

# CENTER FOR INDIVIDUAL RIGHTS

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September 9, 2014

Dear Friend,

In January, I told you that 2014 was going to be a good year.

It is turning out better than I expected.

In May, the Supreme Court ruled in CIR's favor in a case we've been litigating since 2008. The Court upheld Michigan's ballot initiative to end the use of racial preferences.

This was a big win for the citizens of Michigan and for our client Eric Russell.

A few days later, a federal judge declared New York's campaign spending limits unconstitutional, a record six months after CIR filed its challenge.

Then in June, the District of Columbia Court of Appeals gave CIR another strategic free speech win in our case on behalf of a young Wikipedia editor who was sued for editing a web page.

The court ruled that ordinary citizens are protected from vexatious litigation designed to silence speech.

Then on June 30, the Supreme Court struck down an Illinois statute that purported to unionize home healthcare workers. Justice Alito's majority opinion included language favorable to CIR's pending challenge to compulsory union dues.

Three wins and a favorable mention from the Supreme Court.  
Not bad.

But we didn't stop.

We pushed our ongoing litigation toward new victories.

In June, we filed a new case taking aim at diversity scholarships across the country with a suit against the University of Connecticut on behalf of graduate student Pamela Swanigan.

The case will substantially limit the ability of colleges to use race in any way after admissions -- including in scholarships, grading policies, and assignments to majors.

Later in June, CIR General Counsel Michael Rosman travelled to Cincinnati to urge the Sixth Circuit to strike down the federal Hate Crimes statute used to unfairly prosecute several members of an Ohio Amish sect for an assault growing out of a private religious dispute.

US v. Miller could be the next big Commerce Clause case by putting an end to federal crimes based on remote or only slight contact with interstate commerce.

And in July, we resumed work on one of the most important cases likely to come before the Supreme Court in the next two terms -- *Friedrichs v. CTA*.

We filed the first round of briefs before the important Court of Appeals for the Ninth Circuit.

Friedrichs is the best chance we have to strike down closed shop laws in twenty-six states as a matter of constitutional right.

These are all significant opportunities to strengthen individual rights and limit unprincipled government authority for years to come.

Can you imagine if we were able to end compulsory union dues across the board?

And severely curtail noxious racial preferences in colleges and universities?

And put a roadblock in the way of Congress's efforts to turn local crimes into federal offenses?

I can.

And with your financial support today, we'll achieve these legal victories and more -- in 2014, 2015, and beyond.

Your CIR has a lot on its plate.

So much is at stake.

CIR victories put a stop to unconstitutional government coercion of all kinds with legal precedents that put overzealous

government on defense, and will keep it on defense far into the future.

That's the payoff you get when you contribute to CIR.

Every legal victory takes authority away from the government and puts it back in the hands of the individuals to whom it rightfully belongs.

Our cases establish the right of citizens to control their own lives -- the right to be judged without regard to race, the right to engage in expression regardless of political point of view, the right to decide for oneself whether to pay for the political agenda of a union or any other organization.

That's what our case on behalf of Rebecca Friedrichs and nine other long-time California teachers is all about.

And after the Supreme Court's decision in *Harris v. Quinn* this summer, *Friedrichs* is on a fast track to the Supreme Court.

This is an ambitious undertaking.

CIR's case will end compulsory union dues across the board in all fifty states as a matter of the First Amendment.

And it could do so as soon as the next Supreme Court term.

The *Harris* decision released in June makes clear that *Friedrichs* is the right case at the right time.

Justice Alito's majority opinion in *Harris* explains that a case to end coercive dues must not become an assault on collective bargaining.

Justice Alito knows that the Supreme Court most surely will not vote to end collective bargaining.

*Friedrichs* wisely does not attack collective bargaining -- only compulsory dues.

This is key to our legal strategy.

We have to win *Friedrichs*.

Using hundreds of millions of dollars in coerced dues each year, the California Teachers' Association has become a political powerhouse unaccountable to anyone.

This summer, a California judge ruled that the teacher tenure rules in that state are so bad that they violate the

civil rights of minority and poor students.

One expert testified that the tenure rules make it impossible to fire the roughly eight thousand "grossly incompetent" teachers in California -- many of whom end up teaching the most needy students in that state.

Let me be clear -- we are not trying to use the courts to remake civil society.

That is a task for the representative branches of government.

Instead, we are asking the court to put decisions about what kind of a society we want back into the hands of individuals.

Some teachers agree with the union and its left-liberal agenda. But many teachers do not. We think teachers themselves have a right to decide who they want to represent them.

CIR takes matters out of the hands of legislatures, meddling government officials and, yes, even the courts and puts them back in the hands of individuals.

Of course, the union vehemently disagrees with us.

The union says individual teachers can't be trusted to decide these things for themselves.

The union says too many teachers will "free ride" -- skip paying the union dues while still benefitting from its negotiating efforts.

Union leaders think only the government can decide what's best for teachers and all teachers have to go along.

In reality, the teachers that like the union are not about to skip paying the dues that allow the union to be the political powerhouse it has become.

But even if they did, it doesn't matter -- not to us.

The First Amendment simply doesn't give the government the authority to fix the union's free riding problem by forcing all teachers to pay it dues -- dues that support the union's political agenda -- as a condition of employment.

This has been a bad summer for union officials.

In May, a California state judge struck down California's

generous tenure laws as violating the rights of minority children.

A month later, the Supreme Court stopped Illinois public employee unions from forcing home healthcare workers to pay them dues in *Harris v. Quinn*.

According to the *Washington Post* the decision was a "signal that the Court may be gearing up to....deal a fatal blow to all public-sector unions."

Even longtime Democratic allies are turning on the unions.

Everyone from Obama Secretary of Education Arne Duncan to former California State Legislator Gloria Romero thinks it's about time the courts reined in the unions.

The Court is ready to decide a case like *Friedrichs*.

This fall we will urge the Ninth Circuit to expedite the case so it can be heard by the Supreme Court next spring.

We have one of the best attorneys in the country on our team.

And we have Rebecca Friedrichs.

Friedrichs, a twenty-seven-year veteran kindergarten and elementary school teacher, is tireless in explaining what her case is about.

She is the union's worst fear -- a teacher who is willing to speak out against the union.

And with your past support, we have been able to put her on TV, radio, and in the newspapers as often as possible.

We can't let up now.

We're so close.

The time has come to end compulsory union dues.

Your generous contribution today will enable us to carry *Friedrichs* over the finish line with a Supreme Court victory.

But that's not all your gift will do.

In June we filed a potentially breakthrough case that could set new legal limits on the use of racial preferences by colleges and universities.

In the past such challenges have focused on admissions decisions and they have been brought by disappointed white applicants.

In *Swanigan v. UConn*, we're turning the tables with a completely new approach.

We're challenging the use of preferences after schools have made admissions decisions.

Which means after they have admitted a diverse class.

There can be no compelling reason for schools to use preferences after they have admitted a racially diverse class.

The case is an excellent chance to stop the increasing use of racial preferences in every aspect of higher education *other* than admissions.

It's time to put end to the relentless drive toward diversity scholarships, race-normed classroom grades, and even race-based assignment to majors now being brought to light at schools like the University of Wisconsin.

*Swanigan v. UConn* is potentially a very significant case.

The facts of the case are strong.

Pamela Swanigan is a highly talented graduate student in English who was promised a prestigious merit-based scholarship.

But because Pam is half-black, school officials decided to swap the merit-based scholarship she had earned for a diversity scholarship handed out to nearly every minority graduate student.

The diversity scholarship is based on race rather than merit, and naturally is much less prestigious than the merit scholarship she was promised.

In fact, the diversity scholarship is so empty-sounding that hardly anyone who gets it puts it on their CV.

It sends the message that's all you could get -- an "award" based on something other than achievement.

Obviously, that's deeply unfair to minority students -- especially high-performing ones like Pam.

With its strong facts and compelling legal theory, *Swanigan*

v. UConn could go to the Supreme Court.

As you can see, 2014 is turning out to be a stellar year.

In the first six months, we won a victory before the Supreme Court protecting anti-race-preferences laws, another decisive victory against unconstitutional campaign finance limits, set a critically needed free speech precedent in Washington, DC, got Supreme Court recognition of the key facts in our unstoppable challenge to compulsory union dues, and filed a new case against university race preferences.

I hope you'll choose to renew or even increase your support of our good work this year.

2014 marks CIR's twenty-fifth anniversary.

When CIR started in 1989, it simply wasn't acceptable to talk about excessive federal authority.

In the years since, a small and dedicated group of supporters, like you, made it possible to open the debate, push our message, and win cases that have fundamentally changed the way our country thinks about government.

CIR has won six important victories before the Supreme Court in its first quarter century.

CIR has been on the forefront of a sea change in the legal landscape, one that has paid huge dividends over the last two decades.

With your help today, CIR will continue to pay dividends in the years to come.

Not just in *Friedrichs v. CTA* and *Swanigan v. UConn*, the two cases I've already told you about.

But in other cases too.

As I said, CIR has a lot on its plate this fall.

A chance to end compulsory union dues.

A chance to end the practice of diversity scholarships.

A chance to end federal hate crimes statutes and the flimsy Commerce Clause theory on which they rest.

But I need your help to succeed in these important cases.

Very few organizations can claim a track record like CIR's,

especially on such a modest budget -- \$2,800,000 each year.

None of our competitors devote as high a percentage of funds to their mission -- 81% of your support to CIR goes directly into our programs.

Even better, every dollar you contribute generates pro bono services worth two to three times that amount.

Your support in past years has helped CIR achieve results many said were impossible -- out of all proportion to our size.

But to take advantage of the extraordinary litigation opportunities we have this fall, I must ask you to consider making the largest gift you have ever made to CIR.

We can't afford to miss this chance.

Will you send \$50 today to help CIR make sure we prevail in our exceptionally strong challenge to compulsory union dues?

And if you can, will you send \$100 to help us win our suit against diversity scholarships on behalf of Pam Swanigan?

Last, will you consider a gift of \$250 to help CIR put a stop to federal hate crimes statutes?

I know that is a lot to ask. But every cent of your contribution of \$250 will be spent to push our cases forward.

You have seen firsthand what you have helped CIR achieve. And so you have a good idea what you and I can achieve together in the future.

Thank you for all you do to help your CIR defend individual rights.

Sincerely,

A handwritten signature in black ink, appearing to read "TJP Pell", written in a cursive style.

Terence J. Pell  
President

P.S. For the past twenty-five years, CIR has been the *only* organization that, time after time, wins the cases others say are impossible. In the next two years, we can finally

end compulsory union dues, put a stop to college diversity scholarships, and end federal hate crimes.

# CENTER FOR INDIVIDUAL RIGHTS

## Help CIR Fight for Individual Rights

TO: Mr. Terry Pell, President  
Center for Individual Rights  
1233 20th Street, NW, Suite 300  
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Toll Free: (877) 426-2665 ext. 113

FROM: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

My Email Address: \_\_\_\_\_

My Phone Number: \_\_\_\_\_

Dear Terry,

\_\_\_ I agree CIR must make aggressive efforts to carry *Friedrichs v. California Teachers Association* over the finish line with a Supreme Court victory to outlaw mandatory union dues forever.

\_\_\_ I agree we must press ahead as hard and fast as we can in the *Swanigan v. UConn* case to curtail noxious racial preferences in colleges and universities.

\_\_\_ And we must put an end to federal overreach in *US v. Miller* and strike down the abuse of the federal Hate Crimes statute.

\_\_\_ To help CIR stay on offense and impose principled limits on the scope of government with legally enforceable constitutional precedents, I've enclosed my tax-deductible contribution of:

\_\_\_ \$250    \_\_\_ \$100    \_\_\_ \$50    Other \_\_\_\_\_

\_\_\_ \$1,000 to join CIR's Liberty Club

\_\_\_ \$10,000 to join CIR's Leadership Council

\_\_\_ I prefer to charge my contribution to my (circle one):  
Visa, MasterCard, Diners Club, Discover or American Express Card.

Card number \_\_\_\_\_ Exp. Date \_\_\_\_\_

Signature \_\_\_\_\_

\_\_\_ Please send me updates by e-mail instead of postal mail.  
My e-mail address is:

\_\_\_\_\_