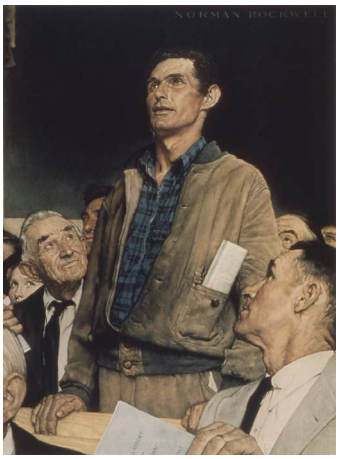
CIR
The Center for Individual Rights

Docket Report

Our latest legal moves

Free-Speech Icons



As a grade schooler in West Virginia, I learned about two sisters, Marie and Gathie Barnett, who grew up in my county. In a landmark ruling in 1943, the Supreme Court upheld their religiously motivated refusal to pledge allegiance to the flag at school. At about the same time, Norman Rockwell painted the adjoining picture, titled *Freedom of Speech*. It was inspired by a citizen at a Vermont town hall meeting voicing an unpopular objection to the tax burden of a proposed project.

Together, the ruling and the painting represent two of our First Amendment freedoms: the right to speak freely and oppose government action, and the right not to be compelled to speak in ways the government commands.

But respect for these freedoms advances in fits and starts. During World War II, when patriotic passions ran high, the federal government wrongly censored criticism of segregation in the military. Yet even during that era, the Supreme Court recognized that government could not force schoolchildren to profess a particular patriotic message.

And more than 67 years after their historic win, the octogenarian Barnett sisters were still at it, filing a friend-of-the-court brief in a Texas school case. They understood that protecting hard-fought rights requires continued vigilance.

That same understanding runs through CIR's own history. Our featured article (pages 4–5) recounts CIR's proud record advancing free speech, including a Supreme Court victory in 1995 and four wins this summer challenging modern speech suppression.

Other free-speech battles continue. Dr. Wang's case returns to the trial court after our dramatic reversal in the appeals court, which rejected Pitt's excuses for its deplorable actions (page 7). Meanwhile, we've recently taken on an appeal involving UCLA's wrongful cancellation of a pro-Israel speech (page 3).

Of course, government overreach takes many forms. Our lawsuit on behalf of Iowa, Missouri, and a free-market trade association challenges New York's far-reaching Mandatory Greenhouse Gas Reporting regulation—through which the Empire State seeks to regulate beyond its borders (page 2).

The Barnett sisters' example has stuck with me since my own childhood. Liberty requires vigilance and action. It requires clients brave enough to challenge the government, lawyers determined to fight for them, and supporters like you who make those fights possible.

— Todd Gaziano, President

IN THIS ISSUE

New York Crosses the Line
p. 2

Teaching UCLA a Lesson
p. 3

A Summer of First Amendment Wins
pp. 4–5

Rocky Mountain Hire
p. 6

Bitter Pill for Pitt
p. 7

CIR is Movin' On Up to VA
p. 8

Keeping New York In Line

Iowa, Missouri, and AmFree v. New York

Farmers in Iowa and Missouri have much to be proud of, including that their states are the largest producers of ethanol and biodiesel in America. Their fuel is often blended and resold by others across the country, contributing much to their states' economies and national fuel reserves. But New York bureaucrats are now claiming the right to show up at ethanol and biodiesel producers' doors anywhere and inspect their facilities, solely because some of that fuel may eventually and indirectly end up in New York.

This sounds absurd, but it is a real provision under New York's "Mandatory Greenhouse Gas Reporting Program." The regulation requires ethanol and biodiesel manufacturers and distributors nationwide to register with the New York State Department of Environmental Conservation. They must also file expensive reports about the amount of liquid fuel that *might* be used or sold in the Empire State—even if they don't blend it or ship it themselves. And they must allow New York regulators to perform site inspections with no notice or warrant.

New York estimates that compliance costs for each affected business could exceed $50,000, and it plans to subject reporting entities to civil and criminal penalties for omissions or errors. The Empire State is free to regulate industries within its borders for sound or foolish reasons. But it can't regulate industries in other states based on hypothetical or far-removed impacts. That violates a core principle of federalism: each state has authority within its own borders, not over the people and businesses of other states.

"Our Constitution limits the power of one state over the people of another," says CIR's Mike Petrino. "This case is about enforcing the structural boundaries that protect Americans from overreach by other states."

Together with the attorneys general of Iowa and Missouri, CIR filed suit to stop the cross-border reach of New York's regulation. CIR is also representing the American Free Enterprise Chamber of Commerce, an association whose members include ethanol and biodiesel producers.

New York's rule violates the Constitution's federalist structure, exceeds due-process limits on state jurisdiction, and runs afoul of the Fourth Amendment's prohibition on unreasonable searches. That's a lot for one regulation.

The stakes of this case extend well beyond environmental policy to how democracy in America operates. Our individual rights depend, in part, on our ability to choose where—and therefore under what regulations—we live and work. Residents of Iowa and Missouri didn't vote for New York's policy, can't vote against it, and can't even "vote with their feet" and escape it by moving to another state.

When they can't achieve their national policy goals through Congress, blue and red states alike are increasingly imposing their own policies beyond their borders. But one state cannot make the rest of the nation its own laboratory of democracy. CIR is proud to fight this trend. ■

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New York State Governor Kathy Hochul

UCLA Silences Speaker, Emboldens Mob

Young America's Foundation, et al. v. UCLA

When a mob threatens to shut down a campus speaker, a public university has two choices: control the mob or silence the speaker. The Constitution requires the first; UCLA chose the second. Now, CIR is fighting to make sure universities don't enable disruptive activists to decide who gets to speak.

In spring 2024, UCLA tolerated weeks of anti-Jewish and anti-Israel encampments. The Young America's Foundation (YAF) chapter at UCLA sought to provide an alternative viewpoint by bringing author and pro-Israel commentator Robert Spencer to speak about the Israeli-Palestinian conflict.



UCLA, May 23, 2024 (Photo by Hans Gutknecht via Getty Images)

UCLA was less welcoming of viewpoints that were out of step with campus activists. After weeks of stonewalling, administrators begrudgingly approved the event for the Student Union, where student-sponsored lectures typically take place. The night before the event, however, activists threatened to disrupt it.

Any time a controversial speaker is invited to campus, counter-protests are expected. Public universities, especially, should be places where divergent ideas can be expressed, debated, and challenged. YAF worked with university administrators in advance to ensure proper security would be in place. UCLA seemed to agree.

> Public universities, especially, should be places where divergent ideas can be expressed, debated, and challenged.

But on the day of the talk, members of YAF's events team, including the two student plaintiffs in this case, were locked out of the event space for hours with no explanation. UCLA claimed it was suddenly "unprepared" to secure the room, then abruptly moved the talk half a mile away, to the edge of campus. With virtually no time for YAF to publicize the new, inconvenient location, UCLA had effectively canceled the event—even though not a single demonstrator had shown up.

> "I felt betrayed by my university. This shouldn't happen to anyone."
> — Macy Frousiakis

"When UCLA canceled our event without doing anything to enforce the law, they let the bullies win," says YAF member and UCLA graduate Macy Frousiakis. "I felt betrayed by my university. This shouldn't happen to anyone."

YAF sued in federal court, arguing university officials violated the First Amendment twice over. First, by silencing Spencer instead of controlling the mob, they handed protesters a "heckler's veto"—rewarding the threat instead of policing it.

Second, UCLA discriminated based on viewpoint. Spencer's talk was singled out because of what he had to say, not because of the security risk. In CIR's landmark *Rosenberger v. UVA* (1995) victory, the Supreme Court called viewpoint discrimination "an egregious form of content discrimination." UCLA's own record of promoting anti-Israel activism on campus makes the motive hard to miss.

CIR is taking YAF's case to the federal appeals court because campus speakers and the students who sponsor them deserve a university that protects their rights, not one that surrenders them to the loudest voices in the room. It's time UCLA learned what the First Amendment requires. ■

Four Summer Wins for Free Speech

From Facebook Pages to a Therapist's Front Door

This summer, CIR won four First Amendment victories—against a state National Guard, a U.S. naval base, a state licensing board, and a public university. Different defendants, different facts, same lesson: When the government tries to control or punish speech—online, in a business, or in a medical journal—CIR has other plans.

Free speech has been at the heart of CIR's work for more than three decades. Now, we're building on that legacy with a growing First Amendment practice.

The Government Can't Silence Its Online Critics

Tim Stanhope served in the North Carolina National Guard for 23 years. Over that time, he grew increasingly concerned about how leadership treated Guardsmen and managed the unit. He began posting those concerns on his unit's official public Facebook page.



Tim Stanhope

In response, Guard officials pressured Tim to retire. Then, they deleted all his posts and blocked him from the page altogether.

After CIR sued on Tim's behalf, the Guard agreed to restore his access and posts, and to rewrite its social media policies. Officials can no longer delete comments they call "inappropriate" simply because they don't like them.

Sergio Rodriguez is an Army veteran and military family advocate. When a summer power outage left families at a Georgia naval base without electricity for more than 12 hours, Sergio went to the base's Facebook page to criticize the response and ask how families could get help. Within hours, he was banned. Officials deleted years of his posts.

Officials first tried a shortcut. Once CIR filed suit, the base quietly restored Sergio's access and asked the court to throw out the case. Problem solved, they argued; nothing left to decide. In March, a federal judge refused to go along. The government can't silence a critic and then end a lawsuit without proving it won't do the same thing again.



Sergio Rodriguez

The judge's ruling brought base officials to the settlement table. Five months later, they surrendered, admitting in writing that banning Sergio violated his First Amendment rights. They agreed never to block members of the public or hide their comments based on viewpoint. And they posted a notice on the base's social media pages telling the public exactly what their rights are.

A government webpage doesn't have to open a comment section. But once it invites the public in, it can't throw out the guests it doesn't like.

A Word Off the Door

Louisiana-licensed therapists Julie Alleman and Juliet Catrett specialize in treating trauma victims, so they opened the appropriately named Psychological Wellness Institute in 2020. Four years later, the state's psychology licensing board sent them a cease-and-desist letter, warning that they could face criminal charges for using the word "psychological" in their name.

Neither Julie nor Juliet ever claimed to be a psychologist. They used "psychological" simply to describe the wellness services they provide. But the board's threat forced them to change their name to "P. Wellness Institute" and describe their services without using the most accurate word.

In July, a federal judge ruled for our clients. Louisiana cannot hand an ordinary English word to one profession

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and threaten everyone else who uses it. And talking with a client is speech, even in a state-regulated profession.

For now, Julie and Juliet can put their business's real name back on the door. But Louisiana has appealed, and six other states—Alabama, Arkansas, Kentucky, Mississippi, Tennessee, and Texas—have similar laws. So CIR's fight continues.

Our fourth win was in Pennsylvania. After a smear campaign by officials at the University of Pittsburgh Medical School, a professional journal retracted Dr. Norman Wang's peer-reviewed article on racial preferences in medical education. In July, a federal appeals court reversed a district court decision and revived his lawsuit, finally giving Dr. Wang the chance to hold Pitt accountable. His full story is on page 7.

Government Censors Don't Know Best

Tim Stanhope knows his unit. Sergio Rodriguez knows what military families need. Julie Alleman and Juliet Catrett know their clients. Dr. Wang knows medical education. In each case, government officials tried to silence the very people who knew what they were talking about.



Julie Alleman and Juliet Catrett with their lawful office sign

CIR has long litigated these kinds of cases. In 1995, we won *Rosenberger v. UVA* at the Supreme Court. In that case, university officials unlawfully denied funding to a student magazine because they objected to its religious viewpoint.

The Supreme Court has relied on *Rosenberger* 58 times since then—most recently this year. Yes, the technology for self-expression has changed. But the First Amendment hasn't. And as government finds new ways to burden speech, CIR's First Amendment work is expanding into new territory.

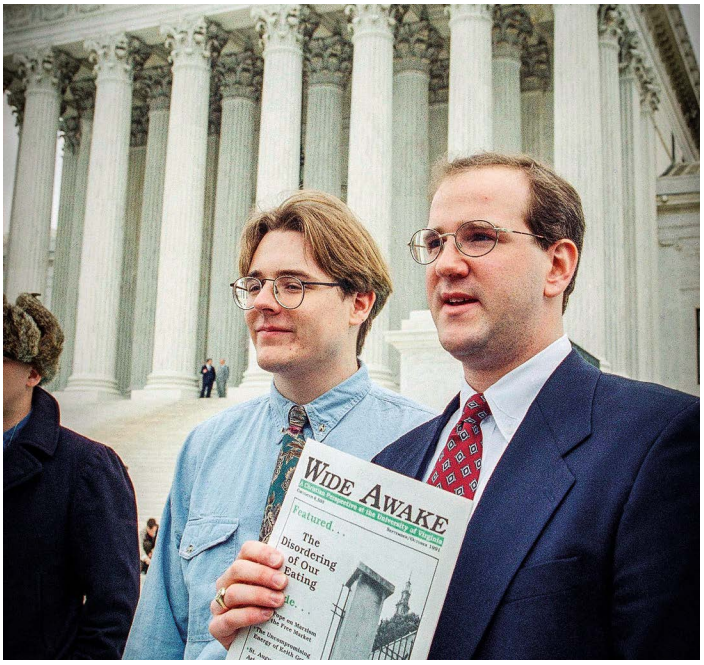
New Free-Speech Challenges

One frontier involves government-mandated donor disclosure that threatens privacy and the freedom to associate. For example, Alaska requires any nonprofit that speaks about a ballot measure to publicly name its three largest donors. After publishing guides on ranked-choice voting, the Alaska Policy Forum refused to name its donors. This August, CIR joined a friend-of-the-court brief urging the Supreme Court to take the case and protect the freedoms of speech and association.

The technology for self-expression has changed. But the First Amendment hasn't.

In 1958, Alabama demanded the NAACP's membership list, and the Supreme Court said no. Yet nearly 70 years later, governments still insist on donor disclosure. People may think twice about supporting a cause if it means their name might land on a government list. That's how government silences speech before it ever happens.

This summer's four wins are now part of CIR's long legacy of defending the First Amendment. Governments will keep finding new ways to silence speakers, punish dissent, or chill support for causes they dislike. CIR will keep pushing back. ■



UVA students Ron Rosenberger (right) and Robert Prince

Rocky Mountain Hire: CIR Welcomes Jim Kerwin

He's litigating from 5,280 feet, but his ambitions for CIR go even higher.

We're thrilled to welcome our new senior litigator, Jim Kerwin. From his office in Denver, Jim brings more than 15 years of experience litigating high-stakes First Amendment cases. With his experience and commitment to individual liberty, Jim is a natural fit for CIR.

"Landing at CIR has been a reminder of what drew me to the law in the first place—the chance to wrestle with difficult questions that actually matter," Jim says. "Two months in, I'm grateful to be doing that work alongside people who care deeply about getting those questions right."

Ready for CIR

Before joining CIR, Jim focused on First Amendment litigation at Mountain States Legal Foundation, defending freedoms of speech and association and pushing back against administrative overreach. He also took on cases challenging efforts to replace merit-based standards with group-based preferences, work that aligns naturally with CIR's own Equal Protection practice. Earlier in his career, he worked at a large New York City law firm and several East Coast government agencies, handling cases involving public sector unions and class-action defense.

Jim earned his law degree from UC Berkeley School of Law, graduating first in his class. He clerked for the Ninth Circuit and the Southern District of New York before beginning his career as a litigator.

> "Free expression is for everyone, not just the loudest groups on campus."
> — Jim Kerwin

Straight to Work

Jim is currently litigating *Young America's Foundation v. UCLA*, CIR's appeal to the Ninth Circuit challenging UCLA's last-minute cancellation of a pro-Israel speaker under pressure from campus demonstrators. It's a fight over whether free speech on campus means anything when a university caves to a mob. (The full story is on page 3.)

"Public universities often talk about free expression, but then do nothing when activist mobs shout down speakers or intimidate those with whom they disagree. Free expression is for everyone, not just the loudest groups on campus. This case is about requiring universities to live up to the promise of the First Amendment by controlling the mob, not its target."

Beyond the Briefs

When he's not writing legal briefs, Jim's writing music instead—or playing what he describes as improvised jazz on the piano. (Though his kids beg to differ on the "jazz" part.) He's also played in bands that have taken the stage at bigger venues than your average courtroom, including a memorable stop at Chicago's Lollapalooza music festival. Beyond composing arguments or musical arrangements, Jim enjoys taking full advantage of Denver's mountains and trails with his family.

With Jim on our team, we're ready to fight—and win—even more of the cases that matter. Please join us in welcoming him to CIR. ■



Jim Kerwin in Colorado

Just What the Doctor Ordered

Appellate Win Revives Wang v. University of Pittsburgh

Dr. Norman Wang's fight for justice received a powerful shot in the arm earlier this summer, following a major victory at the U.S. Court of Appeals. In 2020, his bosses at the University of Pittsburgh waged an all-out cancellation campaign against Dr. Wang for his peer-reviewed research paper that questioned racial preferences in medical education. Following CIR's recent victory, he will finally have the opportunity to hold Pitt's leadership accountable.

> Like any good doctor, Dr. Wang requested a second opinion. And unlike the district court, the Third Circuit had no time for Pitt's excuses.

Dr. Wang's paper argued that racial preferences often harm the very students they try to help. He also argued that advancing students based on race likely violates federal civil rights law—a view since adopted by the Supreme Court. The carefully researched paper, with more than 100 endnotes, was published in the prestigious *Journal of the American Heart Association*.

Yet, his article suffered from one fatal defect: He published it in 2020, when campus activists sought to discredit anyone who challenged extreme progressive ideas about race. Dr. Wang was a ready target. Pitt officials publicly accused him of dishonestly misquoting sources to push racist views and rallied faculty to



Dr. Norman Wang

spread that lie online. They stripped him of his fellowship director position and pressured the medical journal to retract his paper.

When Dr. Wang filed suit, Pitt officials tried to pass off their malicious campaign as a normal part of the rough-and-tumble of academic debate. The argument should have been laughed out of court. Instead, Dr. Wang's case was thrown out.

> "A culture that cancels instead of counsels sacrifices persuasion on the altar of power. In doing so, it forgets that the remedy for disfavored speech is more speech, not coerced silence."
>
> — Judge Stephanos Bibas

The trial judge disregarded mountains of evidence—including smoking-gun emails among faculty coordinating their attack—and dismissed his claims.

But like any good doctor, Dr. Wang requested a second opinion, seeking review in the U.S. Court of Appeals for the Third Circuit. And unlike the district court, the Third Circuit had no time for Pitt's excuses.

Writing for the court, Judge Stephanos Bibas found strong evidence that school officials intentionally attacked Dr. Wang's reputation to shut him up—and that they violated federal civil rights law by silencing a critic of racial discrimination. He added, "A culture that cancels instead of counsels sacrifices persuasion on the altar of power. In doing so, it forgets that the remedy for disfavored speech is more speech, not coerced silence."

The Third Circuit's opinion strengthens our claim for punitive damages against those who attacked Dr. Wang. It can be difficult to pierce the progressive campus bubble, but a sizable damages judgment would go a long way toward showing that there are real costs to destroying a colleague's career and reputation simply for disagreeing on political issues.

Judge Bibas's common-sense opinion is the antidote we need to the poisonous intolerance on campus. With this victory behind him, the prognosis for Dr. Wang's case is excellent. ■

We've Climbed Out of the DC Swamp!

CIR packed up and moved across the Potomac to Arlington, Virginia. We're now neighbors with many allied organizations in what is unofficially known as the "Liberty Corridor." Here's our new address:

Center for Individual Rights
1310 N. Courthouse Road, Suite 610
Arlington, VA 22201



Save on Your 2026 Taxes While Saving Liberty

Here are some ways to ***put more of your money to work defending individual liberty—and less of it in the hands of government***:

Give Shares of Stock. You may be able to avoid capital gains taxes by donating appreciated stock.

- *Fiduciary:* Morgan Stanley
- *Acct. Name:* Center for Individual Rights
- *DTC #:* 0015 | *Acct. #:* 504-107-046-124

Please notify Zane Lucow at lucow@cir-usa.org when your broker makes the transfer.

Give Directly From Your IRA. If you're age 70½ or older, make a tax-free qualified charitable distribution (QCD) directly from your IRA to CIR. It can count toward your required minimum distribution for 2026. Ask your IRA custodian now to mail the QCD so it arrives before December 31. See address and tax ID below.

Give Through Your Donor-Advised Fund. Recommend a grant to CIR through your donor-advised fund. Make your request now to allow your fund sponsor to process it in time to arrive before December 31. See address and tax ID below.

Get a Tax Deduction Even If You Don't Itemize.
If you take the standard deduction for 2026, you may still deduct up to $1,000 in qualifying cash gifts ($2,000 for married couples filing jointly) on your income taxes. Go to ***cir-usa.org/donate*** to make your gift before December 31.

Donation Information:

- *Tax ID:* 52-1600481
- *Checks Payable to:* Center for Individual Rights
- *Address:* 1310 N. Courthouse Road, Suite 610
  Arlington, VA 22201

The information here is for general purposes only and is not intended as tax, legal, or financial advice. Please consult your advisor regarding your individual circumstances.