Hairbraiders and Natural Haircare Association. As advocates for hairbraiders across the nation, we've contributed to changes in licensing laws in 14 states and counting. Working with IJ attorneys Dana Berliner and Miranda Perry we've raised awareness about economic liberty and the importance of freedom for entrepreneurs. Rather than resting

after our victory, we've followed up by becoming crusaders for justice.

The common ground that all of IJ's activities share is the fight for freedom. Whether it's defending economic liberty, the right to direct your own child's education, the right to speak or be silent or the right to private property, IJ's mission is always the protection of freedom.

Until we met the people at IJ, we always thought of ourselves as politically independent. We often disagreed with other native Washingtonians (most of whom are Democrats) about a variety of issues from affirmative action to zoning to education. When we joined forces with IJ, we realized we were not alone. IJ is fighting for what we've always felt was right. ♦

**Taalib-Din Abdul Uqdah** was the Institute for Justice's first client and joined with us again in a successful suit to deregulate California's hairbraiding industry.

## INTERACTIVE

this story is part of our website collection of tenth anniversary celebration stories





# With Big Odds and High Stakes Limo Drivers and IJ Lawyers Roll to Victory

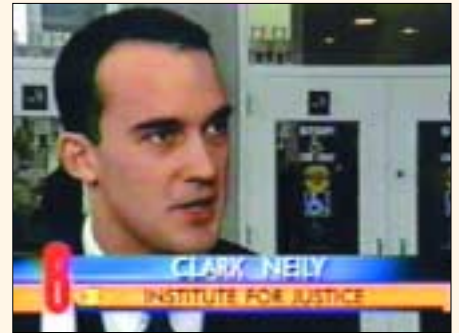


**Vegas Victory** continued from **page 1**

after enduring a week-and-a-half long trial during which they were grilled by four sets of lawyers representing the Transportation Services Authority (TSA) and the intervening cartel members, the independent limousine operators finally slew their Goliath. In a strongly worded opinion, Judge Ron Parraguirre announced on May 16 of this year that the combined actions of the TSA and the big limousine companies violated the plaintiffs' due process rights by subjecting them to an "arbitrary and unreasonable" licensing process. The judge wrote, "Ultimately, the only alternative for many applicants who do not wish to make . . . deal[s] with the intervenors is to be run to death in the 'paper mill' of a contested

application proceeding."

Documents obtained through discovery showed how cartel members like Bell Trans, Star and Ambassador manipulated and abused the licensing process to create an insurmountable barrier to independent limousine operators. At trial, lawyers for the TSA and the intervening limousine companies fought desperately to exclude those materials, arguing not only that they were hearsay (a ridiculous argument, given that virtually all of the items in question came straight from the files of the TSA), but that they were irrelevant to the issues in this case as well. Despite their Herculean efforts to prevent the court from seeing the entire picture, the court's decision made it clear that what passed for business as usual at the TSA was



**CBS KLAS TV Eyewitness News**

"Clark Neily represents independent limo drivers. He says that the TSA's approval of 30 past applications is misleading since most were for small carriers, and they came with a host of restrictions and delays.

"Individuals who got that authority can't compete on anything like a level playing field. They can't stage out at the airport, they can't stage at hotels, they can't run as many vehicles as they want. In some cases they can only run one or two vehicles. How can anybody compete with an existing company who has a three or four hundred limousine fleet."

unacceptable. As Judge Parraguirre explained, the limousine licensing process "amounted to an onerous and unduly burdensome process by which the applicants were forced to either withdraw their applications, agree to limit the scope of their proposed [operating authority], or incur increasing litigation fees

# Behind the Scenes in Las Vegas

By Clark Neily

and costs in order to comply with the numerous financial information and disclosure demands made by the TSA as well as the intervening carriers.”

The argument that finally carried the day—namely, that the TSA’s arbitrary and capricious delegation of power to intervening limo companies violated applicants’ due process rights—was both subtle and unusual. This “delegation” theory was the brainchild of IJ’s resident economic liberties guru Dana Berliner, and it had our opponents so flummoxed that during trial they began making legal arguments that were contradicted not only by briefing they had submitted earlier in the case, but by their own constitutional law expert as well. All the while, John Kramer, IJ’s vice president for communications, provided us with “air cover,” generating editorials and news stories to ensure that the public knew about the fight for freedom.

This case was a long shot by any measure. But in the end, Dana’s scholarly command of the law, Clark Neily’s relentless legal battling, the commitment and support of the entire IJ team, and, above all, the simple, sincere eloquence of IJ clients Rich Lowre, Rey Vinole, John West, Ed Wheeler and Bil Clutter carried the day, once again affirming that ours is a country of laws, not of men—or giant limo companies. ♦

Litigating for liberty takes long-term commitment. Our Las Vegas litigation on behalf of independent limousine operators is just one case in point. It took nearly three years of work by three-plus staff attorneys and many thousands of dollars in expenses, but in the end, the court found that the Nevada Transportation Services Authority (TSA), the agency responsible for issuing licenses to operate a limousine in the state, had failed to properly limit the involvement of local limousine companies in that process, thereby enabling those companies to keep new companies out of the market and violating the constitutional rights of IJ’s clients.

Between the TSA’s “dog-ate-my-home-work” litigation style and the big limo companies’ arrogance, IJ certainly had its hands full. To understand why it took so long to vindicate our clients’ rights, let us give you an inside look at limo litigation Las Vegas style.

The TSA was represented by the Nevada Attorney General’s office, which doggedly refused to produce relevant documents and witnesses and whose perpetual foot-dragging resulted in repeated continuances of the trial date. For example, when we sought to depose TSA representatives, the attorney general’s lawyers refused. We went to court and got the depositions. Next, the AG lawyers tried to ambush us with a summary judgment motion before allowing us to conduct those depositions, arguing (ludicrously) that there were “no fact issues” in this case. Another court hearing, another frivolous argument shot to pieces. Then, confronted with a June 2000 trial date for which they were totally unprepared, the lawyers for the Attorney General resorted to gamesmanship. After scheduling depositions for over a dozen

potential witnesses during a two-week period in May, the AG lawyers waited until we had already flown out to Vegas for the marathon session, then canceled the depositions without explanation. As we soon found out, the AG lawyers were simply running out the clock while waiting for the cavalry to arrive.

The cavalry came in the form of three big limo companies who, after sitting on the sidelines for more than two years, finally decided it was time to get in the game. After intervening in the lawsuit on the side of the TSA, the big limo lawyers soon inundated us with a raft of letters falsely accusing us of everything from failing to comply with local rules to not being properly admitted to appear in the case. These same lawyers then trampled our clients’ First Amendment rights by improperly seeking to obtain the membership list for our clients’ organization, the Independent Limousine Owners and Operators Association, and attempting to have IJ attorneys sanctioned for writing op-ed pieces about the case in the local press. The big limo lawyers’ contempt for independent operators was palpable, and it continued right up to the closing arguments, during which they ridiculed our clients for having the presumption to fight for their right to earn an honest living.

Over the years, the big limo companies perfected the art of abusing the regulatory process to keep out hungry newcomers like Rich Lowre, John West, Bil Clutter, Ed Wheeler and Rey Vinole. Now that the door to competition is open, those same companies may soon wish they had instead perfected the art of good customer service. ♦

**Clark Neily** is a staff attorney with the Institute for Justice.



# IJ CL

## Winning Cases in Court and

### IJCE Strikes Blow for Independent Taxi Affiliations

By John Stinneford

When the Chicago Department of Consumer Services announced that it wanted taxi companies to start jitney programs to serve Chicago's inner-city communities, the Jimmy Morgan Taxi Association was the only company to step forward.



#### TAXI VICTORY OVER CITY

Client **Jimmy Morgan** will remain in business thanks to the IJ Clinic's advocacy.

James Morgan, Sr., now deceased, had founded the company as a jitney service back in 1934, when the dominant taxi companies refused to go to the south side of the city. His son Jimmy Morgan, JMTA's current owner, volunteered for the new jitney program because he wanted to continue his company's tradi-

tion of service to Chicago's inner-city communities.

Instead of welcoming JMTA's initiative, however, the city of Chicago has spent the last two years aggressively trying to shut it down.

In the summer of 1999, the Chicago Department of Consumer Services conducted a "sting operation" in which city employees, posing as consumers, called taxi affiliations and timed them to see whether a cab arrived within 30 minutes. Although none of the affiliations appear to have "passed" this test, the City singled out five small independent African- and African-American-owned companies, including JMTA, and prosecuted them (ironically) for violating a city anti-discrimination ordinance. The city sought \$7,500 in fines against each company—despite the fact that no actual consumers had ever complained about these companies' radio dispatch service, and the City's own investigators testified that none of these companies refused them service.

For the past 20 months, working as part of the Institute for

Justice Clinic on Entrepreneurship (IJCE), Clinic Director Patricia Lee, James Joseph (my predecessor as the IJCE's assistant director) and I have defended JMTA and two other small taxi affiliations (ABO and Metro Jet) against these charges. On June 7, 2001, the Hearing Officer granted our clients and the other affiliations a total victory, dismissing every one of the nearly 50 counts that had been brought against them. The Hearing Officer found that in every case, our clients had made reasonable efforts to dispatch a cab but were prevented from doing so because they were small, and because the City-imposed licensing scheme made drivers independent of affiliation control.

After hearing of this victory, Jimmy Morgan said, "If it weren't for the IJ Clinic on Entrepreneurship, the City would have put us out of business long ago. Now there's a chance I can pass this business on to my son, as my father passed it on to me."

Eddie Nwosu of Metro Jet added, "I came to this country from Nigeria for freedom and liberty, but I met with nothing but obstacles from the City. The IJ

Clinic has helped me keep my business."

James Boateng of ABO did not say anything after hearing the verdict, but his smile and the tears in his eyes spoke volumes.

Unfortunately, however, our clients are not yet out of the woods. Last December, after our clients refused to admit liability as a condition for settling the case, the Department of Consumer Services brought a duplicative second complaint against JMTA, seeking to revoke its license. On June 8, the day after our victory, the Department filed new charges against ABO and JMTA based on almost identical allegations. And finally, the City has passed a new ordinance that appears to be tailored to destroy small affiliations like our clients.

The fight for liberty never ends. But we at the IJ Clinic on Entrepreneurship will continue to work as hard as we can to ensure that all our clients are afforded that most basic right: the right to earn an honest living. ♦

**John Stinneford** is the assistant director of the IJ Clinic on Entrepreneurship.





# CLINIC

## Winning Respect in Chicago

### IJ Clinic Director Patricia Lee Named Entrepreneur of the Year



Staff, clients and friends were in attendance to congratulate **Pat Lee** as she received the "Entrepreneur of the Year Award" for her work in community service.

#### By Chip Mellor

Entrepreneurs make things happen. They leave the world around them a different place, setting in motion events that touch peoples' lives in ways large and small. Entrepreneurs surmount adversity and create solutions to problems others have deemed hopeless. By their very nature, they are optimists whose passion and vision inspire people they encounter.

Pat Lee is an entrepreneur's entrepreneur. As the director of the Institute for Justice Clinic on Entrepreneurship at the

University of Chicago Law School, she pioneered a nationally acclaimed program that provides hope and opportunity to inner-city entrepreneurs seeking the first rung on the economic ladder. This program is unique among law school clinics nationwide.

Pat inspires students who represent aspiring entrepreneurs, earning praise such as the following from Dan Liljenquist, a graduate of the Class of 2001: "Gratitude unexpressed is not truly gratitude. I want to thank you for being a mentor and a friend to me over the past two years. Working with you in the IJ Clinic has made law school not only bearable, but wonderfully rewarding. I plan on serving the public with the same vigor for the rest of my life. Thank you for your stellar example in that respect, and in so many other ways...." No wonder

there were 176 students who signed up for the 16 spaces in the Clinic next fall.

Pat's amazing accomplishments received well-deserved recognition last month when the accounting firm of Ernst & Young bestowed upon her its prestigious "Entrepreneur of the Year Award" for her work in community service. At a black tie dinner attended by several hundred people, Pat received the award and will now go on to the International Award competition this fall. A particularly moving moment occurred during the ceremonies when Rich Niemiec, who won "Entrepreneur of the Year" for high tech, said, "The last person I have to thank is somebody I don't even know and that is Patricia Lee." He paused dramatically and said, "I grew up on the south side of Chicago on welfare with eight other kids that my mom raised, and somebody like Patricia Lee took the time for me. So Patricia, not bad for a welfare kid." The audience erupted in thunderous applause.

**Congratulations, Pat!**◆

**Chip Mellor** is the Institute for Justice's president and general counsel.



#### DOWNLOAD THE VIDEO

Watch the four-minute video about Pat and her work at the IJ Clinic. It is available on the IJ Clinic's website at <http://clinic.ij.org>

# IJ Asks Supreme Court to Review Cleveland Case

One step away.

A goal toward which the Institute for Justice has been working every day of its first 10 years may finally come to fruition if the U.S. Supreme Court agrees to review the ruling of the U.S. Court of Appeals for the Sixth Circuit striking down Cleveland's school choice program.

On May 24, IJ filed its petition for a writ of certiorari asking the High Court to hear the case. Although the Court has turned down opportunities to review school choice rulings in Wisconsin, Arizona and Maine, three compelling facts about the Cleveland case give us grounds for optimism: equity, law and procedure, as explained below.

## LIKELY TIMELINE If Supreme Court Accepts Case

### Equity

If the Court refuses to review the case, 4,000 low-income children will be forced to leave the only good schools they've ever attended and return to a school system that two years ago satisfied zero of 27 state performance criteria.

### Law

Not only does a split in authority over the constitutionality of school choice exist nationally—the situation in which the court is most likely to grant review—but a split exists between the Ohio Supreme Court and the 6th Circuit over the constitutionality of this program. Only the Supreme Court can resolve that conflict.



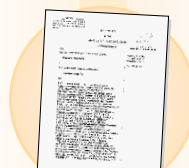
Sept./Oct. 2001: Supreme Court decides whether to review the case



Fall 2001: IJ's brief



Winter 2001-02: Possible Oral Argument



June 2002: Possible Decision

### Procedure

In November 1999, when the Supreme Court dissolved the trial court's injunction against the program, one of its criteria for intervening was whether it would ultimately review the case on the merits. So we have a snapshot of the Court's intentions.

Having filed our petition, we are letting no moss grow, working to coordinate support for the cause of school choice in the court and the court of public opinion.

A final decision lifting the constitutional cloud could be less than a year away. With hard work, passion, and resolve, we hope to help deliver on the promise of educational opportunity and parental choice. ♦

# Litigation

## Bright Days for School Choice In Sunshine State

The Sunshine State is in our sights for the litigation battle over school choice:

In *Holmes v. Bush*, the Florida Supreme Court refused to review our victory in the Court of Appeals overturning a trial court decision striking down the Florida Opportunity Scholarship Program. As the program enters its third year this fall, we will prepare for a trial on the remaining legal issues.

For the second straight year, all Florida public schools stayed off the "F" list. Kids with low test scores improved the most.

Florida passed a sweeping corporate tax credit for contributions to private scholarship funds, with possible benefits for thousands of kids. A legal challenge is almost certain.

Thousands of children with disabilities will be able to use their share of public funds in private schools.

Florida continues to set the standard for private school choice—and IJ will be there to aggressively defend it. ♦





# Update

## Another Victory for Illinois School Choice

In yet another victory for Illinois families, the Supreme Court of Illinois in June refused to reconsider the ruling of the Fourth District Court of Appeals finding the Illinois educational expenses tax credit law is constitutional. The ruling of the three-judge panel in February affirmed last April's ruling by Judge Thomas Appleton of the Sangamon County Circuit Court also finding the tax credit to be fully constitutional. The tax credit was under attack from the Illinois Education Association and other special-interest organizations opposed to education reform.

"This is the sixth consecutive court decision to have upheld the constitutionality of this form of school choice in Illinois," said Institute for Justice President Chip Mellor. "Today's Illinois Supreme Court decision should bring an end to the constitutional battle over the tax credit law and help parents get the best possible education for their children regardless of whether the school of their choice is public, private or parochial."

The teachers' union and its allies had argued that the law, which provides a credit against state income taxes for 25 percent of tuition, book fees or lab fees incurred by K-12 students at public or private schools up to a maximum of \$500 per family, violated four provisions of the Illinois Constitution, two of which deal with establishment of religion. Each of the courts to hear the case, however, has emphatically rejected these arguments.

The Illinois Supreme Court's decision let stand a ruling by Appellate Court Judge Rita Garman stating that the tax credit does not violate the Illinois Constitution because no public money is spent at religious schools. Rather, the tax credit allows Illinois parents to keep more of their own money to spend on the education of their children as they see fit. ♦

## Mushroom Producers Should Have the Right to Remain Silent

By Melinda Ammann

You've seen them on TV and in magazines: "Got Milk?" the white-mustached celebrities in the ads want to know. The controversy over such advertising for everyday foods goes beyond whether milk does, in fact, do a body good. A case dealing with the right of mushroom growers to speak freely about their produce—or to refrain from speaking—made its way to the U.S. Supreme Court, and IJ was there to defend First Amendment rights in a case with potential for widespread impact.

IJ filed an *amicus curiae* brief siding with United Foods, producer of "Pictsweet" mushrooms. A federal program requires the company to pay mandatory assessments to the Mushroom Council, which spends the money on generic mushroom advertising. United Foods maintained that these required fees violate the First Amendment right to freedom of expression, which includes the right to remain silent. United Foods even runs its own marketing campaign for "Pictsweet" mushrooms, which it claims are a pick above the rest. The company contended that it

should not be required to fund speech that is contradictory to its chosen message to promote their own mushrooms.

In 1997, the Justices upheld the constitutionality of a similar program by a 5-4 vote. In *Glickman v. Wileman*, California tree fruit growers challenged mandatory contributions to a generic advertising campaign. The closely divided court held that this fee constituted economic regulation rather than speech regulation. IJ's brief supporting United Foods explained why the *Glickman* decision was inconsistent with the Court's prior First Amendment jurisprudence and should be overturned.

In June, the Supreme Court ruled in favor of United Foods and free speech, noting that the First Amendment prohibits government from compelling speech to which the speaker objects. The right to speak as one wishes or to be silent is as essential to mushroom growers as any other member of a free society. This victory for the mushroom growers is a victory for us all. ♦

Melinda Ammann is the Institute for Justice's communications coordinator.



# Stanley Dea – Vindicated At Last



**Dr. Stanley Dea** stood for the principle of nondiscrimination even in the face of retaliation by his employer.

## By Dick Komer

When we began our lawsuit to defend one man's stand on the principle of nondiscrimination, we had no idea how long it would take to prevail. In the course of seven-and-a-half years of litigation, we lost not only one of the judges who heard the case, we lost Dr. Stanley Dea himself—our brave and principled client.

Stan was a senior engineering manager supervising 250 employees for the Washington Suburban Sanitary Commission (WSSC), a public water utility. He was also the utility's highest-ranking Asian-American employee. Stan refused to comply with the WSSC's unwritten policy of preferring minorities and women over better-qualified white males. Recommending the promotion of the best-qualified individual (who happened to be a white male) in the face of the utility's preference system had garnered Stan a reprimand from the utility's general manager, by which the GM intended to

send a "shockwave" through the Commission that his race and gender preference edicts were not to be ignored. Consequently, Stan knew that should he refuse to discriminate against white males in another selection process, his stand was likely to cost him dearly. And that is exactly what happened when Stan ignored pressure from the utility's management to recommend a woman for an

important promotion, and instead recommended the best qualified person for the position, who was a white male. For his steadfast and principled adherence to the merit system, Stan was demoted by being transferred to a dead-end, non-supervisory job.

Washington, D.C. attorney Doug Herbert and IJ filed Stan's Title VII retaliation claim in federal court in 1993, and, after extensive discovery, he filed for summary judgment because the facts clearly showed that it was Stan's good faith belief that he was opposing an unlawful practice that led to his demotion. After extended delays, the trial court denied the motion and a three-day trial ensued, at which Doug demolished the opposition's defense. Another lengthy delay followed, ending only when U.S. District Judge Deborah Chasanow ruled in favor of WSSC by distorting the facts. Shortly after authorizing an appeal to the Fourth Circuit, Stan Dea succumbed to liver disease, optimistic

to the end that his faith in equal treatment for all would be vindicated.

His estate agreed to continue the appeal, which Doug prosecuted with his usual thoroughness and zeal. After bizarre delays in finalizing the record, Doug filed a devastating brief on Stan's behalf, followed by a masterful oral argument that left the opposing counsel reeling and our side confident of victory, despite the daunting burden of overcoming the trial judge's factual findings. That was October 29, 1998. While the decision was pending, one of the three judges on the panel died, delaying the issuance of the decision.

Finally, on June 15 of this year, the Fourth Circuit ruled in Stanley Dea's favor. In a 21-page decision the appellate court ripped apart Judge Chasanow's decision, finding that her crucial factual determinations were clearly erroneous, so much so that it took the highly unusual step of declining to return the case to her for retrial, instead finding that the record allowed no other conclusion than that WSSC had unlawfully retaliated against Stan Dea. The court remanded the case for determination of damages only.

Nearly eight years after the complaint was filed, the perseverance of two fine men of principle was finally rewarded. Stan Dea's courage and willingness to take a stand on principle, and Doug Herbert's refusal to give up in the face of crushing disappointment and misfortune, have received from the Fourth Circuit the recognition they so richly deserve. ♦

**Dick Komer** is an IJ senior attorney who helped litigate the Dea case.



Volume 10 Issue 4

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 own destinies as free and responsible members of society. It 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, it trains law students, lawyers and policy activists in the tactics of public interest litigation to advance individual rights.

Through these activities, it 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

**Mississippi WJTV Newschannel 12  
CBS**

"The government here is asking this judge to boldly go where no judge has gone before, and that is to sign off on [the use of eminent domain to advance] private economic development."



**"Newshour with Jim Lehrer"  
PBS**



"There is a judicial crisis. There are now 101 judicial vacancies, 33 of them have been declared judicial emergencies. Eight of the candidates today are named to slots that are in that category of judicial emergency. I do think that the Senate has a very important advice and consent role to play here, but to hold these folks up that are extremely well-qualified on grounds purely of ideology is a dangerous game to play."

**Associated Press**

"A New Jersey woman whose car was seized in a drug case is fighting back in court, aided by a public interest group that says her case demonstrates the problems with forfeiture laws that have turned police into 'bounty hunters.' Carol Thomas, 44, a former Cumberland County Sheriff's deputy, knows her 1990 Ford Thunderbird isn't worth much. But the way she lost it has prompted the Institute for Justice, a law firm based in Washington, D.C., to make her a sort of poster child for victims of what it says are overzealous drug statutes."

**Reason Magazine**

"Wine lovers get a champion against state laws prohibiting the direct shipment of wine by out-of-state wineries. The Institute for Justice challenges New York's anti-wine law—and by extension those of 29 other states—in federal court, citing a little document called the Constitution that bars interstate trade wars."



I am preserving the ancient tradition of African hairbraiding while creating jobs from coast to coast.

I believe liberty is best defended with vigilance and education.

I don't fear the government  
because I beat the government.

*I am IJ.*



*Taalib-Din Abdul Uqdab and Pamela Ferrell  
Washington, DC*

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

*Economic Liberty*

**“[The Institute for Justice’s] point is simple and compelling: Individuals and organizations in a free society must not be forced to subsidize the promotion of views and politicians with which they disagree.”**

*—Scottsdale Tribune*



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