CIR 35TH ANNIVERSARY
THE CENTER FOR INDIVIDUAL RIGHTS

DOCKET REPORT

Our latest legal moves

Rest on our laurels? Not a chance.

On September 10, we hosted a fantastic 35th anniversary bash, with distinguished friends, supporters, and coconspirators in the liberty movement. It was a great opportunity to take stock of the victories we've achieved together and, more importantly, to look forward to the legal campaigns that will define our next 35 years (page 8).

Some organizations celebrating a milestone anniversary seem content to rest on their laurels. You know CIR better than that. We celebrate too, but we never kick back or let up on efforts to restore and protect individual liberty.

Our anniversary celebration will continue, but what energizes us most is overturning illegal progressive power grabs and defeating free speech censors. This has been a banner year on both fronts, and exciting wins in new cases appear closer than we expected.

To start, the Supreme Court is weighing the first case in our new **Project to Restore Competitive Federalism**. We represent Vern and Levi Fiehler, who faced the practical loss of all access to their remote Alaska home until we took over their case. We're challenging a state Supreme Court decision that rejected two centuries of precedent regarding the Fiehlers' federally protected property rights. The case has already caught the justices' attention, with their rare request for additional briefing last summer. We grow increasingly hopeful that it will attract the four votes necessary for full Court consideration (page 2).

Our defense of a Mississippi school district is also red hot. In that case, we oppose turning a garden-variety student discipline incident into a federal case, and we're challenging a federal spending abuse that dictates local education policy. It's an outstanding chance to stop the feds from unilaterally changing grant programs that hold states and their citizens hostage (page 7).

At the same time, we've got the anti-speech zealots on the run. On top of recent CIR victories for employees fired for questioning racial equity policies, we've advanced our case against University of Pittsburgh censors (page 6), and we filed two new cases concerning speech bans that no reasonable person could defend (pages 4–5).

Your support makes all the difference in these fights. With it, there is no stopping us. Together, we'll bring these vital legal victories to fruition.

—Todd Gaziano, President

IN THIS ISSUE

All Eyes on the Supreme Court … & Tee Harbor, Alaska

Vern and Levi Fiehler v. Mecklenburg

On designated Friday mornings during the Supreme Court's term, the nine justices meet alone in their conference room to discuss the many petitions requesting judicial review. Fewer than one in a hundred are selected, but one case the justices will consider in the next few months already has an outsized chance. It's an otherwise small property rights dispute with a huge national impact.

Last January, the Alaska Supreme Court wrongly stripped Vern Fiehler and his son Levi of reasonable access to their family home. Vern bought the original Tee Harbor homestead in 1979 and built the house that Levi grew up in and later helped renovate. Like many homes in Alaska, it is mostly inaccessible by land and must be supplied by boat. Levi's plan to take over the home was disrupted when next-door neighbors challenged the property lines—established by a federal surveyor in 1938—to acquire the beach access in front of the Fiehlers' house.

The Alaska court rejected a long line of Supreme Court rulings that a federal surveyors' findings are "unassailable" by state officials, including state courts, to protect homesteaders who agreed to settle federal lands. Thus, when the federal government surveys its own land and transfers ownership, state courts cannot later change the property boundaries. Alaska's contrary ruling conflicts with both the Constitution and decisions of 11 state courts and one federal court of appeals.

This case is a vital reminder that real federalism, which keeps both the federal and state governments in their lanes, is the best defense of individual rights.

When the Fiehlers approached CIR, they said they had run out of options. They spent virtually all their savings defending their property rights, and they had no means to seek further review.

Because of their compelling need, and the dramatic consequences that the Alaska decision could have for millions of acres of land in many states that were originally owned by the federal government, CIR was glad to take over the case. Teaming up with Supreme Court superstar Kannon Shanmugam, we've given the Fiehlers renewed hope that justice will be done.

Levi Fiehler warmly welcomed by CIR co-founder Michael Greve

Levi also said he was buoyed by the outpouring of support he received at CIR's 35th anniversary party, even as he blushed when we explained that he is a rising TV and movie actor with a major role in the Syfy comedy-drama Resident Alien and appearances in CSI and Ray Donovan.

The constitutional significance of the case and Alaska's conflict with numerous other courts gives us every reason to hope that the Supreme Court will hear the Fiehlers' righteous case. Indeed, the justices issued a rare summer notice to Alaska and the neighbors to respond to our petition, which increases the likelihood of our petition being granted significantly.

On the day their case is scheduled to be considered in conference, Vern and Levi will wake early in Tee Harbor and wonder whether the justices will vote to hear the appeal. Their case is a vital reminder that real federalism, which keeps both the federal and state governments in their lanes, is the best defense of individual rights. ■

The Clock is Ticking for Small Businesses

Texas Top Cop Shop v. Merrick Garland

Unless the court acts soon in the constitutional challenge we filed last May, tens of millions of Americans could be subject to federal criminal prosecution on January 1. That's the deadline the Corporate Transparency Act (CTA) set for small business owners to file reports divulging confidential information to federal law enforcement or face criminal penalties.

The CTA requires every small business and many nonprofits that are state-registered to file detailed reports about their "beneficial owners" with the Treasury Department's Financial Crimes Enforcement Network. Beneficial owners include 25% shareholders, but also *anyone* who exercises "substantial control," directly or indirectly, formally or informally. The broad language pressures people to disclose additional private information to avoid penalties, including $500 a day fines for incomplete reports.

On October 9, CIR's Caleb Kruckenberg traveled to Texas to argue on behalf of a coalition of small businesses and nonprofits for a preliminary injunction that would stop the implementation of the CTA until the conclusion of our lawsuit.

Speaking for our client the National Federation of Independent Business, Beth Milito explained the urgency of the preliminary injunction for the nearly 300,000 small business interests that her organization represents. "[T]ime is of the essence, and they need to know whether they must comply with a reporting requirement that mandates revealing private and personal identifying information."

Federal District Judge Amos Mazzant appeared sympathetic to our concerns. The CTA was enacted under Congress' interstate commerce powers, but as Mr. Kruckenberg argued, merely registering a business with a state is not interstate commerce. At oral argument, Judge Mazzant seemed especially concerned that the federal government could not identify any limiting principle that would constrain Congress in the future if the government's argument was accepted.

In the words of CIR client Tony Goulart, president of Mustardseed Livestock LLC, a Wyoming dairy farm, "[T]he Corporate Transparency Act violates some of the most sacred Constitutional protections we enjoy as Americans. If we allow this to stand then we accept that there is no limit to how far government can intrude into the most private and intimate details of our lives."

Our clients saw the absurdity of being swept up into a massive surveillance program, ostensibly aimed at combatting financial crime. "We're a family business that has been serving the law enforcement community for the past seven years," said Linda Schneider, co-owner of Texas Top Cop Shop, Inc., a first responder supply store. "But the CTA treats us, and small businesses everywhere, like suspected criminals. Running a business should be celebrated, not an excuse to put millions of honest people in the federal government's crosshairs."

CIR filed our lawsuit in May challenging the most intrusive federal effort to control small businesses in recent memory. Following the recent oral arguments, there is good reason for optimism that Judge Mazzant will not allow this unconstitutional power grab to take effect. And if so, that's a strong indication of how he would eventually rule on the broader lawsuit. ■

Tony Goulart, president of Mustardseed Livestock LLC, and his family

Lights, Camera, Constitutional Action

Matthew Tortorice v. City of Margaret

By most accounts, a camera and a commitment to transparency are logical accompaniments to government board meetings. In Margaret, Alabama, however, city councilman Matthew Tortorice's simple act of recording meetings for public viewing sparked fierce backlash, exposed deeply rooted resistance to change and openness in local government, and touched off a constitutional showdown with far-reaching implications for civic accountability across the nation.

Tortorice was elected in 2020, determined to reform city operations through responsible stewardship of taxpayer dollars, equal representation among all constituents, and transparency. His efforts ruffled the feathers of longtime councilmembers, especially his push to redistrict the city's five severely lopsided electoral wards and to record meetings. When the City declined to record its meetings, Tortorice started recording them himself and posting the unedited video on his YouTube channel.

Matthew Tortorice in front of Margaret City Hall

> Tortorice's case is a stark reminder that even in the smallest corners of America, free speech and open government are not immune from political threats by entrenched government cronies.

The council's true colors emerged during Tortorice's absence from a July 2024 meeting while he was at a summer camp with his sons. Seizing the opportunity, the council passed a motion banning video and audio recording—a clear violation of Alabama's Open Meetings Act and the First Amendment.

When Tortorice arrived at the next meeting, he was informed of the council's vote to ban his recordings. He initially complied but set about researching the legality of the ban. The following meeting Tortorice again tried to exercise his constitutional right to film the meeting. The city attorney said he must enforce the ban, and under orders from the Mayor Pro Tem, the police chief ejected Tortorice from the room.

The situation escalated rapidly. At one meeting, the council banned cameras entirely, even those of a local television news crew. Freelance YouTube reporters were barred entry to the room altogether. Council members' threats followed the meeting, with one aggressively vowing to "fix" Tortorice "permanently," while another had to be physically restrained while warning him, "They won't be here for you every time."

Undeterred, Tortorice consulted the county district attorney, who cautioned the city about the recording ban's illegality. The council responded with new rules allowing only media to record from designated areas where loud air conditioning units and council members' refusal to use microphones effectively rendered recordings inaudible.

Knowing his rights and searching for legal recourse, Tortorice found CIR—"the answer to a prayer," he calls it. With CIR's help, he filed a federal lawsuit on October 11, 2024, arguing that the city's recording ban and council members' attempts to silence Tortorice because of their hostility to his viewpoints blatantly violated his First Amendment rights.

Tortorice's case is a stark reminder that even in the smallest corners of America, free speech and open government are not immune from political threats by entrenched government cronies. At the same time, it underscores the gravity of CIR's work: the public's right to government transparency is a fundamental pillar of democratic accountability demanding our constant vigilance and zealous protection. ■

"Psychological" Lawfare: Therapists Fight Illegal Speech Restrictions

Alleman and Catrett v. Harness

Julie Alleman and Juliet Catrett are seasoned trauma therapists in Louisiana with four decades of combined experience. As specialists who counsel people who have suffered terrible agonies, words matter.

Yet, a single word that accurately describes their work has thrust them into a legal battle that tests the foundations of professional speech regulation and First Amendment rights.

In 2020, united by their dedication to mending psychological scars, Alleman and Catrett established a counseling center in Baton Rouge. They christened it the "Psychological Wellness Institute," aiming to convey key elements of their business mission.

Their carefully chosen name sparked a threat from the Louisiana Psychology Board early this year. The Board sent a letter citing a state law banning anyone but licensed psychologists from using terms like "psychology" or "psychological" in the titles or descriptions of their work. Violators face criminal prosecution.

Despite their impressive credentials — Alleman is a Licensed Professional Counselor, Marriage and Family Therapist, and Addiction Counselor, and Catrett is a Licensed Clinical Social Worker – the Board accused them of breaking the law for including "psychological" in their business name.

Facing possible criminal prosecution, Alleman and Catrett reluctantly rebranded as "P. Wellness Institute," but they are deeply frustrated and worried about reaching people who need their help. How can they accurately convey their practice to trauma survivors, such as veterans battling PTSD, if basic descriptive language is off-limits? They never represent that they are licensed psychologists, who can administer specialized tests, but psychologists are not the only professionals who use psychological training to promote human flourishing.

Julie Alleman and Juliet Catrett

This issue isn't just about semantics. The statute's expansive language could criminalize a wide array of everyday activities that use psychological principles, from sports coaching, to parenting, to addiction counseling. The law is so far-reaching it could prevent a non-licensed academic from saying she is a "psychology professor" or writes about "psychological" subjects.

Using "psychological" in a business name is protected speech, especially when accurately describing the services offered. Since Alleman and Catrett don't claim to be licensed psychologists, the state has no right to commandeer their use of a common adjective. When government regulators claim ownership over common words, it threatens the very fabric of free expression.

Determined to reclaim the word "psychological" to describe their life's work and healing mission, Alleman and Catrett have taken their fight to court. With the help of the Louisiana-based Pelican Institute, CIR filed a federal lawsuit in October arguing that the law goes too far in defining what counts as the "practice of psychology" and that banning all forms of the word "psychological" violates the First Amendment.

All Americans have the right to truthfully describe one's work without the fear of legal repercussions. Alleman and Catrett's story powerfully illustrates the real-world consequences of unchecked regulatory power and the importance of challenging draconian speech restrictions that serve no legitimate purpose. ■

Cancel Culture on the Ropes

Norman Wang v. University of Pittsburgh

Cancel culture wasn't invented in 2020, but it became much more divisive and heavy-handed after the protests marking George Floyd's death. Many powerful institutions in America sought to ingratiate themselves to social justice protestors by adopting a DEI agenda that often included the caustic notion that all people could be divided into an oppressor or oppressed class based on their race. To enforce conformity with that agenda, they cracked down on anyone whose speech contested their assertions and sometimes illegal polices.

The most troubling censorship came from college administrators, who began punishing students and professors who questioned the use of racial preferences in academic admissions and hiring, which had always been highly controversial and subject to spirited debate.

After years of litigation, we are seeing the fruits of our legal efforts to vindicate individuals who were mistreated for their speech. Today we're pleased to report that cancel culture is on the ropes. In the past year, CIR secured favorable settlements for three individuals who were fired for expressing private views, often outside of work, when their employers surrendered to heckler protests. Those settlements include substantial monetary damages to Dan Mattson, Kate Riotte, and most recently, Greg Krehbiel.

Professor Norman Wang

But our most recalcitrant opponent continues to fight on with public university resources. As we previously reported, University of Pittsburgh cardiology professor Norman Wang wrote a now-famous, peer-reviewed study in the leading cardiology journal arguing that the pervasive use of racial preferences in medical education is counterproductive and likely illegal—and then faced the wrath of university officials for refusing to retract his truthful article.

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Dr. Wang's academic honesty was a serious threat to university officials committed to a racial preference agenda. Within hours of learning of the article, Pitt administrators settled on a plan of harassment and intimidation of Dr. Wang to force him to withdraw it. When he refused, they sent defamatory emails to the medical journal, in violation of university academic procedures, and retaliated against Dr. Wang, including declaring that he was "too dangerous" to have any contact with the cardiology residents he used to instruct.

CIR sued over Dr. Wang's denial of free speech and filed a claim against the university for retaliation under the civil rights laws. Dr. Wang's refusal to retract his truthful article made this national-profile case possible. Happily, Dr. Wang's courageous stand is swiftly moving toward trial where university officials will have to answer CIR's questions in open court. Depositions and document discovery ended last spring. There is now no doubt that when Dr. Wang refused to retract his speech, the medical school dean and others wrongly retaliated against him.

Heroic clients like Dr. Wang encourage others to speak freely. Given the high profile of this case, victory for Dr. Wang would send a strong message to college officials throughout America that they cannot silence speech opposing racial preferences. ■

Stopping Federal Spending Abuse: Ensuring Citizen Consent to Laws

M. K. v. Pearl River School District

Put yourself in progressive shoes. You have big plans to regulate America from DC, even if the "rubes" object. How do you execute your plans? Enacting federal laws is hard (as intended): It requires consensus building and compromise that ensure everyone's rights are respected and that citizens consent to the law. It's much easier for a president, unelected bureaucrat, or activist judge to simply reinterpret existing laws to achieve policy outcomes that Congress and the general public never imagined.

An increasingly common technique to bypass Congress is to abuse federal grant programs enacted under the Constitution's Spending Clause. In the first step, the federal government taxes Americans excessively and then "grants" that money back to state and private institutions in exchange for implementing modest federal policies. When grantees become dependent on the funding, it's then easier to reinterpret the law to increase federal demands.

In this manner, the feds regularly abuse one education funding law, Title IX, to give them extraordinary leverage over local school districts. Title IX was enacted in 1972 to require educational institutions to provide equal opportunities to girls and women. Activists impatient with legislative change are now twisting the language to reach more complicated goals involving gender and sexual identity. No debate, no compromise, just agency and judicial decrees.

Photo by Kari Rene Hall/Los Angeles Times via Getty Images

Even children know that laws are made in Congress.

CIR represents a school district in Mississippi that is facing a costly lawsuit by parents of a formerly homeschooled student entering public school. Some of his classmates teased him, mostly for being bad at video games, but a few also called him "gay." His parents didn't think the school did enough to stop the teasing and filed a federal lawsuit alleging sexual orientation discrimination under Title IX. But ordinary school discipline disputes don't constitute federal violations, especially not this one.

This case is a rare opportunity to limit expansive federal power under the Spending Clause. The Supreme Court has held that a law enacted under that authority must be interpreted like a contract. That means the law must be interpreted as the federal government and the states understood it at the time it was enacted. And nobody in 1972 thought the law covered sexual orientation or related issues.

This is not the first time that federal officials have misused Title IX to micromanage local schools and colleges, but we could make it the last. Our victory will also reach far beyond Title IX to wherever government officials bypass Congress with radical policies that exceed the statute's clear text. Not only schools, but hospitals, banks, and local governments would be freed of unlawful federal demands.

The Constitution's most powerful mechanism to protect individual rights is to require changes in law to be enacted by lawmakers, who must answer to voters. And thus, the first line of defense against wild fancies of unelected agency officials is to force Congress, not bureaucrats, to legislate. CIR is fighting to keep it that way. ■

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Kicking Off Our Next 35 Years Together!

CIR marked our 35th anniversary by celebrating with long-time friends, allies in the liberty movement, and CIR clients, Kate Riotte (*Riotte v. Wadsworth*), Celeste Bennett (*Ultima v. USDA*), and Levi Fiehler (*Fiehler v. Mecklenburg*). I am truly grateful for all of you who could join us.

It is not too late to join—or revisit—the celebration. Visit us at cir-usa.org/cir-35th-party/ to view a brief video that we commissioned for the event, "Still Crazy After 35 Years," commemorating CIR's history and laying out bold plans we have for the future. You will also find the party photo album.

Another excellent way to celebrate is **by helping us to launch the cases that will define the next 35 years**. The last six months have been some of the most productive in CIR's history! We launched five new cases – with one pending before the Supreme Court – fighting for equal protection, federalism, and freedom of speech.

Please consider making a contribution today to help launch the cases that will establish landmark legal precedents to protect individual rights for 35 years to come.

- How about a $35 recurring contribution?
- Or a one-time gift of $350?
- Or a $3500 contribution?

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