



Foundation Action

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Foundation Beats Back Union Assaults on State Right to Work Laws

*Two battles demonstrate need
for active rearguard defense
of employee freedom*

PHOENIX, AZ – A pair of recent cases on opposite sides of the country highlights the critical need to vigilantly defend state Right to Work laws from incessant attacks by union lawyers.

On behalf of city employees in Phoenix, National Right to Work Foundation attorneys successfully helped persuade an appellate court to reject unanimously a shameless full-frontal union attack on Arizona’s highly-popular Right to Work law, which protects workers’ right to choose whether or not to join or financially support a union.

The case originated in 2001 during contract negotiations between the City of Phoenix and officials of the American Federation of State, County and Municipal Employees (AFSCME). Union bosses wanted to force city employees to pay mandatory union fees equivalent to nearly 80 percent of full union dues.

When Phoenix officials refused to negotiate these forced dues on the grounds that they violated Arizona’s Constitution and Right to Work



AFSCME union chief Gerald McEntee is working to explode the size and cost of government because more government workers means more forced union dues.

statutes, union lawyers filed an unsuccessful complaint at the Phoenix Employee Relations Board. After losing again in Arizona Superior Court, union lawyers finally filed a futile appeal in the Arizona Court of Appeals.

“Union officials abhor Right to Work laws because they allow workers a freedom of choice,” said Mark Mix, president of the National Right to Work Foundation. “Union bosses don’t want to let employees hold them accountable for their well documented corruption, extreme politics and suspect representation.”

Court agrees ‘clear intent’ of law was to preserve freedom of choice

Foundation involvement in the case began in 2005 when its staff attorneys filed an *amicus curiae* brief supporting the City’s position that any form of

forced dues violates state law. The court agreed in mid-August, holding that “the clear intent of the electorate of Arizona in enacting ...Arizona’s ‘Right to Work’ laws was to ensure the freedom of workers to choose whether to join and participate in a union.”

Of course AFSCME lawyers filed an appeal to the Arizona State Supreme Court in October challenging the ruling. Foundation attorneys stand ready to file a follow-up *amicus* brief in

support of employees’ rights should the state’s high court decide to review the case.

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Workers Appeal NLRB's Denial of Constitutional Rights

NLRB bureaucrats betray statute in denying employees "standing" and due process

HIGH POINT, NC – National Right to Work Foundation attorneys have appealed a District Court's decision that allowed the National Labor Relations Board (NLRB) to rewrite the National Labor Relations Act (NLRA), which supposedly only enumerates "rights of employees," to allow unions and employers to bar individual employees from any due process.

The appeal comes in a lawsuit – originally filed in April – that alleges that the NLRB violated the employees' constitutional due process rights when it improperly refused to allow the employees to challenge the results of a tainted union election that granted United Auto Workers (UAW) union officials monopoly bargaining power over roughly 1,200 employees at Freightliner's Thomas Built Buses facility.

The NLRB officials refused to allow employees to intervene to assert their rights and challenge union representation election results. The precedent-setting decision contradicts the notion that the NLRA establishes rights for employees, rather than simply empowering union officials. The lawsuit points out that the



federal bureaucracy's ruling violates workers' procedural due-process rights under the U.S. Constitution.

Ruling whitewashes last-minute union and employer collusion


The NLRB's procedural decision, which the U.S. District Court chose not to question, whitewashed the illegal eleventh hour intervention of Thomas

NLRB bureaucrats whitewashed collusion between Ron Gettelfinger's UAW union and Thomas Built Buses officials designed to cram a union down the employees' throats.

Built to assist its hand-picked union in winning monopoly bargaining representation over the employees. In June 2005, one day before the representation election, Freightliner officials issued a surprise memo to all High Point plant workers, announcing that employees not unionized would have to pay higher health insurance premiums.

Working in tandem, UAW union operatives immediately circulated copies of the memo around the facility with "DID YOU SEE THIS? THE COST OF BEING NON-UNION JUST WENT UP!" written at the top. Employees opposing unionization report that this unlawful, last ditch tactic swung a large number of votes in favor of the union.

Under longstanding NLRB practice, such conduct requires that an election be set aside because it taints the employees' vote. Because of a sweetheart deal they had reached previously, union and company officials wanted the same election result and did not file objections. The only redress for the employees to challenge the union's certification would be through the NLRB's post-election objection procedure – an avenue of relief that the NLRB denied to the employees arguing they had no "standing" or legal right to be heard.

"The NLRB's refusal even to consider the employees' objections to this election sends the message that as long as union officials and an employer are in cahoots, the rights of rank-and-file workers can be trampled with virtual impunity," said Foundation Vice President and Legal Director Raymond LaJeunesse. 

Foundation Action

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Mark Mix	<i>President</i>
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The Foundation is a nonprofit, charitable organization providing free legal aid to employees whose human or civil rights have been violated by abuses of compulsory unionism. All contributions to the Foundation are tax deductible under Section 501(c)(3) of the Internal Revenue Code.

Foundation Helps Shut Down Ohio Religious Discrimination

Union operatives and Buckeye State officials violated religious freedom of employees of faith

COLUMBUS, OH – Resolving a case brought by an Ohio state employee with assistance from the National Right to Work Foundation, a federal judge signed a consent decree re-affirming that government employees' religious objections to union affiliation may not be rejected if they don't happen to be members of a small number of state-approved religions.

The state's agencies and the union hierarchy had been unlawfully denying, as a matter of policy, religious objections to the payment of forced union dues in all cases where objecting employees were not members of churches on the state's short "approved" list, which primarily included only Seventh-day Adventists and Mennonites. Foundation attorneys have established over the years that, so long as employees' religious objections are sincere, there are no limitations on who is eligible for an accommodation – which usually involves the diversion of the forced fee equivalent to charity.

U.S. Department of Justice plays unprecedented role

The settlement concludes an unprecedented lawsuit brought by the U.S. Department of Justice and the Equal Employment Opportunity Commission (EEOC). Foundation attorneys instigated the case in U.S. District Court for the Southern District of Ohio against the State of Ohio, the Ohio Environmental Protection Agency (OEPA), the Ohio State Employment Relations Board, the Ohio Civil Service Employees Association (OCSEA) union, and the Ohio Department of Administrative Services.

Under the consent decree, the state of Ohio will remain under the direct



Ohio Environmental Protection Agency employee Glenn Greenwood defeated a Buckeye State policy of religious discrimination.

supervision of the federal court to ensure that the state does not continue to help union officials trample employee rights in this particular fashion.

"This consent decree stalls the systematic discrimination perpetrated against Ohio's unionized public servants of religious faith," stated Foundation Vice President Stefan Gleason. "But the alarming complicity of state government bureaucrats to do the union hierarchy's bidding raises serious questions about who actually calls the shots in Ohio's public sector."

Big Labor agenda offensive to many faiths

An earlier charge, filed by Foundation attorneys on behalf of OEPA employee Glen Greenwood in March 2004, had already led to a finding by the EEOC that the State Employee

Relations Board and the OCSEA union were guilty of religious discrimination against Greenwood. The EEOC subsequently filed suit against the union.

As a devout Presbyterian, Greenwood believes that supporting the OCSEA union violates his sincerely held religious beliefs, because the union hierarchy supports activities that he believes are immoral and against church doctrine and teaching.

"I am so very grateful to the Foundation and its supporters for their help in this case," said Greenwood. "I couldn't imagine going through with this without the expertise and confidence of [Right to Work Staff Attorney] Bruce Cameron."

Under Title VII of the Civil Rights Act of 1964, employees may not be forced to financially support a union if doing so violates the worker's sincerely held religious beliefs – regardless of church membership. To avoid the conflict between an employee's faith and a requirement to pay fees to a union he or she believes to be immoral, the law requires union officials to attempt to accommodate the employee – most often by designating a mutually acceptable charity to accept the funds.

"Greenwood's case highlighted that Big Labor believes paying tribute to a union is more important than paying tribute to your faith," said Gleason.

Foundation attorneys have assisted a myriad of religious objectors, because of its mission to protect workers from forced unionism wherever possible. The Foundation – being primarily responsible for the law established in this area – believes the law should be fully enforced to protect as many workers as possible from the abuses of forced unionism no matter what the nature of their individual beliefs. ✠

Foundation Suit Forces Refunds for Union-abused Firefighters

IAFF union bosses backtrack on claim that they 'follow all of the state and federal rules'

LEXINGTON, KY – Less than four months after seven nonunion Lexington firefighters obtained assistance from the Right to Work Foundation to file suit against the International Association of Fire Fighters (IAFF) Local 526 union, the firefighters have now received complete refunds of unlawfully seized forced dues, with interest. The firefighters also won the option to refrain from future forced dues payments.

The firefighters' lawsuit demonstrated that union officials failed to provide the required financial audits in their zeal to amass forced dues. According to the settlement, IAFF union officials refunded with interest all forced dues seized improperly since the collective bargaining agreement went into effect in June 2005, resulting in complete refunds for each of the seven firefighters. The settlement also forces union officials to offer refunds to other nonunion firefighters who were not formally parties to the suit.

Mike Hoover, one of the seven plaintiff firefighters, told **Foundation Action**: "Thanks to [Right to Work] Foundation attorneys and staff, my co-workers and I were able to force union officials to respect our rights and return the money they illegally took from us."

Suit forces IAFF officials to eat their words

The victory for the nonunion firefighters contradicts earlier knee-jerk denials of any wrongdoing by Local 526 union official Mark Blankenship who previously claimed to the media that "we follow all of the federal and state rules."



Despite efforts by certain Republican lawmakers to cozy up to IAFF bosses, John Kerry got their backing.

The suit also named Lexington Mayor Teresa Isaac – who recently received the endorsement of IAFF political operatives – along with other top city officials, for signing and enforcing an agreement with the union that resulted in the unconstitutional acts.

"This case demonstrates how vulnerable Kentucky employees are


For many nonunion firefighters, the IAFF union logo has come to represent intimidation.



without a Right to Work law on the books that makes union membership and dues payment strictly voluntary," said Stefan Gleason, vice president of the National Right to Work Foundation.

Under the Foundation-won U.S.

Supreme Court decision *Chicago Teachers Union v. Hudson*, union officials must first provide an independently audited disclosure of the union's expenses before seizing any forced dues. Such audits are intended to ensure that forced union dues seized from nonunion public employees do not fund union activities unrelated to collective bargaining, such as union political activities.

In addition to the refunds, as a result of the settlement, union officials cannot seize any future dues from nonunion firefighters until the union follows the constitutionally-required procedures recognized by the Supreme Court in the Foundation-won *Hudson* decision. However, until Kentucky workers are protected by a Right to Work law, union officials will continue to have the power to force employees to pay union dues or fees just to get or keep their jobs. 

Right to Work Under Constant Attack by Big Labor

continued from cover

The Grand Canyon state's Right to Work law protects all public workers and most private sector employees from being forced to join or support a union as a condition of employment. The statute was enacted almost 60 years ago and is so firmly a part of Arizona's culture that it is engrained in the state constitution.

Foundation thwarts union attack on Right to Work in the Sunshine State

Meanwhile, five nonunion security officers in Florida employed at the Tampa Federal Courthouse won a lawsuit in state court in September against



UGSOA union officials have attempted to circumvent the Right to Work of guards at several federal courthouses in Florida.

government union officials who illegally threatened to have them fired for refusing to join or financially support the union. The ruling slows a statewide scheme by

union officials to force employees who merely work at federal buildings into union ranks against their will.

Fred Bohlig and four coworkers filed the suit with free legal assistance from the Right to Work Foundation in November 2003 against the United Government Security Officers of America (UGSOA) union after union officials trumped up a specious argument that the federal courthouse was not protected by Florida's Right to Work law.

"The creativity of union lawyers has no bounds when an opportunity to milk more workers for forced union dues presents itself," said Mix.

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Remembering a Patriot - Robert Gaylord, Jr.

Since the founding of the National Right to Work Foundation in 1968, many "heroes" of the movement have contributed and stood tall in guiding the Foundation's leaders.



One such loyal and dedicated friend was Robert Gaylord, Jr., a Foundation Board member for almost thirty years. Bob passed away a few weeks ago in Naples, Florida, at the age of 89. He was both a tremendous asset and valued counsel to key staff at Right to Work headquarters, as well as a respected and able ally in the fight against compulsory unionism across the country.

Born in Minneapolis, Minnesota, Bob attended Cornell University, where he received a Bachelor of Science in Engineering. He voluntarily

enlisted in the U.S. Navy during World War II, serving as a naval officer from 1942-1946.

Bob married Gini Swanson in Rockford, Illinois, in 1950, and they raised three daughters together. His grandfa-

ther founded Ingersoll Milling Machine Company, and Bob followed in his footsteps as owner of Ingersoll Milling Machine Company and Ingersoll International. He worked his lifetime as an officer at Ingersoll and managed the Ingersoll Foundation.

He is remembered as a philanthropist, businessman, conservationist and an avid outdoorsman. Most of all, he served many organizations, like the Right to Work Foundation, with energy and commitment.

The Right to Work Foundation and his

many friends, board members, and staff give tribute to Robert Gaylord, Jr., and his impact on thousands of lives across the country. He will truly be missed!

That's why the Foundation is a designee of memorial gifts given in Bob's memory. Bob's daughters, Lori, Lisa, and Kimberly let us know that the Foundation was one of just two groups being designated for memorial gifts. These tax-deductible Robert Gaylord, Jr. Memorial Contributions will go directly toward the Foundation's ongoing strategic litigation program.

"We are honored by Bob's commitment to Right to Work, and we will proudly display a memorial plaque at our national headquarters," said Reed Larson, Chairman of the Foundation's Executive Committee.

New Charitable Giving Incentives for Donors Age 70 1/2 or Older

With the Pension Protection Act of 2006, Congress has recently allowed new advantages to charitable givers who own IRA retirement accounts.

Many individuals 70 1/2 years of age or older struggle with an IRS rule that normally mandates certain distributions from their IRAs, resulting in taxable income. This especially presents a problem for those who do not itemize their deductions or those whose giving exceeds the tax deduction cap of 50 percent of adjusted growth income. But thanks to this new law, such donors can avoid this pitfall by making charitable gifts directly from their Individual Retirement Accounts (IRA).

Please review the following special tax-free incentives for a Right to Work Foundation gift in both 2006 and 2007:

- You may make charitable gifts up to \$100,000 per year directly from your traditional IRA or Roth IRA without including the distributions in your "gross income."

- Your contributions would count for purposes of satisfying your required



minimum distribution (RMD).

- Moreover, if you do not itemize your tax deductions, a gift from your IRA would achieve the same tax benefits as if your gift were fully deductible.

- Finally, if you have retirement assets in other types of plans, such as a 401(k), you may be able to transfer those assets to an IRA and then make your charitable gift to the Foundation.

Because the IRA provisions are limited to gifts made this year (2006) and next year (2007), time is of the essence for you to capitalize on this benefit before the end of the year. Making gifts from IRA funds that would normally be subject to income tax if withdrawn


voluntarily or under mandatory withdrawal requirements may be the answer that friends of Right to Work have been seeking.

The National Right to Work Foundation is a "qualifying charity," described as "publicly

supported" under Internal Revenue Code Section 170(b)(1)(A)(vi) and 509(a)(1). Distributions should be made payable to: *National Right to Work Legal Defense and Education Foundation, Inc.*

Of course, with the income exclusion, qualified distributions are not additionally allowed as an itemized charitable deduction, and certain limitations and special rules may apply.

As with all planned giving options, you should consult with your own legal or tax advisor with respect to your particular circumstances.

If you have any questions regarding charitable gifts to the Foundation from IRA's, please contact Ginny Smith, Director of Strategic Programs at 703-770-3303 or gms@nrtw.org. 

Advantages of End-of-Year Stock Contributions

A gift to the Foundation of appreciated securities (held for a year or more) allows you to avoid capital gains taxes *and* makes you eligible for a charitable income tax deduction up to your AGI limits. If you haven't made your year-end contribution to the Foundation, consider a gift of appreciated stocks or securities. Contact Ginny Smith at (800) 336-3600 for more information, or to inform us if you intend to electronically transfer stock.

Stock Transfer Information

UBS Financial Services Inc.

DTC Number: 0221

To: National Right to Work Legal Defense and Education Foundation, Inc.

Account Number: WS-39563

UBS Contact: Scott A. Wilson (800) 382-9989 ext. 5419

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Eliminate, Don't Regulate Union Special Interests

By Cindy Omlin and Mark Mix. This article originally appeared in Front Page Magazine.

In America, citizens instinctively detest the notion of forcing people to pay for politics with which they disagree. But in the aftermath of the 2006 election cycle, Big Labor is fighting tooth-and-nail against even the most modest attempt to limit its special privilege to spend workers' forced union dues on politics.

Just recently, a group of Washington State teachers, receiving free legal assistance from the National Right to Work Foundation, persuaded the U.S. Supreme Court to take up an appeal of a ruling that voided a so-called "paycheck protection" statute. That law intended to require government employee union officials to obtain prior consent from non-union workers before spending their mandatory union dues on politics.

Predictably, once news of review by the U.S. Supreme Court surfaced, Washington Education Association (WEA) union officials publicly downplayed the importance of the case. But, if a successful appeal does no more than uphold Washington's paycheck protection law, their indifference wouldn't necessarily be misplaced.

Sadly, ten years of experience shows that the well-intentioned Washington law has proven ineffective in truly protecting employees from the misuse of their forced union dues. By reorganizing their accounting practices, WEA union officials were actually able to collect and spend more money on politics after the statute took effect. The fact is, so long as federal labor law – and the laws of many states, including Washington – are steeply stacked in favor of Big Labor bosses, returning to the status quo will not suddenly level the playing field for rank-and-file workers.

Washington State's paycheck protection law has tried but has not limited the ill-effects of forced unionism. Attempting to regulate away the



Co-authors, Northwest Professional Educators Executive Director Cindy Omlin and Foundation President Mark Mix.

consequences of bad public policy is the wrong approach. Even if the statute had achieved its intended impact, employees would have only received \$25 back per year because most of the union's political expenditures fall outside the law's narrow definition of politics.

The misguided Washington State Supreme Court ruling is being challenged, because in striking down the paycheck protection regulation, that court inexplicably fabricated a constitutional "right" for union officials to spend the forced dues of employees who want nothing to do with the union on political campaigns those workers may not support. Moreover, if upheld, union officials will use this wrongheaded decision to threaten America's 22 state Right to Work laws.

Twelve million American employees are forced by federal or state law to pay union dues or be fired from their jobs. In a string of long-standing precedents won by National Right to Work Foundation attorneys, the High Court has ruled union officials must tell workers forced to pay union dues what portion of the dues is spent on politics and other non-collective bargaining activities, and offer them a refund for that amount.

Real life is not that simple. In the vast majority of situations, union officials illegally inform workers upon


employment that they must join the union and pay full dues or be fired.

Later on, some employees may learn they have been misled and that they have the right to resign from formal membership.

However, when workers seek to exercise their right to resign, union officials often illegally tell them they have to wait for a certain "window" period and force non-union employees to re-object to non-collective bargaining fees every single year.

On top of all this, many union hierarchies routinely "cook the books" and charge independent-minded non-members for activities unrelated to collective bargaining.

The National Right to Work Foundation, which provides free legal aid to thousands of employees nationwide whose rights have been violated by compulsory unionism, works to battle these very injustices every day.

The Washington State experience demonstrates once again that the real solution is to take away Big Labor's outrageous special privilege to seize forced union dues in the first place. Aside from being a proven fix, Right to Work is a simple concept that polls show eight in ten Americans support: that payment of union dues should be voluntary. 

RTW LAWS

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Union bosses defy the law for more forced dues

As part of a shameful effort to pressure nonunion workers into paying dues, UGSOA union officials posted a notice at the Tampa Federal Courthouse in October 2003 threatening that all security officers would lose their jobs unless they agreed either to join the union or pay dues.

The notice falsely claimed the security officers worked on federal property and are therefore outside of the protection of Florida's Right to Work law – and thus can be forced to pay union fees as a condition of employment.

After Foundation attorneys won the Tampa case, union lawyers settled a similar case Foundation attorneys were pursuing for court employees in Miami.

“Union lawyer attacks seeking to undermine Right to Work laws must be met head on,” said Mix. “Such assaults underscore the vital nature of the Foundation’s mission, and the relief made possible to workers via its supporters.”

Newsclips Requested

The Foundation asks supporters to keep their scissors sharp for clipping news items exposing the role union officials play in disruptive strikes, outrageous lobbying, and political campaigning. Please clip any stories that appear in your local paper and mail them to:

NRTWLDF

Attention: Newsclip Appeal

8001 Braddock Road
Springfield, VA 22160



A Foundation For The Future

Mark Mix, President
National Right to Work
Legal Defense Foundation

Dear Foundation Supporter:

As you might imagine from our special insert on the *Davenport* case, the Foundation’s staff could not be busier as we prepare for another battle at our nation’s highest court.

Preparing a case for the U.S. Supreme Court is exhilarating for the accomplished professionals we have on staff, but it is also costly, complex, and time-consuming. This is actually the 13th trip that Foundation staff attorneys have taken to the Supreme Court!

At this moment, our expert legal team is busy writing legal briefs and practicing for the oral arguments. Of course, Foundation attorneys hope to convince the Supreme Court to reverse the damage by the activist ruling out of Washington State – and to take this opportunity to advance the battle by a major leap.

Meanwhile, our media relations staff is working hard to shine a spotlight on the injustices of forced unionism. We’re keeping reporters and editorial writers updated while placing in newspapers across the country op-eds like the one coauthored with Cindy Omlin of the Northwest Professional Educators association (see Page 7).

And while the buzz right now is about the Supreme Court case, we are pressing forward with our program to assist brave workers in more than 200 other cases of union abuse across the nation.

With so much going on, it is an exciting time at the Foundation, but it is also a time when our resources and staff time are stretched to the limit.

That is why your continued financial support of the Foundation is so vital. With your help, we can continue to fight for the rights of individual employees everywhere, from the smallest hearing rooms in rural America to the chambers of the U.S. Supreme Court.

Sincerely,

Mark Mix