INSTITUTE FOR JUSTICE

October 1, 2010

Mr. John R. Venrick
41250 250th Avenue SE
Enumclaw, WA 98022-8630

Dear Mr. Venrick:

There is one pernicious assumption behind the laws and regulations that the Institute for Justice challenges in court: the assumption that government knows best.

That government needs to control who speaks about politics so you won't have to listen to too much speech from the "wrong" people. And government needs to license occupations because bureaucrats and industry insiders want to limit "unfair" competition. Government should have the right to seize your property because their agencies will use it more profitably than you will. And your kids should be allowed to attend only government-run schools because you simply can't be trusted to make the best educational choices for your own children.

I write today to ask you to help me challenge this assumption in the courts and the court of public opinion, and to re-establish a presumption of liberty instead of government control. You already have made a difference with your last gift in October 2009. Please renew your support of IJ with a gift of $60, $75, or even $100 to help us turn back the government tsunami.

Right now, grassroots political activism is flourishing in our country. Ordinary citizens are banding together to make their voices heard on issues of local and national importance. As the government Leviathan continues to grow and to invade our daily lives, debates are flaring up about everything from taxes to healthcare.

And that is exactly how it should be. Our Founding Fathers envisioned a political system with robust debate and a marketplace of ideas. The First Amendment protects nothing if not the right to speak out about politics.

It is no accident that the First Amendment to the Constitution states that, "Congress shall make **no law**...abridging the freedom of speech."

The right to free speech is so ingrained in our national consciousness that most people are shocked when I tell them that nearly every state in this country strictly regulates and even punishes political speech.

Thanks to so-called grassroots lobbying laws and other campaign finance regulations, you could be breaking the law if you do something as simple as send an email to friends encouraging them to vote a certain way on a ballot issue, or if you and your friends pool money to run an ad in the newspaper on that issue.

Many states will slap you with fines of thousands of dollars or send you to jail for several years for breaking these laws. Does that sound like what the Founding Fathers had in mind when they wrote the First Amendment?

Take one of the laws IJ is challenging in Washington state, for example. In Washington, if a group of citizens spends more than $500 in one month on any effort to influence state policy—let's say on a political ad or organizing a rally—the group has to register with the government and report the names, addresses, occupations, and employers of all group leaders and of all donors who gave $25 or more. And then the government posts the information on the Internet.

In America, the only thing you should need in order to speak out about politics is an opinion. If individuals want to band together and speak out about issues of public importance, they should not be required to get government permission first, let alone set up a "committee," establish new bank accounts, appoint a treasurer, and hire an army of lawyers and accountants.

But that's exactly what's happening to our clients in Florida, Nathan Worley, Pat Wayman, John Scolaro, and Robin Stublen. They want to run a newspaper or radio ad to inform their fellow Floridians about a proposed amendment to the Florida Constitution. In their view, the proposed amendment is an affront to property rights, and they want their neighbors to know that and to vote against it.

But there's a problem: under Florida law, anytime two or more people get together to advocate the passage or defeat of a ballot issue, and raise or spend more than $500 for the effort, they become a fully regulated political committee. At today's advertising rates, running even a single newspaper ad could cause them to cross this threshold.

That means Nathan and his friends would have to become a political committee, register with the state, appoint a treasurer, and establish a separate bank account. Then the group could run its ads, but it would have to keep meticulous financial records and report all activity—including names and addresses of contributors—to the state. They could face fines up to $1,000 or even a year in jail if caught violating these rules or even making a mistake.

All of this red tape is supposed to take the corruption out of politics and to protect us from speech from the "wrong" sources. But in reality, the rules only serve the interests of the entrenched political establishment because it's *current* officeholders who are writing the rules and are most able to adapt to them. The laws paralyze outsiders and insurgents because it is harder for them to navigate these increasingly complicated and arcane regulations.

Can you imagine the implications of laws like these for ordinary people trying "to petition the Government for a redress of grievances"? Why should we believe that the same governments that abuse some of our fundamental rights on a regular basis can be trusted with the power of regulating our political speech?

In a very short period of time, IJ has scored major courtroom victories and become a go-to source on campaign finance and political speech regulations. Our attorneys are consistently quoted in major media outlets and our cases are setting critical precedents in First Amendment law. In this lively and important election season and beyond, IJ will continue building on our success until these unconstitutional laws are struck down across the country.

Meanwhile, things also continue to heat up in our Campaign for Economic Liberty. Right now we're mired in a nationwide jobless recovery. Yet state and local governments too often stifle entrepreneurship with arbitrary laws and regulations.

As unbelievable as it may sound, more than 30 percent of occupations require a government license before a person can pursue a living in the field of his choice. That's up from just 5 percent in the 1950s.

And all too often, licensing requirements have nothing to do with protecting public health and safety and everything to do with protecting established businesses from competition. You may have heard about our case in Louisiana where the state board of funeral directors has threatened the monks of St. Joseph's Abbey with fines and even jail time, for simply making and selling caskets.

The board says that to make and sell a wooden box—a casket—you must be a licensed funeral director. To get the license, the monks would have to apprentice at a licensed funeral home for one whole year, take a funeral industry test, and even convert their monastery into a "funeral establishment," which includes installing equipment for embalming. The monks have already been threatened with potential jail time and hefty fines for failing to comply.

The motives of the state board and their industry allies are malicious and clear. The owner of one funeral home, located a short drive from the abbey, told *The Wall Street Journal*, "They're cutting into our profit." We're on a mission to show the courts and the public that protecting established businesses from fair competition is not a constitutional use of government power.

We're challenging similarly outrageous regulations in the Nation's Capital, where clients Tonia Edwards and Bill Main run a touring company that provides fun and informative Segway "safaris" in Washington, D.C. But new regulations issued in July make it illegal to "describe...any place or point of interest in the District to any person" on a tour without a government license.

Tonia and Bill already have a license to operate a business. Now the government is trying to force them to get a license to speak. Currently, for telling their customers that

the National Archives houses the Bill of Rights, Tonia and Bill could be fined and sentenced to 90 days in jail. In typical bureaucratic fashion, getting the license requires lots of money, paperwork, and an arbitrary test about everything from architectural history to city regulations.

These two cases illustrate the huge expanse that mandatory occupational licensing now covers—there's nothing the government thinks you should be able to do without its permission, not even sell a wooden box or describe monuments. That's why IJ is systematically attacking these contemptible licensing schemes all over the country. We've filed 10 new economic liberty cases in the past 12 months alone. We'll use our extensive track record of success and with your help restore constitutional protections for the right to earn an honest living.

Now I'd like to tell you about the latest developments in our efforts to bolster private property rights. Five years after the devastating *Kelo* ruling from the U.S. Supreme Court, our legislative counseling, activism efforts, and aggressive litigation have resulted in 43 states improving property rights protections.

But there's still a fight ahead as we continue to target the states that refuse reform. Right now we're litigating a key case in California where National City wants to apply a phony "blight" designation to two-thirds of the city so they can transfer property from the current owners to a luxury condo developer.

California redevelopment agencies are among the worst abusers of eminent domain for private development projects—and a win for our clients would be an enormous victory for all Californians and for property rights.

On top of our continued battle against unjust eminent domain takings, this year we launched a major initiative taking on another appalling and pervasive assault on property rights: civil asset forfeiture. Under civil asset forfeiture laws, police can seize your property under the flimsiest of pretenses, sell that property, and pocket the proceeds—*no conviction or even arrest required*. Not surprisingly, abuse is rampant.

Unlike *criminal* asset forfeiture where your property can be taken if you're convicted of a crime, *civil* asset forfeiture makes it easy for police to seize your property based on a mere suspicion of foul play. They can even take your property when *someone else* is caught violating the law.

In Texas, our client Zaher El-Ali has been trying to get his Chevrolet Silverado pickup truck back from Harris County police and prosecutors for more than a year. The pickup was seized by the police after they stopped the driver for driving while intoxicated. But the driver did not own the Silverado. He was making payments to purchase the truck from Ali, but had not finished paying for it. Ali retained the title, and now he wants his truck back.

But in the upside-down world of civil forfeiture, property is "guilty" until you prove it innocent and, as Ali has found, it is very difficult to get your property back once it has been seized.

To give you an idea of how profitable these seizures are for the enforcers, consider that the federal asset forfeiture account alone has topped $1 billion in funds from seized property. It's impossible to obtain reliable records from states, who don't publicly report proceeds from seizures, but we do know that state funds have been used by local law enforcement agencies for everything from football tickets to election campaigns.

This policing for profit must stop. Just like we did with eminent domain abuse, we're going to raise the issue to national prominence and litigate our cases all the way to the U.S. Supreme Court if necessary.

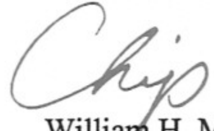
Speaking of the Supreme Court, IJ will argue our fourth case before the Justices in just eight years, this time on behalf of parents and children exercising school choice in Arizona. As the lawyers for the school choice movement, the Institute for Justice will use this case to firmly establish the right of parents to choose the education that best meets the needs of their children.

Our clients want nothing more than to take advantage of state scholarship programs—funded by private taxpayers—to send their children to better schools. The ACLU claims that the state, by giving taxpayers the choice to donate to both religious and nonreligious School Tuition Organizations, is unconstitutionally advancing religion because most taxpayers so far have chosen to donate to religiously affiliated scholarship organizations.

But the claim is bogus. Arizona structured its tax credit program to be completely neutral with regard to religion. Neither taxpayers nor parents have any financial incentive to donate to a religiously affiliated scholarship organization over a nonreligious scholarship organization, or to select religious over nonreligious schools.

Mr. Venrick, I hope I can count on you to continue your support for the Institute for Justice with a contribution of $60, $75, or $100. Your contributions give IJ the financial resilience to triumph over well-funded opponents who are intent on preserving their government power and the status quo. Thank you for the dedication you've already shown to fighting off overzealous government and restoring constitutional protections to the most fundamental attributes of the American Dream.

Sincerely,



William H. Mellor
President and General Counsel