Foundation Action

The bi-monthly newsletter of the National Right to Work Legal Defense Foundation, Inc.

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Right to Work Sues Obama Administration, Demands Info on Big Labor Ties

Despite promises of transparency, Obama appointees stonewall on disclosure

WASHINGTON, DC – Shortly after the last issue of **Foundation *Action*** went to press, Foundation attorneys hit the Obama Department of Labor (DOL) with a federal lawsuit for ongoing violations of disclosure laws. Foundation attorneys hope that the lawsuit will force the Administration to comply with an earlier Freedom of Information Act (FOIA) request, which sought documents on Department of Labor officials' ties to union political operatives.

Meanwhile, evidence recently surfaced that DOL officials consciously and even deliberately ignored FOIA protocols. As a result, the Foundation has filed another FOIA submission, seeking documents about the DOL's response to the first Foundation FOIA request.

Foundation President Mark Mix (right) answers questions on Big Labor paybacks in Congress.

Originally filed last spring, the Foundation FOIA request seeks information on Secretary of Labor Hilda Solis' previous ties to Big Labor front group American Rights at Work and possible conflicts of interest under President Obama's announced ethics rules.

The Foundation also requested information on Deborah Greenfield, a high-ranking Department of Labor official who worked as a top attorney at the AFL-CIO before she parachuted into the DOL during the Obama transition period. Greenfield may have also been involved in the decision to roll back important union accountability and transparency rules, among other things.

After blowing off repeated Freedom of Information Act requests, Secretary Solis and Obama's Labor Department must now respond to the Foundation's federal lawsuit.

Media reports suggest Administration cover-up

Instead of replying to the Foundation's submissions and observing government disclosure guidelines, the Obama Administration simply "went dark." The federal lawsuit filed in U.S. District Court in Washington, DC, asks the court to compel the Department of Labor to respond to the Foundation's inquiries and fork over the relevant documents.

After the Foundation filed the lawsuit in November, subsequent media reports indicated that the Administration's delays may have been the result of deliberate efforts to conceal its

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Tax Season – Planned Giving Can Help Reduce Your Tax Hit

Supporting the National Right to Work Foundation has many advantages

SPRINGFIELD, VA – As the April tax deadline looms, many National Right to Work Foundation donors are considering tax-saving options to make next year's "tax hit" less severe. Careful financial planning now will ensure added tax benefits in the future.

Here are just a few options that may fit a supporter's financial situation now – and in the future:

- The National Right to Work Foundation is a 501(c)(3) charitable organization. A cash gift is the easiest way to make a tax-deductible donation. But gifts made directly to the Foundation of appreciated stock or securities can provide donors with an even bigger tax break!
- Appreciated securities are subject to a capital gains tax when they are sold. But if an individual donates stock (owned for more than one year) to the Foundation, the capital gains are not taxable! At the same time, you will benefit from a charitable tax deduction for the FULL fair market value of the securities as of the date of the gift, subject to your AGI limit.

Planned giving vehicles have tremendous flexibility

Aside from a simple will or living trust, supporters may find that structured planned giving through charitable gift annuities, charitable remainder trusts, and charitable lead trusts achieves their needs for tax planning, income, and charitable giving.

By starting early, you can best put a plan into action that works for you and your loved ones, and gives you the peace of mind that your commitment to the Right to Work cause continues. Your generosity makes it possible for the Foundation to assist thousands of union-abused employees and combat union coercive power across the country.

For more literature about specific planned giving methods, please contact Ginny Smith at 703-770-3303, or gms@nrtw.org. Foundation personnel are available to advise supporters about the variety of planned giving options that exist. Of course, donors are always encouraged also to consult with their own financial advisor, accountant, or attorney before making any formal decisions.

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Foundation *Action*

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Big Labor Moves to Roll Back Sweeping Foundation Precedent

Coordinated plan underway to halt existing secret ballot election procedure

WASHINGTON, DC – In what appears to be a coordinated nationwide legal assault, union lawyers are seeking to strip away recently-gained protections workers have after being forced into union ranks through abusive card check forced unionism. The attack is part of Big Labor's comprehensive legal and political efforts to eliminate secret ballot elections when attempting to corral America's workers into unions.

In at least five new cases, union lawyers are asking the National Labor Relations Board (NLRB) to overturn the landmark 2007 *Dana Corporation* decision (won by National Right to Work Foundation attorneys) that gave workers the power to demand a secret ballot election after they are swept into union ranks through coercive card check organizing campaigns.

Card check organizing is characterized by deception, intimidation, and intense face-to-face pressure where workers are "asked" by union thugs to sign a union card that is counted as a pro-union vote.

The Foundation's victory in *Dana* won workers the right to toss out unions from their workplace if 30 percent or more sign a petition within 45 days of official notice of the union hierarchy's installation as monopoly bargaining agent by a card check unionization drive. This important check gives workers a tool to stop union bosses from seizing power in their workplace when a majority of the employees oppose the union.

> **"Card check organizing is characterized by deception, intimidation, and intense face-to-face pressure."**

Foundation combats union bosses' assault on the secret ballot

Foundation attorneys who won the landmark *Dana* case are already providing free legal assistance to employees in several of the new cases before the NLRB. Todd Fields, an ARAMARK Uniform and Career Apparel employee in Minneapolis, Minnesota; Mike Lopez, an employee of Lamons Gasket Company in Houston, Texas; and Joe Simpson, an AT&T employee in Redmond, Washington each led efforts in their respective workplaces to ask for a secret ballot election to decertify a newly-installed union.

In each of these cases, Service Workers United (an affiliate of the notorious Service Employees International Union, or "SEIU") union lawyers in Minneapolis, United Steelworkers union lawyers in Houston, and Communications Workers of America union lawyers in Seattle are asking the NLRB to dismiss the election petitions even though employees that the unions now claim to represent are requesting a secret ballot election. Union lawyers are using this strategy to get decertification cases back before the Board in Washington, DC, teeing it up for new Obama appointees to reverse *Dana*.

New wave of coercive union organizing looms

With pro-compulsory unionism advocates controlling the White House and a majority in both houses of Congress, union bosses are licking their chops at the prospect of passage of a Card Check Forced Unionism bill in 2010. This bill would make the card check process mandatory, rather than giving employees the chance to vote for or against union representation in secret ballot elections.

SEIU union bosses openly admit that passage of the Card Check Forced Unionism bill would enable them to force an additional million workers per year into their ranks. Top union bosses recently claimed they will be able to secure passage of this legislation by spring, even though Right to Work

see **COORDINATED ATTACK** *page 6*

Employees in Indiana shared with national media how they used Foundation-won rights to be union free.

Right to Work Combats Sneak Attack on Railway/Airline Workers

Obama appointees attempt to force more employees under union control

WASHINGTON, DC – At the urging of Big Labor, the National Mediation Board (NMB), the government agency charged with mediating labor disputes within the railroad and airline industries, is poised to roll back 75 years of precedent and make a dramatic change to how a union is imposed on industry employees.

Late last year, the National Right to Work Foundation raised the alarm about the American Federation of Labor and Congress of Industrial Organizations (AFL-CIO) union boss sneak attack on the nation's non-union railway and airline workers.

The change proposed by the AFL-CIO and 30 other unions would grease the skids to impose forced unionism at non-union workplaces and enable union organizers to corral tens of thousands of independent-minded railway and airline industry workers into union membership.

So far, some transportation workers have managed to resist unionization, such as FedEx drivers and Delta Airlines flight attendants. So union bosses want to stack the rules even more in their favor.

Change makes it harder for workers to repel forced unionism

The two former union officials President Barack Obama placed onto the three member NMB voted to preliminarily discard the agency's policy of requiring a true majority of all workers within a bargaining unit to decide if they wish to be represented by a union. Instead, they intend to implement a new procedure that requires only a majority of workers actually voting in a union organizing election to make that decision for the whole group.

Courtesy of chron.com

Under proposed organizing rule changes, union bosses could increasingly topple U.S. commerce by calling nationwide strikes.

A rule of this nature (which the NMB considered and rejected several times in the last few decades) would make it exceedingly difficult for independent-minded workers to resist Big Labor's well-funded professional organizing machine, particularly because these campaigns must be run across entire large, often-nationwide, groups of employees.

The proposed change also imposes a greater burden on employees who wish to refrain from union membership by forcing them either to take affirmative action to oppose the union or otherwise potentially allow for less than a majority to make that decision for them.

Further insulting employee rights, the NMB refuses to establish a formal process for workers wanting to remove a union as their monopoly bargaining agent as required under a Foundation-won precedent established in U.S. federal court over 25 years ago. As a result, union officials are almost impossible to throw out once they get in.

Union bosses seek greater stranglehold on shipping and commerce

With their parasitical tendencies, union officials seek maximum leverage over businesses, workers, and consumers. So Big Labor barons have long sought to change the NMB's rules for unionizing workers in industries and businesses that are central to the economy.

This battle is of significant strategic importance to union bosses because it would lead to a vast expansion of their power over the transportation and shipping industries through the desired unionization of shipping giant FedEx Corporation, for example. FedEx employees are under the jurisdiction of the Railway Labor Act (RLA) and have long been in the union boss crosshairs. Of FedEx's 290,000 employees, fewer than 5,000 are unionized.

Hundreds of thousands of FedEx employees corralled into union ranks through the NMB's rule change would not only provide a boon of forced union dues, but also grant union bosses tremendous power over huge volumes of goods shipped throughout the nation, thereby giving them even more power to disrupt nationwide commerce with crippling strikes called on a whim.

Foundation litigators duel with union lawyers at agency hearing

Foundation attorneys testified at the NMB's hearing on the proposed changes and filed formal comments with the agency. At the hearing, Foundation vice president and legal

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Supreme Court Asked to Halt UAW Religious Discrimination

Foundation attorneys challenge union officials' abuse of employees of faith

WASHINGTON, D.C. – With free legal aid from the National Right to Work Foundation, a Michigan auto worker has petitioned the United States Supreme Court to end a United Auto Workers (UAW) union policy that discriminates against religious objectors in the workplace.

Jeffrey Reed of Bridgman, Michigan, assembles cars for AM General. Because his workplace is unionized, UAW bosses enjoy monopoly bargaining privileges, forcing workers either to join the union or pay dues to keep their jobs.

Reed, however, is a devout Catholic whose religious beliefs conflict with the UAW because of its highly controversial social agenda. As a result, Reed has opted out of supporting the UAW union hierarchy by redirecting his union fees to charity because the union's activities offend his conscience.

"These are my deeply-held convictions," said Reed. "The union's money goes to support immoral causes."

Civil Rights Act protects workers of faith

Under Title VII of the Civil Rights Act of 1964, union officials may not force any employee to financially support a union if doing so violates his or her sincerely held religious beliefs. The statute requires union officials to accommodate religious objectors – by redirecting mandatory union fees to a mutually agreed upon charity – to avoid any conflict between an employee's faith and the support of a union through union dues.

"It's well-established precedent that the Civil Rights Act protects employees of faith from supporting unions they believe to be morally objectionable," said Patrick Semmens, director of legal information for the National Right to Work Foundation. "UAW bosses, however, have set up a policy that penalizes religious objectors over other kinds of objectors."

Foundation attorneys are petitioning the U.S. Supreme Court to overturn a discriminatory UAW policy punishing employees of faith.

Religious employees treated differently than secular objectors

At Reed's workplace, workers may opt out of funding union political activities if they have ideological objections to UAW policies. Instead of paying a reduced amount of forced dues (which would mean that substantial funds go to a union he finds morally objectionable), Reed is forced to divert the equivalent of a full union member's payments to charity each month. In other words, Reed is

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Foundation Fights Agency's Attempt to Bypass Federal Law

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director Ray LaJeunesse pointed out how the NMB's proposed rule change would harm independent-minded workers and why the NMB should not assist Big Labor in maximizing the unionization of America's railway and airline workers.

Further, Foundation attorneys pointed to the fact that only Congress, and not the NMB, has the authority to make the proposed change. After the hearing, Foundation attorneys were approached by a group of concerned employees affected by the proposed change to consider legal action should the board formally adopt the new procedures.

"It's unconscionable that a federal agency would help union bosses impose unionization without an actual majority of employees ever showing support for a union," said LaJeunesse. "Foundation attorneys are preparing to defend workers' rights in the courts against this Big Labor sneak attack."

Meanwhile, LaJeunesse filed a motion at the NMB seeking the recusal of the two former airline union officials who now comprise the majority of the board.

Supreme Court Case Could Strike a Blow for Freedom

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forced to shell out more money simply because he objects to union activities on religious rather than secular grounds.

Years ago, Foundation-supported litigation for Harry Beck created a U.S. Supreme Court precedent that holds objecting employees can only be forced to pay a portion of union dues to keep their job. While dissenting employees can be forced to pay for bargaining expenses, no worker can be forced to fund a union's political and ideological expenses. In addition to this court-enforced protection, the UAW has an internal policy that allows even voluntary union members to reduce their dues by the amount spent by UAW bosses on politics.

However, for religious objectors like Reed, the UAW does not reduce the compulsory fee a single cent. Instead, it requires religious objectors to pay 100% of the dues amount to charity. Everyone else can pay less and still keep their jobs.

"Why should somebody be punished for their religious beliefs? I believe that everyone should be treated equally," said Reed. "In this case, I'm the only one in the entire plant who's forced to pay more to keep a job. I'm really thankful that the National Right to Work Foundation has provided me with legal expertise, and I encourage other people to follow their faith in the workplace."

Foundation attorneys seek Supreme Court ruling

In 2006, the Equal Employment Opportunity Commission determined that UAW officials violated federal law and issued Reed a "right to sue" letter. Despite this reprimand, union officials still refused to reasonably accommodate Reed's objections. Foundation litigators then filed a federal lawsuit in U.S. District Court and later appealed an unfavorable trial court decision to the U.S. Court of Appeals for the Sixth Circuit.

The Sixth Circuit, over a vigorous dissent, affirmed the ludicrous notion that, because Reed complied with the union bosses' ironclad demands to redirect full union dues payments to charity rather than the reduced amount to avoid being fired, he did not suffer "adverse action" under Title VII. Using that bizarre logic, a mugger could escape the legal ramifications of his action if his victims handed over their purses, so long as no actual violence occurred!

Foundation attorneys have since filed a petition for a writ of *certiorari* asking the U.S. Supreme Court to overturn the lower courts' decisions. The case may also settle the broader issue of what constitutes adverse action in all Title VII claims across the United States. The goal is to allow employees to practice their faith without losing their job.

"It's unconscionable that nonunion employees can be forced to pay more because they object to the union's activities on religious grounds," continued Semmens. "We think this case is a clear example of religious discrimination, and we hope the Supreme Court will take up the case."

Coordinated Attack on Previous Foundation Victories Underway

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forces have beat the odds so far by successfully blocking the bill.

Card check scheme no indicator of employee wishes

While mandatory card check organizing would greatly enhance Big Labor's forced-dues empire, union operatives have already used card check drives to push hundreds of thousands of workers into union collectives each year. Since the Foundation's *Dana* victory in 2007, thousands of workers have used the precedent to defeat union bosses' stranglegholds on their workplaces.

"Many employees corralled into a union through the card check scheme have almost immediately thrown the union back out through a private ballot vote. This demonstrates card check's unreliable and coercive nature," noted Foundation vice president and legal director Raymond LaJeunesse.

Grocery Clerks Fight to Free Themselves From Union Ranks

Foundation legal notice to workers plays role in averting destructive strike

PHOENIX, AZ – With free legal aid from the National Right to Work Foundation, grocery store employees in Phoenix have filed federal unfair labor practice charges challenging a local union's efforts to block them from stopping the seizure of union dues from their paychecks.

The case arose out of a threatened grocery store strike that would have shut down hundreds of Arizona grocery stores last fall. The idea of abandoning good jobs in a bad economy was not popular among the rank-and-file, but few union members knew how to continue working without facing fines and other forms of ugly union retaliation which they expected.

Responding to workers' numerous calls and e-mails for information, the Foundation released a special legal notice to workers at Kroger-owned Fry's Food Stores and Safeway Stores, Inc., informing the workers in the Right to Work state that they could safely exercise their legal right to continue working and providing for their families.

United Food & Commercial Workers (UFCW) union bosses were expected to order a strike any day, after the latest monopoly bargaining agreement with the grocery store chains expired and the sides were unable to agree to a new contract.

> **"After the Foundation sent out its special legal notice, UFCW union bosses received a flood of resignations from employees."**

Arizona workers knew that a recent UFCW-ordered strike in California kept grocery store employees out of work for five months. With the economy continuing to struggle, many workers thought abandoning their good-paying jobs at union bosses' demands would be suicidal.

KTVK-TV's coverage of the UFCW's illegal dues extraction is available on the Foundation's YouTube channel at www.youtube.com/RightToWork.

Foundation legal notice helps avert costly strike

The Foundation informed the workers that they have the right to return to work and avoid retaliatory and oppressive union disciplinary actions and fines if they first resign from union membership. Moreover, because the monopoly bargaining contract was no longer in effect, workers had the right to revoke their dues check-off authorizations and stop allowing union officials to collect money from their paychecks.

After the Foundation sent out its special legal notice, UFCW union bosses received a flood of resignations from employees.

"The Foundation's information campaign no doubt played a role in UFCW union bosses reconsidering their strike threats," explained Mark Mix, president of the National Right to Work Foundation.

But now Foundation attorneys argue that UFCW Local 99 and Fry's management are illegally refusing to honor the workers' dues revocation notices. Despite the employees' best efforts to halt dues seizures, Fry's is continuing to withhold union dues and forward them to the UFCW union hierarchy.

Union bosses ignore workers' dues revocation letters

Last month, Foundation attorneys helped Shirley Jones of Mesa, Karen Medley and Elaine Brown of Apache Junction, and Kimberly Stewart of Queen Creek – acting for other similarly situated employees – file federal unfair labor practice charges at the National Labor Relations Board (NLRB) against UFCW Local 99 union bosses and Fry's. Three other employees, Saloomeh Hardy and Tommy and Janette Fuentes, filed similar charges in January.

The charges will now be investigated by the NLRB regional director in Phoenix, who can prosecute the union officials and the company for violating the employees' legal rights.

"Fortunately, Arizona's Right to Work law allows workers to refrain from paying forced dues to an unaccountable union," continued Mix. "But UFCW Local 99 union bosses seem to think they're above the law."

Disclosure Lawsuit

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extensive ties to Big Labor. That's why the Foundation is demanding all documents related to the controversy, including any correspondence involving Secretary of Labor Solis.

American workers and the public deserve to know

"American workers and the public deserve to know just how extensive the ties between the Obama Administration and Big Labor bosses really are," said Mark Mix, president of the National Right to Work Foundation. "We had little choice but to take the Obama Administration into federal court."

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
Supporters can also email online stories to wfc@nrtw.org

Message from Mark Mix

President
National Right to Work
Legal Defense Foundation

Dear Foundation Supporter,

Your National Right to Work Foundation is on the leading edge of holding the Obama Administration accountable and exposing its unabashed payback to Big Labor for helping to put the President in the White House.

On the campaign trail, Barack Obama promised a new era of transparency and openness. A year into his term, it's clear he has absolutely no intention of living up to his promises when it comes to his union boss buddies.

That's because those union bigwigs – armed with billions of dollars in forced union dues – are the ones calling the shots when it comes to issues that will expand their power over workers and taxpayers.

Forced unionism has created a major corruption problem within organized labor, and union officials are desperate to hide their corruption from rank-and-file members. So former union operatives now running Obama's Department of Labor have already taken steps to weaken basic union financial reporting requirements.

Keeping rank-and-file workers and concerned citizens in the dark appears to be the operating model for this Administration. The Foundation made a Freedom of Information Act (FOIA) disclosure demand last spring seeking documents which reveal the Administration's close ties to Big Labor's high command, and it's been stonewalling ever since.

Now, we're taking the Obama Administration into federal court. With your help in this initiative and so many others, we're doing everything we can to hold these people accountable and to expose their unethical actions. Going up against this Administration isn't cheap or easy, but it must be done.

That's why I'm so thankful for your continued support. You make it possible for your Foundation to fight these and so many other important battles against the corruption and economic devastation brought by forced unionism.

Sincerely,

Mark Mix