

CIR

ANNUAL REPORT 1996-1997

ABOUT CIR:

“WHEN THE HISTORY OF THE ANTI-P.C. BACKLASH IS WRITTEN, THERE WILL BE CHAPTERS RESERVED FOR THE WALL STREET JOURNAL EDITORIAL PAGE, RUSH LIMBAUGH, CHARLES MURRAY, AND, NO DOUBT, WASHINGTON, D.C.’S OWN CENTER FOR INDIVIDUAL RIGHTS. ... WITH A MOTTO OF ‘BRINGING LAWSUITS FOR A BETTER AMERICA,’ THE NON-PROFIT LAW CENTER HAS SPENT THE PAST SIX YEARS POUNCING ON JUST ABOUT ANY PUBLIC INSTITUTION THAT ATTEMPTS TO DISCRIMINATE IN THE NAME OF POLITICAL CORRECTNESS.”

WASHINGTON CITY PAPER

ABOUT *HOPWOOD V. STATE OF TEXAS*:

“RIPPLES FROM THE CASE ARE SPREADING THROUGHOUT AMERICA. THESE RIPPLES — THE *HOPWOOD* EFFECT — HAVE BEGUN KILLING OFF OR MODIFYING AFFIRMATIVE ACTION AT ONE INSTITUTION OF HIGHER EDUCATION AFTER ANOTHER.”

U. S. NEWS & WORLD REPORT

ABOUT THE NINTH CIRCUIT’S DECISION UPHOLDING CALIFORNIA PROPOSITION 209:

“IT IS JUST POSSIBLE THAT THIS DECISION ... MARKS OUT THE ROAD BACK DOWN FROM THE SUMMIT OF JUDGE-MADE LAW AND SOCIAL POLICY.”

THE WALL STREET JOURNAL

The Year in Review

C

IR can look back on another year of remarkable success and continued growth. Among many accomplishments, one stands out: In July 1996, the U.S. Supreme Court let stand the Fifth Circuit Court of Appeals' decision in *Hopwood v. State of Texas*, which held that the University of Texas Law School may not take race into account in student admissions.

To be sure, CIR made substantial headway in all three of its issue areas (civil rights, sexual harassment, and free speech and free exercise of religion). In *Brzonkala v. Virginia Tech*, for example, we persuaded a federal district court that neither the Commerce Clause nor the Fourteenth Amendment provides Congress with the authority to create a federal civil remedy for "discriminatory," "gender-based" violence. The court's ruling struck down core provisions of a federal statute (the 1994 Violence Against Women Act) — an event sufficiently rare to warrant celebration.

But neither *Brzonkala* nor any other CIR case rivals *Hopwood's* momentous importance. The case has blown a huge hole in the defenses on which most affirmative action programs are based, and it has proven that elite institutions have for years administered racial quotas in disguise. Universities can no longer lie about quotas and preferences; they will have to defend them. In the long run, this will prove impossible. The Supreme Court's refusal to overturn the Fifth Circuit's decision — arguably, the first unequivocal endorsement of official colorblindness by a federal appellate court in three decades — is one of the two 1996 events to signal a breakthrough at the civil rights front.

The other event was, of course, the enactment of the California Civil Rights Initiative, or "Prop 209," on November 5, 1996. For the very first time, racial preferences — largely the handiwork of unelected judges and bureaucrats — were put to a popular vote. Despite an appalling smear campaign by the defenders of the established order, official colorblindness won.

CIR is representing the sponsors of Prop 209 in pending litigation over the initiative. The lawsuit, brought by the ACLU and a host of other advocacy groups, contends that Prop 209's categorical prohibition against official race or sex discrimination actually "discriminates" against minorities and women. In April 1997, a panel of the Ninth Circuit Court of Appeals rejected this desperate challenge. Although the case remains pending, we are confident that the Ninth Circuit's decision will be sustained and that Prop 209 will eventually be found constitutional.

We may be too sanguine, perhaps, about the prospects of taking government out of the race business. Universities are doing whatever they can, in- and outside the law, to preserve racial preferences in higher education. The defenders of racial preferences (and of other multicultural targets of CIR-inspired litigation, from speech controls to sexual harassment regulations) occupy the command posts of higher education, much of the

media, and other powerful institutions. No one should expect a victory on a point of principle to translate instantaneously into wholesale institutional reform on the ground.

However, the idea that race preferences would fall with one big, dramatic blow (either by the Supreme Court or the Congress) has always been a chimera. What matters is to sustain the post-*Hopwood*, post-209 momentum toward official colorblindness, to cement public support for this principle, and to demoralize the defenders of the existing regime. CIR's civil rights litigation program is tailored to these purposes.

First, we are seeking to preserve and extend the *Hopwood* principle of official colorblindness in appropriate lawsuits. *Smith v. University of Washington*, filed in March 1996, is a challenge to the defendant law school's use of substantial race preferences in student admissions. Other cases may soon follow.

Second, we are seeking to clear the way for ongoing efforts in many states to enact initiatives and referenda similar to California's Prop 209. The lesson of Prop 209 is that legislatures, beholden as they are to special interest groups, will do little or nothing in the way of curbing race-based preferences, notwithstanding the public support such reforms would enjoy. Initiatives and referenda such as Prop 209 are an effective means of trumping entrenched interest groups and bureaucratic resistance. This is precisely why the civil rights establishment is so eager to overturn Prop 209 in court — and why the defense of the initiative is CIR's priority.

Third, we will continue to challenge particularly egregious preference policies, especially federal programs that categorically exclude non-favored groups from participation. This past year, we successfully concluded two lawsuits over such programs; a third case (*Doe v. Department of Health and Human Services*) is pending. While such attacks on flagrantly unlawful preference programs are unlikely to set precedents, they show that the affirmative action advocates who deny the very existence of quotas are lying. Moreover, repeated demonstrations that the defenders of the existing civil rights regime do not care what the law requires will further increase public opposition to a corrupt regime.

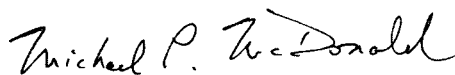
Over the years, CIR has racked up numerous precedent-setting victories — among them, the single biggest civil rights case of the past decade. As a result, CIR has gained the respect of its friends and its enemies. National newspapers and legal trade publications have noted that CIR has never lost a case against a college or university.

Increased financial support from a steadily growing number of generous contributors has enabled CIR to enlarge its staff, thereby enabling us both to expand our litigation program and to play a much more prominent role in the public debate over civil rights and other matters within CIR's purview. And CIR is fortunate to have at its disposal an infrastructure of dedicated and resourceful *pro bono* attorneys — the often unsung heroes on whose generous assistance CIR depends for so much of its work and success.

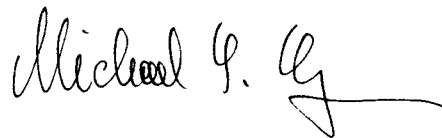
CIR may never escape the large shadow of *Hopwood*: much as the case has well-nigh eclipsed CIR's noteworthy victories on free speech, freedom of religion, and sexual harassment, so it may make all our future accomplishments seem small by comparison. On reflection, though, this is a curse we are happy to live with. Official race preferences and state-sponsored discrimination are among the very few issues in modern American politics of which it can be said that a handful of people and a small number of organizations have made all the difference, against forbidding odds.

CIR is one of these organizations, and we make no apologies about our role in curbing the government's diversity industry. We may not see a "colorblind society" for another generation or more. But we should in any event resist the temptation of replacing the counterproductive, meddlesome pursuit of "diversity" with another ambitious campaign to impose an equally meddlesome, statist regime of universal colorblindness. What we can and should do is to put race beyond the reach of the state — to end zero-sum games of racial politics.

Hopwood and Prop 209 have moved this objective within reach. CIR's track record, its enhanced resources and reputation, and its docket of carefully selected cases should ensure further progress over the coming year and beyond. We may never live down *Hopwood*. But we may yet live up to its promise.



Michael P. McDonald
President



Michael S. Greve
Executive Director

ABOUT BOSSIER:

"BOSSIER PARISH MAY BE THE MOST IMPORTANT CASE SINCE SHAW V. RENO, AS IT MAY HELP DETERMINE THE FATE OF ALL REMAINING POST-1990 REDISTRICTING AND ALL REDISTRICTING AFTER THE 2000 CENSUS."

JEFF WICE, DEMOCRATIC REDISTRICTING ATTORNEY

"RULING IN AN IMPORTANT VOTING RIGHTS CASE, THE SUPREME COURT ... CURBED THE JUSTICE DEPARTMENT'S ABILITY TO INSIST ON GREATER REPRESENTATION OF MINORITY VOTING DISTRICTS AS THE PRICE FOR APPROVING REDISTRICTING PLANS."

THE NEW YORK TIMES

United States Supreme Court

Reno v. Bossier Parish School District, et al., ___ S.Ct. ___ (1997); No. 95-1455 (argued Dec. 9, 1996). Civil Rights; Elections. Representing school board in rural Louisiana in Voting Rights Act litigation over the obligation of local governments to engage in racial gerrymandering in order to ensure the election of minority representatives.

Status: Prevalled. Lower court decision vacated and remanded for further proceedings.

Hopwood, et al., v. State of Texas, 78 F.3d 932 (5th Cir. 1996), *suggestion for rehearing or rehearing en banc denied*, 84 F.3d 720 (5th Cir. 1996), *cert. denied*, 116 S. Ct. 2581 (1996). Civil Rights; Equal Protection. Challenging racial quotas in student admissions at state educational institution.

Outcome and Status: Victory before 5th Circuit; *cert. denied*; case pending in district court for damages, injunctive relief and attorneys' fees. *See also* Federal District Courts.

In the Matter of John R. Topp, ___ S.Ct. ___ (1997); No. 96-01098 (*amicus*). Freedom of Speech. Supported *certiorari* petition on behalf of Idaho attorney reprimanded by State Bar Association for criticizing state judge's ruling as "political."

Outcome: *Certiorari* denied.

ABOUT BRZONKALA:

"LEGISLATORS HAVE CREATED A NEW CAUSE OF ACTION WITH A MUDDY DEFINITION — AN ACT OF VIOLENCE 'DUE, AT LEAST IN PART, TO AN ANIMUS BASED ON THE VICTIM'S GENDER' — AND MOVED THE FORUM FOR ADJUDICATING SUCH CASES FROM STATE TO FEDERAL COURT.... A FEDERAL JUDGE IN VIRGINIA REASONABLY RULED ... THAT THIS ... WAS SO STRAINED AS TO MAKE THE LAW UNCONSTITUTIONAL."

THE WASHINGTON POST (EDITORIAL)

ABOUT PROPOSITION 209:

"THE RULING ... IS A BLOW TO QUOTA MONGERS EVERYWHERE. IT DEMOLISHES THE FINE LINE, IF EVER THERE WAS ONE, BETWEEN 'AFFIRMATIVE ACTION' AND DISCRIMINATION, AND IT LEAVES PRESIDENT CLINTON AND HIS ALLIES IN THE RACIAL AND SEXUAL GRIEVANCE INDUSTRY SEARCHING FOR, AS HE PUT IT, 'NEW WAYS TO ACHIEVE THE SAME OBJECTIVE.'"

THE WASHINGTON TIMES (EDITORIAL)

Federal Appellate Courts

Brzonkala v. Virginia Polytechnic Institute, et al., Nos. 96-1814 and 96-2316; 935 F.Supp. 779 (W.D.Va. 1996). Commerce Clause; Equal Protection. Defending black student athletes against ill-founded charges of rape. Challenging 1994 Violence Against Women Act as unconstitutional exercise of congressional authority beyond the scope of the Commerce Clause and the Fourteenth Amendment.

Status: Victory in district court; plaintiffs' appeal pending before Fourth Circuit.

Coalition for Economic Equity, et al. v. Wilson, et al., ___ F.3d ___ (9th Cir. 1997); 946 F.Supp. 1480 (N.D.Ca. 1996). Civil Rights; Equal Protection. Representing sponsors of the California Civil Rights Initiative ("Prop 209") as intervenor-defendants in advocacy groups' lawsuit to enjoin Prop. 209 as unconstitutional.

Status: District court enjoined implementation of Proposition 209 pending trial. Victory before 9th Circuit, which reversed district court. Plaintiff's request for rehearing *en banc* pending.

Gee v. Humphries, et al., No. 95-40031-RH slip op. (N.D.Fla. Dec. 3, 1996). Freedom of Speech; Civil Rights; Title VII. Challenging state college's disciplinary measures against professor for "harassing" in-class remark as violation of First Amendment, Due Process Clause, and 42 U.S.C. 1981.

Status: District court granted defendant's motion for summary judgment. Appeal pending.

Scallet v. Rosenblum, et al., Petition for Writ of *Certiorari* filed with U.S. Supreme Court April 27, 1997; 106 F.3d 391 (4th Cir. 1997), 911 F.Supp. 999 (W.D.Va. 1996). Freedom of Speech. Challenging University of Virginia's removal of teacher without due process for politically controversial, "communist" speech. Appeal of district court's summary judgment in favor of defendants. *See also* State Courts.

Outcome and Status: Fourth Circuit ruled that speech Scallet contended was protected was not the cause of his removal and that no genuine issue of material fact existed to warrant a trial. *Cert.* petition pending.

ABOUT SMITH V. VCU:

"VCU RECENTLY AGREED TO PAY A SETTLEMENT TO SIX MALE PROFESSORS SUING THE SCHOOL OVER A 1992 SALARY INCREASE GRANTED TO WOMEN. GOOD."

RICHMOND TIMES-DISPATCH (EDITORIAL)

Smith, et al., v. Virginia Commonwealth University, 84 F.3d 672 (4th Cir. 1996)(*en banc*), 856 F.Supp. 1088 (E.D.Va. 1994). Civil Rights; Employment Discrimination. Contesting women-only pay raise, absent evidence of discrimination, as violation of civil rights law. Appeal of district court's grant of summary judgment in favor of defendants.

Outcome and Status: Prevailed. Fourth Circuit Court of Appeals, sitting *en banc*, reversed district court's grant of defendants' motion for summary judgment (May 1996). Case settled on eve of trial (September 1996) for damages, injunctive relief, and costs and attorneys' fees.

Federal District Courts

ABOUT COLUMBIA UNION COLLEGE V. MARYLAND:

"A SEVENTH-DAY ADVENTIST COLLEGE IN MARYLAND HAS CONTESTED A STATE DECISION DENYING IT FUNDING GIVEN TO CATHOLIC COLLEGES — A CASE THAT MAY SET A LEGAL PRECEDENT FOR GOVERNMENT NEUTRALITY TOWARD RELIGION."

THE WASHINGTON TIMES

ABOUT DOE V. HHS:

"MICHELLE ... APPLIED TO [A SUMMER APPRENTICE PROGRAM].... THE PROGRAM IS FOR MINORITIES ONLY AND MICHELLE IS WHITE.... MICHELLE SUED THE GOVERNMENT WITH THE HELP OF THE CENTER FOR INDIVIDUAL RIGHTS, A PUBLIC INTEREST LAW FIRM THAT WON THE HOPWOOD DECISION."

THE WALL STREET JOURNAL (EDITORIAL)

Brzonkala v. Virginia Polytechnic Institute, et al., 935 F.Supp. 779 (W.D.Va. 1996). *See* Federal Appellate Courts.

Columbia Union College v. Maryland Higher Education Commission, et al., Civ. No. K-96-1831 (D.Md. 1996). Free Speech; Free Exercise of Religion. Representing private college affiliated with Seventh-day Adventist church in lawsuit challenging State's refusal to accord financial aid benefits extended to other, similarly situated schools, solely because of college's religious speech and beliefs.

Status: Case pending on cross motions for summary judgment (February 1997); awaiting decision.

Doe v. Department of Health and Human Services, et al., Civ. No. 97-091 (S.D.Tex. 1997). Civil Rights; Equal Protection. Challenging exclusion of non-minority youth from minorities-only summer study program funded in part by the National Institutes of Health, and Texas A & M University.

Status: Pending.

ABOUT FHC:

"COHEN WAS ACCUSED BY THE FAIR HOUSING COUNCIL ... OF TRYING TO EXCLUDE CHILDREN WITH THE WORDS, 'QUIET' AND 'MATURE.' ... THE HOUSING COUNCIL FILED SUIT IN FEDERAL COURT, ACCUSING HIM AND THE DAILY LOCAL NEWS OF VIOLATING THE FEDERAL FAIR HOUSING ACT."

FORBES

Fair Housing Council of Suburban Philadelphia v. Local Daily News, et al. No. 96-CV-1383 (E.D.Pa. 1996). Represented landlord in case challenging standing of housing groups and paid "testers" to sue landlords, real estate agents and newspapers for discrimination under the Fair Housing Act when housing advertisements contain words or symbols that may indicate a "discriminatory" preference.

Status: Prevailed. Plaintiff's case dismissed with prejudice.

"THE HOPWOOD RULING IS THE BEGINNING OF THE END FOR AFFIRMATIVE ACTION."

U.S. NEWS & WORLD REPORT

"LIKE BAKKE, LIKE BROWN, LIKE MIRANDA, [CHERYL HOPWOOD] HAS EVOLVED FROM A PERSON INTO A ONE-WORD LEGAL PRINCIPLE."

TEXAS MONTHLY

ABOUT KOCHEN V. UNITED STATES:

"THE FEDERAL GOVERNMENT CONTINUES TO FUND UNTOLD NUMBERS OF RACE-BASED INITIATIVES. THE CENTER FOR INDIVIDUAL RIGHTS IS TRYING HARD TO WEED OUT THESE PROGRAMS AND IS HAVING SOME SUCCESS. IN JANUARY, IT WON A SETTLEMENT REFORMING THE DELAWARE BAR ASSOCIATION SUMMER PROGRAM."

THE WALL STREET JOURNAL (EDITORIAL)

ABOUT SMITH V. UNIVERSITY OF WASHINGTON:

"BASED ON HOW IMPORTANT THE HOPWOOD DECISION HAS TURNED OUT TO BE, I THINK (THE UW) SUIT IS A BIG DEAL. AND THE FACT THAT THE CIR IS INTERESTED ENOUGH TO TAKE THE CASE, I THINK, IS VERY SIGNIFICANT."

ROBERT LAIRD, DIRECTOR OF UNDERGRADUATE ADMISSIONS, UNIVERSITY OF CALIFORNIA AT BERKELEY

Gee v. Humphries, et al., No. 95-40031-RH (N.D.Fla. 1997).

See Federal Appellate Courts.

Hopwood, et al., v. State of Texas, et al., No. A-92-CA-563-SS. Civil Rights; Equal Protection. Trial on damages and injunctive relief following 5th Cir. ruling that state law school may not use racial preferences in student admissions.

Status: Argued; pending.

Kochen, et al., v. United States, et al., CA-96-191 (D.Del. 1996). Equal Protection; Civil Rights. Challenged exclusion of non-minority law students from minorities-only internship program administered by the Delaware Bar Association and various federal, state, and private agencies.

Outcome: Victory. State and private agencies settled for \$20,000 in attorneys' fees, costs, and damages and agreed to cease participation in certain race-restricted summer program (October 1996). U.S. Department of Justice agreed not to participate in program for six years and to pay CIR \$7,500 in attorneys' fees and costs (January 1997).

Recycling Solutions, Inc. v. the District of Columbia, No. 96-0170 (TPJ)(D.D.C. 1996). Equal Protection; Civil Rights. Assisting white-owned contractor in lawsuit against District of Columbia government after company had been denied contract because of race of its owners.

Outcome: Pending.

Reisner v. John Jay College, 95-8087 (S.D.N.Y. 1995). Civil Rights; Title VII. Challenging state college's refusal to hire non-minority applicant for position reserved for minorities.

Status: Pending.

Rosenberger, et al., v. Rector and Visitors of the University of Virginia, No. 91-0036-C, slip op. Sept. 17, 1996 (W.D.Va.). Suit for damages and attorneys' fees subsequent to Supreme Court ruling that public university may not exclude religious student newspaper neutral, university-wide student funding system.

Outcome: District court awarded \$310,000 in fees and costs.

Smith v. University of Washington Law School. Civ. No. C-97-335 (W.D.Wash. 1997). Civil Rights; Equal Protection. Challenging racial preferences in student admissions at state educational institution.

Status: Pending.

Thorpe v. Virginia State University, et al. CA No. 3:96 CV975 (E.D.Va. 1996). Commerce Clause; Equal Protection. Representing black student athletes at VSU accused of violating the Violence Against Women Act (VAWA) on grounds that civil remedies under VAWA exceed congressional power under the Commerce Clause and the Fourteenth Amendment.

Status: Pending.

White, et al., v. Julian, et al., No. C 95-1757-MHP, 1996 WL 40192 (N.D. Cal. 1996). Freedom of Speech. Seeking redress for threats of prosecution by officials of the Department of Housing and Urban Development leveled at private citizens who organized peaceful protests against federally supported housing programs.

Status: Defendants' motion to dismiss *Bivens* claims for damages denied. Defendants' motion to dismiss claims for injunctive relief granted. Pending.

Administrative; State Courts

ABOUT *AGUILAR V. AVIS*:

"IN A SERIES OF RULINGS, COURTS, INCLUDING THE U.S. SUPREME COURT, HAVE ENDORSED CENSORSHIP SCHEMES ON THE GROUNDS THAT THE SPEECH AT ISSUE CAUSED ANTI-SOCIAL SECONDARY EFFECTS. AND THIS PRECEDENT RECENTLY FOUND ITS WAY INTO A CALIFORNIA APPEAL COURT'S RULING THAT ETHNIC SLURS COULD BE PROHIBITED SINCE THEIR EFFECT WAS TO CAUSE UNEMPLOYMENT DISCRIMINATION."

ST. PETERSBURG TIMES

"CORNELL HAS ... THROWN OUT RULES THAT THE COLLEGE OF ARTS AND SCIENCES HAD USED IN CONSIDERING THE COMPLAINTS AGAINST DR. MAAS. DR. MAAS COMPLAINED THAT THE PROCEDURES WERE STACKED IN FAVOR OF THE STUDENTS WHO HAD MADE ALLEGATIONS AGAINST HIM."

THE CHRONICLE OF HIGHER EDUCATION

Aguilar v. Avis Rent-A-Car, No. S054561 (Cal. Sup. Ct. 1997), 53 Ca. Rptr. 2d 599 (Cal. App. 1996)(*amicus*). Freedom of Speech. Contesting court-ordered injunction prohibiting "offensive" epithets in the workplace as unlawful prior restraint of constitutionally protected speech.

Status: Briefed; awaiting decision.

Hartman v. Bowling Green University, No. 3:96 CV 7419. Assisted white journalism professor in challenge to University denial of job on the basis of race and pursuant to a diversity program mandated by educational accreditation agency.

Outcome: Client agreement terminated.

Lamprecht v. Federal Communications Commission, 958 F.2d 382 (D.C. Cir. 1992), 1994 WL 49633 (D.C. Cir. 1994). Contesting denial of radio broadcaster's license application as arbitrary and capricious.

Status: Pending on judicial remand to the FCC. Awaiting decision.

Maas v. Cornell University, 95-829 slip op. (NY Sup. Ct. Tompkins County, Oct. 25, 1996). Contesting, on contractual and other grounds, private university's sanctions against professor over ill-founded sexual harassment charges.

Status: Defendants' motion to dismiss denied in part; granted in part. Appeal of dismissed counts pending in appellate court; remaining claims pending in trial court.

Scallet v. Rosenblum, et al., CL 95-6250 (Cir. Ct., Albemarle County, Va. 1995). Defamation. Suit against various University of Virginia officials who defamed teacher as sexual harasser to justify otherwise unlawful removal.

Status: Pending; awaiting trial. For related case, *see* Federal Courts.

Stoll v. Cornell University, No. 96-200 slip op. (N.Y. Sup. Ct. Tompkins County, Dec. 23, 1996). Challenging University's denial of access to state college's sexual harassment records pursuant to New York Freedom of Information Law.

Status: Loss in superior court; appeal pending.

Public Information

CIR Publications, 1996 - 1997 (Selection)

Robert D. Alt. "Toward Equal Protection: A Review of Affirmative Action." 36 Washburn L.J. 179 (1997).

Michael S. Greve. "Hopwood And Its Consequences." 17 *Pace Law Review* 1 (1996).

Michael S. Greve. "Prop 209: A Graceful Exit for the Courts." *Los Angeles Times*, Feb. 14, 1997.

Michael S. Greve. "Sexual Harassment: Telling the Other Victim's Story." 23 *Northern Kentucky Law Review* 523 (1996).

Michael S. Greve. *The Demise of Environmentalism in American Law*. Washington: AEI Press, 1996.

Terence J. Pell. "Don't Force Diversity." *USA Today*, Mar. 28, 1997.

Terence J. Pell. "Texas Must Choose Between A Court Order and a Clinton Edict." *The Wall Street Journal*, April 2, 1997.

Jeremy A. Rabkin. "Christy on the Brink." *The American Spectator*, Jan. 1997.

Michael E. Rosman. "Race-Conscious Admissions in Academia." 1 *Nexus Law Review* 66 (1996).

Michael E. Rosman. *Fighting Words: Individuals, Communities and Liberties of Speech*, by Kent Greenawalt (Book Review). 13 *Constitutional Commentary* 317 (1996).

Public Appearances

CIR representatives discussed CIR's cases on numerous radio and television programs, including:

CNN * CNN Headline News * CBS Morning News * Les Kinsolving Show * Roger Hedgecock Show KSDO-AM (San Diego, CA) * Gil Gross Show, WSPD Afternoon News (Toledo, OH) * NET Capitol Watch * NET Legal Notebook * NET Direct Line with Paul Weyrich * NET Mitchell's in the Morning * NewsTalk TV * Bottom Line with Kweisi Mfume * Court TV * Rivera Live * KBOI-AM News (Boise, ID) * KPND-AM News * KGA-AM News (Spokane, WA) * KTSA-AM Ricci and Tre Ware Show (San Antonio, TX) * KXLY Radio (Spokane, WA) * KIRO-AM News (Seattle, WA) * Dave Ross Show KIRO-AM (Seattle, WA) * KOMO-TV (Seattle, WA) * KIRO-TV (Seattle, WA) * KING-TV (NBC Affiliate, Seattle, WA) * Seven Live KIRO-TV (Seattle, WA)

CIR representatives participated in numerous public debates and addressed audiences of journalists, attorneys, scholars, and students, including:

Regents' Scholar, University of California at San Diego * College Board * National Organization of Legal Problems in Education * New York Bar Association * Federalist Society, Tenth Annual Lawyers' Conference * National Association of Scholars, Annual Conference * District of Columbia Bar Association * Florida State Bar Association * American Bar Association * Maryland State Bar Association * Federalist Society Chapters at Duke Law School * UNC Law School * Georgetown Law School * Touro Law School * NYU Law School * University of Michigan Law School * Indiana University Law School * University of New Mexico Law School * St. Thomas Law School * University of Texas Law School * Denver Chapter of the Federalist Society (Lawyer's Division) * Chase Law School * College Republicans Chapter at George Mason University * Foundation for Research on Economics and the Environment (seminar for federal judges) * American Enterprise Institute * Tulane University Law School * Close-Up Foundation * Northern Kentucky University School of Law

Feature Articles on CIR & Friends

Steve Schwalm. "Conservative Spotlight: Center for Individual Rights." *Human Events*, Nov. 8, 1996.

Karen Dillon and Jim Schroeder. "The Public Sector: Forty-five Young Lawyers Outside the Private Sector Whose Vision And Commitment Are Changing Lives." *The American Lawyer*, Jan./Feb. 1997 (honoring CIR General Counsel Michael E. Rosman as one of the top 45 lawyers in the public sector under age 45).

"Theodore B. Olson Has For Love And Money Won Key Criminal, Business, and Civil Rights Appeals." *National Law Journal*, Dec. 30, 1996 (honoring *Hopwood* co-counsel Theodore B. Olson of Gibson, Dunn & Crutcher as runner-up for lawyer of the year).

Paul Burka. "The Texas Twenty: Cheryl Hopwood." *The Texas Monthly* (Sept. 1996) (naming CIR client Cheryl Hopwood one of "The Most Impressive, Intriguing, and Influential Texans of 1996").

Civil Rights: Articles of Note

Carl Cohen. "Race, Lies, and *Hopwood*." *Commentary*, June 1996.

Stuart Taylor. "Ducking *Hopwood*: The Passive Virtues." *Legal Times* (Washington), July 8, 1996.

"Whites Need Not Apply." *Wall Street Journal*, Mar. 6, 1997.

Michelle Malkin. "Diversity Rhetoric Can't Hide UW's Discriminatory Policy." *Seattle Times*, Mar. 11, 1997.

Lincoln Caplan, Dorian Friedman, and Julian E. Barnes. "The Hopwood Effect Kicks in on Campus." *U.S. News & World Report*, Dec. 23, 1996.

"The Day Affirmative Action Died." *The Texas Lawyer*, Dec. 16, 1996.

Peter Van Tyle. "The Other Shoe Drops." *Community College Journal*, June/July, 1996.

David Tell. "Diversity Strikes Out." *The Weekly Standard*, April 1, 1996.

Edward Koch. "Scrap Affirmative Action As We Know It." (Opinion) *Los Angeles Times*, Oct. 13, 1996.

Stuart Taylor. "Why the Courts Will Uphold 209." *Legal Times* (Washington), Dec. 9, 1996.

Freedom of Speech/Free Exercise: Articles of Note

"Free Speech & Religious Expression: One Year After Rosenberger, Questions Remain." *Academe*, July-Aug. 1996.

Brigid McMenamin. "The P.C. Enforcers." *Forbes*, Feb. 10, 1997.

Douglas Lederman. "Religious College Sues Maryland Over Denial of State Funds." *Chronicle of Higher Education*, June 21, 1996.

Sexual Harassment: Articles of Note

"Violence Against the Constitution." *Washington Times*, Aug. 7, 1996.

Cathy Young. "Crime, the Constitution, and the 'Weaker' Sex." *Wall Street Journal*, Aug. 21, 1996.

"Approaches to 'Gender Violence.'" *Washington Post*, Aug. 14, 1996.

Jan Vertefeuille. "Big Guns Square Off In Lawsuit: D.C. Firm, Justice Dept. Hold Forth On Brzonkala." *Roanoke Times*, June 11, 1996.

Financial Information

Statement of Financial Position

MARCH 31, 1997 and 1996

Assets	1997	1996
Cash and Cash Equivalents	\$ 523,793	\$ 346,622
Grants Receivable	245,000	232,500
Accounts Receivable and Deposits	2,540	6,503
Prepaid Expenses	15,175	9,618
Fixed Assets (Net)	126,628	39,540
Total Assets	<u>\$ 913,136</u>	<u>\$ 634,783</u>
Liabilities and Net Assets		
Accounts Payable and Other Accrued Liabilities	\$ 78,379	\$ 19,711
Net Assets - Unrestricted	589,757	382,572
Net Assets - Temporarily Restricted	245,000	232,500
Total Net Assets	834,757	615,072
Total Liabilities and Net Assets	<u>\$ 913,136</u>	<u>\$ 634,783</u>

Statement of Activity

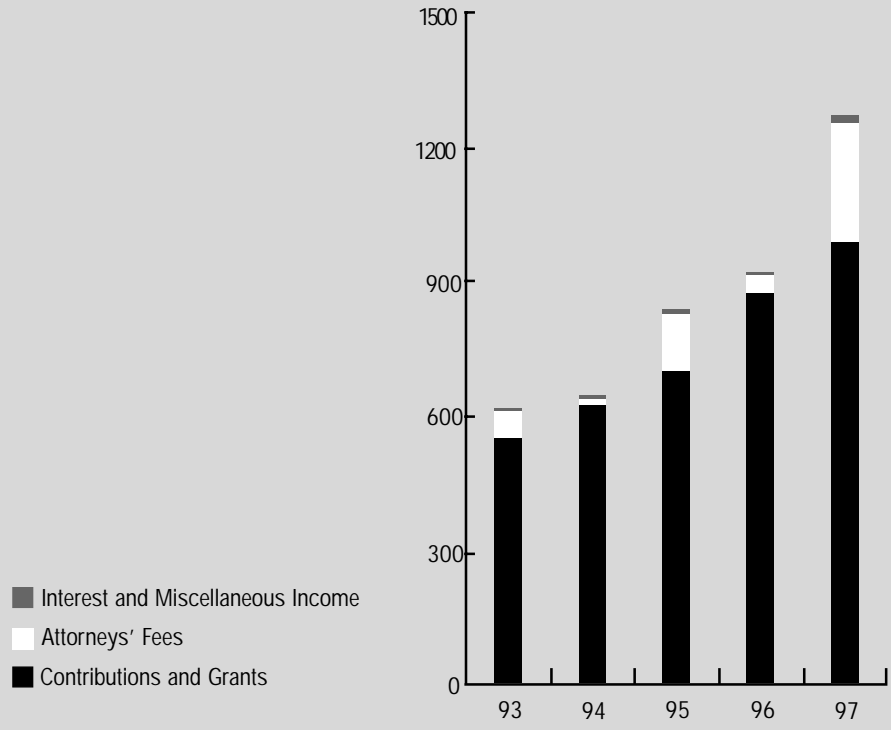
FOR THE YEARS ENDED MARCH 31, 1997 AND 1996

Support	1997	1996
Contributions and Grants	\$ 989,161	\$ 872,659
Attorneys' Fees	268,333	40,609
Interest and Miscellaneous Income	16,864	5,742
Total Support	<u>\$ 1,274,358</u>	<u>\$ 919,010</u>
Expenses		
Programs:		
Litigation	\$ 647,736	\$ 385,169
Publications/Education	104,715	89,174
Total Program Expenses	<u>\$ 752,451</u>	<u>\$ 474,343</u>
Administrative	245,822	159,286
Fundraising	56,400	17,039
Total Expenses	<u>\$ 1,054,873</u>	<u>\$ 650,668</u>
Change in Net Assets	<u>\$ 219,685</u>	<u>\$ 268,342</u>
Net Assets - Beginning	<u>615,072</u>	<u>346,730</u>
Net Assets - Ending	<u>\$ 834,757</u>	<u>\$ 615,072</u>

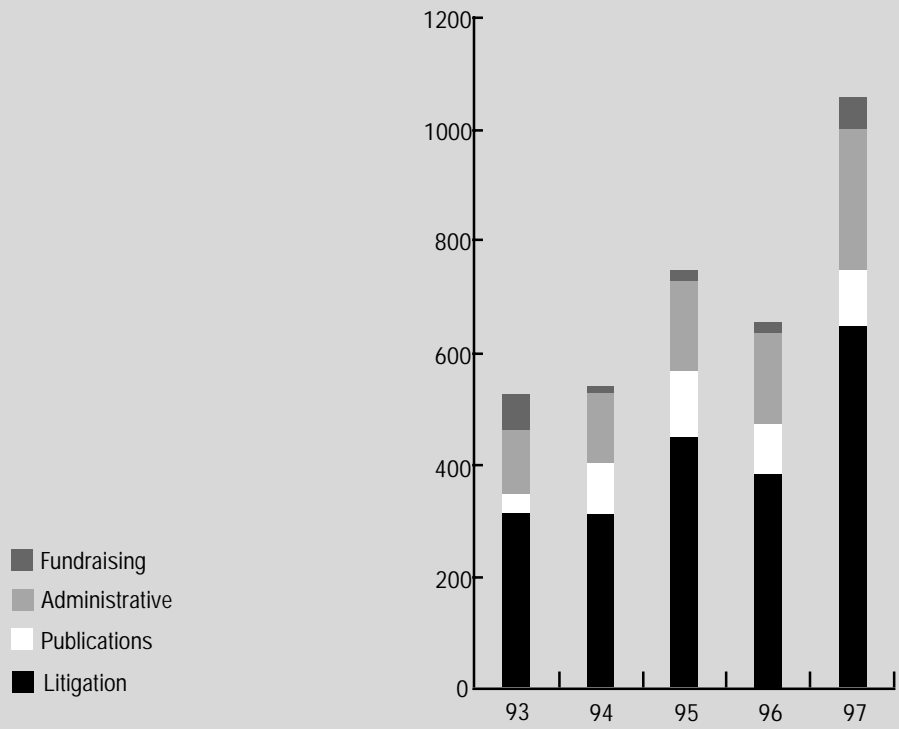
Figures are excerpted from audited financial report.

CIR's complete audit is available upon request from the Center's Washington, D.C. office.

Schedule of Support



Schedule of Expenses



The Center for Individual Rights

Staff

Michael P. McDonald (J.D., George Washington Law Center, 1982; B.A., Catholic University, 1978) is CIR's co-founder and President. He is a member of CIR's Board of Directors.

Michael S. Greve (Ph.D., Cornell University, 1987) is CIR's co-founder and Executive Director. He is a member of CIR's Board of Directors.

Michael E. Rosman (J.D., Yale Law School, 1984; B.A., University of Rochester, 1981) is CIR's General Counsel. Formerly a litigator with the firm of Rosenman & Colin, he joined CIR in 1994.

Terence J. Pell (Ph.D., Notre Dame, 1996; J.D. Cornell Law School, 1981; B.A., Haverford College, 1976) is CIR's Senior Counsel for Legislative and External Affairs. He previously worked as an attorney with the firm of Arent, Fox, Klintner, Plotkin & Kahn and served as Chief of Staff at the Office of National Drug Control Policy.

Michael J. Troy (J.D., University of Michigan Law School, 1992; B.A., George Washington University, 1989) is CIR's Associate General Counsel. He joined CIR in 1994.

Hans Bader (J.D., Harvard Law School, 1994; B.A., University of Virginia, 1991) is CIR's Associate Counsel. He joined CIR in 1996 after a clerkship with U.S. District Judge Lawrence Lydick.

Ann H. Coulter (J.D., University of Michigan Law School, 1988; B.A., Cornell University, 1985) is CIR's Associate Counsel. In 1989-1990, she clerked for Judge Pascoe Bowman of the U.S. Court of Appeals for the Eighth Circuit. Prior to joining CIR in 1997, Miss Coulter worked as a litigation associate for the firms of Cahill, Gordon & Reindel and Kronish, Lieb, Weiner & Hellman and as a Judiciary Counsel to U.S. Senator Spencer Abraham.

Robert Alt (B.A., Azusa Pacific University, 1996) is CIR's Director of Public Affairs. He joined CIR in 1996.

James McCament (B.A., Mount Vernon Nazarene College, 1996) is CIR's Administrative Director. He joined CIR in 1996.

Sumeet Caberwal (B.A., Duke University, 1997) is a CIR Research Assistant. She joined CIR in 1997.

Law Clerks and Interns, 1996 - 1997

Andrea Aulbert
(Valparaiso University Law School)

Peter J. Baker
(Olivet Nazarene University)

Jason Cooley
(George Mason University Law School)

Karen Rho Han
(Georgetown Law School)

Eugene Healey
(University of Chicago Law School)

Nita Joy Jones
(Taylor University)

Howard C. Nielson, Jr.
(University of Chicago Law School)

Matthew O'Herron
(George Mason University Law School)

Hae Sung Park
(George Mason University Law School)

Willis Sauter
(University of Chicago Law School)

James Sheahan
(University of Chicago Law School)

Thomas Wielgus
(Thomas Cooley School of Law)

Caleb A. Williams
(George Fox College)

Steven Wolmark
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