



Foundation Action

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of the National Right to Work
Legal Defense Foundation, Inc.

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Ohio Teachers Win Settlement that Refunds Forced Dues for Politics

Educators reclaim nearly \$100,000 in forced dues after filing class-action suit against union officials

COLUMBUS, OH – With free legal assistance from the National Right to Work Foundation, 14 public school teachers from across the state have won a federal settlement against the Ohio Education Association (OEA) union and 11 of its regional and local affiliates for violating their rights.

The settlement is the result of a class-action lawsuit the teachers filed in 2011 alleging that OEA officials unlawfully charged nonunion educators for things unrelated to workplace issues, including political activities.

In Ohio and other states without Right to Work laws, public employees can be forced to pay union dues to get or keep a job. However, the Foundation-won Supreme Court precedent *Abood v. Detroit Board of Education* holds that teachers and other civil servants cannot be forced to pay any money for activities such as union political lobbying and members-only events.

“[A]t some point I discovered that some of the dues given to the Ohio Education Association and National Education Association were being used for political activities, many not of my beliefs, which disturbed me,” said Kathi Thaxton, the lead plaintiff in the Foundation-supported lawsuit.

“After reading information on the National Right to Work website, I began to wonder whether the OEA could still be charging teachers for any activities that had to do with politics,” continued Thaxton, who recently retired from a



Kathi Thaxton's brave stand helped thousands of Ohio teachers reclaim union dues spent on politics.

33-year teaching career. “I decided to contact National Right to Work with my concerns.”

“OEA bosses got caught with their hands in the cookie jar,” said Ray LaJeunesse, Vice President of the National Right to Work Foundation. “They were collecting dues from nonunion teachers for political activities. Even in non-Right to Work states, that’s unacceptable, which is why we helped Ohio educators file this lawsuit.”

Union officials ignore disclosure laws

In addition to collecting dues from nonmembers for political activism, the

teachers’ lawsuit also charged that the OEA union’s regional affiliates refused to provide them with the kind of independently-audited financial statements required by law. Under the Foundation-won Supreme Court decision *Chicago Teachers Union v. Hudson*, public employees must be notified how their forced union dues are spent so they can refrain from paying for union politics.

Instead of defending themselves against the class-action lawsuit, the OEA agreed to a settlement in 2013 and an Ohio district court approved the settlement in September 2014.

The settlement awards 2,861 Ohio teachers with damages and/or rebates for unlawfully-seized union dues from the 2009 to 2013 school years. The total settlement comes out to nearly \$100,000. The union has also agreed to

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Foundation Files Charges for Trucker over UAW Intimidation Tactics

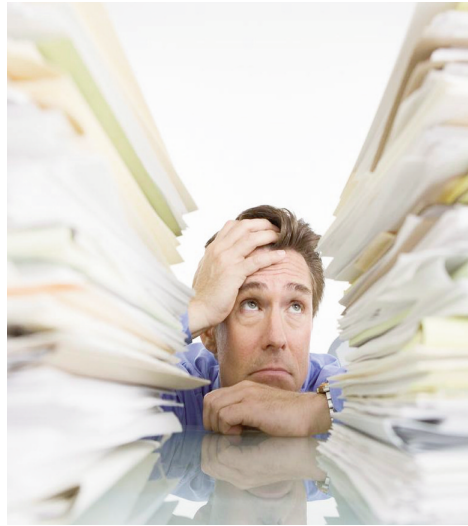
UAW officials blocked employee from asserting her rights under Michigan's Right to Work law

DETROIT, MI – A Detroit truck driver filed federal charges against a local United Auto Workers (UAW) union for resorting to intimidation and coercion to prevent her from exercising her rights under Michigan's recently-enacted Right to Work law.

With free legal assistance from National Right to Work Foundation staff attorneys, CEVA Logistics truck driver Kathleen Sulkowski filed charges in early October with the National Labor Relations Board's (NLRB) regional office in Detroit.

As related in the charge, Sulkowski sent a letter to the UAW in August announcing her decision to resign from the union and stop paying union dues. Under Michigan's Right to Work law, no worker can be forced to join or pay dues to a union as a condition of employment.

On September 18, 2014, a UAW Local 600 official sent Sulkowski a letter denying her resignation. According to the UAW, Sulkowski must appear in person at the union's office and provide photo identification if she wants to resign.



UAW members who wish to take advantage of Michigan's Right to Work law have to overcome union paperwork, bureaucratic obstruction, and intimidation tactics.

"The UAW's latest scheme is clearly aimed at intimidating independent-minded employees who wish to assert their workplace rights," said Patrick Semmens, Vice President of the National Right to Work Foundation. "Employees like Kathleen Sulkowski shouldn't have to jump through hoops –

or stare down a roomful of union toughs – just to exercise their legal rights."

Union hurdles deter employees from exercising their rights


In addition to helping Sulkowski, Foundation staff attorneys are assisting several other Michigan employees who face bureaucratic barriers to asserting their workplace rights.

Although Right to Work laws prohibit union officials from forcing employees to join or pay union dues, unscrupulous union operatives often resort to elaborate ploys to discourage independent workers from stepping out of line.

Unnecessary paperwork, extremely short window periods for union resignations, and the UAW's latest "resign in person" requirement are just a few of the tactics union officials use to ensure workers stay in the union and keep paying union dues.

In fact, Right to Work litigators recently helped several Michigan public school employees strike down a teacher union resignation window period (see page four of **Foundation Action** for details).

"Right to Work laws prohibit union officials from forcing employees to join or pay dues," explained Semmens. "However, those legal protections are meaningless if unions are free to use dirty tricks to stop employees from exercising their rights."

"The union's conduct is particularly hypocritical because the UAW vehemently opposes voter identification laws," said Semmens. "UAW bosses say that showing an ID is an 'outrageous burden' at the ballot box, yet they insist on an ID if workers want to stop funding Big Labor's political agenda." 

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UAW Bosses Target Alabama Mercedes Workers for Unionization

UAW operatives resort to same old tactics in quest to export Detroit-style unionism

VANCE, AL – After enduring a crushing defeat at the Volkswagen plant in Chattanooga, Tennessee, United Auto Workers (UAW) union bosses have set their sights on another European-based automobile manufacturing plant in the Right to Work South to expand their dues-paying ranks.

UAW union organizers are waging a campaign to unionize Mercedes-Benz's workers at the MBUSI production facility in Vance, Alabama, located in Tuscaloosa County.

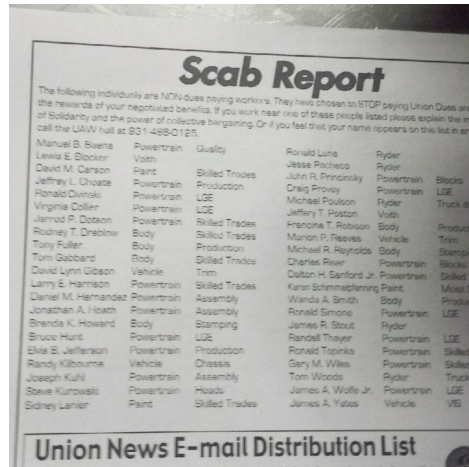
The UAW's effort comes on the heels of an embarrassing loss earlier this year, when UAW union bosses lost a unionization election at the Volkswagen production facility in Chattanooga even though union and company officials colluded to push workers into union ranks.

Despite suffering a high-profile defeat in Chattanooga, UAW union officials have doubled-down on their effort to export Detroit-style forced unionism to auto plants across the Right to Work South. And once again, UAW union officials are getting some outside help.

According to several media reports, UAW union officials are joining forces with German auto union bosses to unionize auto workers at the Mercedes-Benz plant in Vance.

Union bosses try to circumvent independent-minded workers

Seeking an end-around to circumvent workers who are skeptical of unionization, union organizers are pushing individual employees to join a supposedly "voluntary" union that does not have exclusive bargaining privileges over the workforce, with the ultimate goal of gaining control over the plant.



In Spring Hill, Tennessee, UAW bosses are using intimidation to keep autoworkers in line (photo courtesy of The Washington Free Beacon).

“While UAW union officials continue to pitch a so-called ‘voluntary’ union to Mercedes workers, the reality is that UAW union officials have made it clear that they will seek exclusive representation over every worker in the plant once they have a majority of the facility as UAW ‘members,’” said Patrick Semmens, Vice President of the National Right to Work Foundation. “Then, when they have a majority of workers from the shop in their local union, UAW union officials will claim monopoly bargaining control over all the workers in the plant without a vote.”

“Mercedes-Benz workers should be wary of the UAW’s backdoor card check scheme,” Semmens added. “In Vance, like elsewhere, the endgame for UAW union bosses is to gain monopoly bargaining control over all workers in the plant and collect dues.”

Intimidation tactics undermine union officials’ propaganda

Meanwhile, UAW union bosses are seeking to craft a fresh image for a union

that has lost 75 percent of its members since 1980 while crippling Detroit’s auto industry – going so far as to praise Right Work laws in their pitch for a so-called “voluntary” union. But recent media reports have undermined their attempts and should remind workers why they often associate the UAW with intimidation and compulsion.

The Washington Free Beacon reported that UAW Local 1853 union president Tim Stannard recently published a “Scab Report”-- posted at high-traffic entrances at the Spring Hill, Tennessee GM Saturn plant -- listing the names and work stations of dozens of workers at the GM facility who have exercised their rights to refrain union membership and dues payments under the state’s Right to Work law.

One GM worker, who requested anonymity for fear of union retaliation, told *The Free Beacon*, “They put our names out there so people will pressure us...One guy called me a scab outright. I don’t appreciate that. I was disgusted by it.”

The National Right to Work Foundation has issued a special legal notice to Mercedes-Benz employees offering free legal aid. The Foundation legal information department is also running social media ads to make MBUSI workers aware of their rights and ability to turn to the Foundation for free legal aid.

“Union officials claim their union is ‘voluntary,’ but we have proof that in unionized plants in Right to Work states like Tennessee, UAW operatives are intimidating workers who oppose joining and bankrolling their union,” continued Semmens. “Foundation staff attorneys are standing by, ready and willing to assist workers who are being intimidated or coerced by UAW union officials.”

Michigan Judge Strikes Down Union's Scheme to Bypass Right to Work Law

Workers challenge union's 'window period' ploy aimed at forcing teachers to keep paying dues

LANSING, MI – In yet another victory for workers, a group of Michigan public school employees won a ruling that recommends striking down the state's largest teacher union's scheme to prevent public school employees from exercising their right to refrain from union membership.

The ruling sets the stage for public-sector employees to exercise their rights under the nation's newest state Right to Work law.

School employees file state charges against MEA

With free legal assistance from National Right to Work Foundation staff attorneys, Mark Norgan, a Standish-Sterling Community Schools janitor, Alpha Snyder, a Battle Creek Public Schools secretary, and Mary Carr, a Grand Blanc Community Schools special education department secretary, filed separate state charges earlier this year challenging the MEA's scheme.

In all three cases, the employees informed MEA union officials that they were exercising their right under Michigan's public-sector Right to Work law to refrain from union membership and dues payments.

Instead of complying with the employees' requests, MEA officials told them that they would have to wait for a union-designated resignation "window period" of August 1 through August 31, forcing the school employees to remain union members and pay union dues for almost an additional year.

After a hearing on the employees' cases, which were combined with other cases filed by additional public-sector employees, a Michigan Employment Relations Commission (MERC) administrative law judge issued a recommend-



Michigan's Right to Work laws free employees from the burden of having to pay union dues just to keep a job. Unfortunately, union bosses are resorting to a variety of schemes to circumvent the new laws.

ed order striking down union officials' policy in early September.

Stage set for rights-protecting precedent

The MERC judge agreed with Foundation staff attorneys that Michigan's Right to Work law protects public employees' unequivocal right to refrain from union membership at any time. Similarly, federal labor law protects private-sector employees' absolute right to refrain from union membership at any time without penalty.

"Across the state, union officials are pulling out all the stops to keep workers from exercising their rights under Michigan's Right to Work laws," said Mark Mix, President of the National Right to Work Foundation. "This ruling

is a huge victory for workers who want to exercise their rights under Michigan's public-sector Right to Work law."


Although several Foundation-assisted public-sector employees stand to benefit from the precedent-setting victory, the ruling has been appealed by MEA union officials to the MERC.

Private-sector employee also successfully defends Right to Work

The public-sector ruling is not the only gain made by employees seeking to exercise their rights under Michigan's Right to Work laws. Earlier this year, a private-sector employee won federal settlements from a local Teamster union and United Parcel Service (UPS) after

she filed charges against the union and her employer with the National Labor Relations Board (NLRB).

After Michigan's private-sector Right to Work law went into effect, UPS and Teamster Local 406 union officials refused to comply with Lisa Plamondon's repeated requests to refrain from union dues payments. However, after Plamondon, a 30-year Traverse City UPS employee, filed charges with assistance from Right to Work staff attorneys, she received reimbursement of all of the union fees illegally taken from her paycheck, plus interest. The union also agreed to post public notices informing Plamondon's colleagues of their workplace rights.

"Michigan's recently-enacted Right to Work laws must be vigorously enforced to protect workers' rights and to keep unscrupulous union bosses in check," added Mix. "That's why National Right to Work Foundation litigators are doing everything possible to hold union officials accountable under state and federal law." 

Foundation Mourns Passing of Professor from Landmark Case

GRAND RAPIDS, MI – The National Right to Work Foundation mourns the passing of Elmer Stanley Junker, 90, one of the six Ferris State College (now University) professors who received free legal assistance from Foundation staff attorneys in their 1991 U.S. Supreme Court victory *Lehnert v. Ferris Faculty Association*.

In *Lehnert*, the Court narrowly defined union expenses nonunion public employees can be charged by establishing a three-part standard for determining whether union officials can charge nonmembers for an expense without infringing upon the nonmembers' First Amendment rights.

Applying this test, the Court ruled that public employees may not be charged for litigation not directly concerning their bargaining unit, including lobbying, public relations activities,

and illegal strikes. The Court's ruling continues to influence federal case law.

Before joining the Ferris faculty, Junker served in the U.S. Army during World War II, taught high school math in Markesan, Wisconsin, and supervised training under defense contracts at Burroughs Corporation in Pennsylvania. Junker also wrote a book about the *Lehnert* case entitled "The Ferris Six."

Junker is survived by his wife of over 66 years, five children, 15 grandchildren, 15 great-grandchildren, two adopted grandchildren, and several nieces and nephews.

"Elmer was a gentleman and stalwart client," said Foundation Vice President and Legal Director Ray LaJeunesse, who argued the *Lehnert* case before the Supreme Court. "His stand for the principle of employee free choice through more than ten years of litigation was inspiring."



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Of course, we urge you to consult your own tax advisor or estate attorney when considering a long-term planned gift to the Foundation. If you have any questions or need further information, please contact Ginny Smith at 1-800-336-3600. Thank you for your continued support and generosity.

Grocers Fight Obama Labor Board Ruling that Keeps Workers in the Dark

Obama NLRB once again ignores federal court precedent after sitting on a case for six years

WASHINGTON, DC – After sitting on a case for more than six years and issuing a controversial ruling that denies long-held federal protections for workers, President Obama's National Labor Relations Board (NLRB) once again faces scrutiny in federal court.

Laura Sands of Crawfordsville, Indiana was hired by Kroger in December 2004. The next month, United Food & Commercial Workers (UFCW) International Union Local 700 officials sent Sands a membership application.

In the Right to Work Foundation-won *Communications Workers v. Beck* case, the U.S. Supreme Court held that workers have the right to refrain from paying for union political and members-only activities.

Moreover, federal court case law applying *Beck* holds that union officials must also provide workers a notice with the amount of the reduction in dues required if they refrain from union membership. This procedural safeguard is intended to help workers make an informed decision about whether to refrain from union membership and object to paying full dues.

The UFCW's application failed to inform Sands of the percentage fee reduction she would receive if she did not join the union and objected to paying for union activities unrelated to workplace bargaining. With the help of Foundation staff attorneys, Sands challenged the UFCW Local 700 union officials' policy of keeping workers in the dark about their rights.

NLRB fails to rule on case for six years

Sands' case was eventually appealed to the NLRB in Washington, DC in 2008.



After failing to rule on a case for six years, the Obama NLRB ignored federal appeals court precedent to benefit union bosses.

Even though the U.S. Court of Appeals for the DC Circuit ruled on a similar Foundation-won case in 2001, holding that workers are entitled to know what they would be forced to pay if they refrain from union membership, the NLRB sat on the case for more than six years without issuing a decision.

Sands then filed a petition at the DC Court of Appeals asking the court to force the NLRB to act on the case.

In response, the court ordered the NLRB to file a brief and even scheduled oral argument on the petition. However, before the argument could be held, the NLRB issued a ruling rubberstamping the UFCW's illegal policy. The NLRB's decision flies in the face of longstanding precedent established by the DC Court of Appeals.


"Justice delayed is justice denied," said Mark Mix, President of the National Right to Work Foundation. "Adding insult to injury, the NLRB committed a grave injustice against Ms. Sands and other workers who simply

want all the facts before they decide whether or not to join and pay dues to a union."

Obama Board expanding forced-unionism legacy

In late September, Sands asked the U.S. Court of Appeals for the DC Circuit to review the NLRB's decision, which violates that court's earlier precedents and allows union bosses to keep workers in the dark about their workplace rights.

The Board's ruling also comes on the heels of a federal court ruling in Pittsburgh in which the judge stated in his decision that the agency's conduct in that case "arguably moves the NLRB from its investigatory function and enforcer of labor law, to serving as the litigation arm of the Union, and a co-participant in the ongoing organization effort of the Union."

"Once again, the Obama Labor Board has trampled on workers' rights to bolster union bosses' forced-dues privileges," continued Mix. "The Obama NLRB is flaunting long-held court precedent to further expand its legacy as a taxpayer-funded arm for union compulsion." 

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The Detroit News

NATIONAL RIGHT TO WORK
FEATURED EDITORIAL

MARK MIX: UAW members should thank Right to Work

It is pretty clear that union officials do not like right to work laws. They insist that they can't survive without the power to force employees to pay union dues or fees. But the UAW's recent change in leadership suggests that Michigan's new right-to-work laws will clearly benefit union members, and union officials.

Big Labor's wild claims about right-to-work laws have always been off the mark.

Unions continue to exist — and, in many cases, thrive — in states that ensure no worker can be forced to pay dues as a condition of employment. Moreover, union officials in right-to-work states actually have to justify their policies and expenditures to employees, who can leave a union and withdraw their financial support at any time.

In short, right-to-work laws bring union accountability to the workplace. If union officials can force employees to pay dues just to get or keep a job, they have little incentive to listen to workers' feedback and adjust their policies accordingly. In states without right-to-work laws, union officials can negotiate a forced-dues clause that covers all employees in a bargaining unit if they win support from a plurality of those voting. Once that contract is signed, it's extremely difficult to eject an unwanted union, even if workers become disillusioned with their representation. Meanwhile, employees can

be forced to pay dues or fees for the duration of the contract.

However, union officials quickly become more responsive if workers have the right to leave a union and stop paying dues at any time. Recent polling shows that 80 percent of rank-and-file union members support the right-to-work principle, which suggests that even the most committed union supporters recognize this fact.

The UAW's recent leadership change is a case in point. Under former president Bob King, the UAW spent members' dues on a variety of schemes that had little to do with improving Michigan autoworkers' wages or working conditions. King pushed a reported five million dollar campaign to unionize VW's Chattanooga auto plant which failed when the workers voted in a secret-ballot election. He vocally supported President Barack Obama's controversial healthcare overhaul, which now is derided by top union officials, while promoting greater ties to foreign unions and radical labor activists.


Whatever the merits of his political views, King's ambitions outside the workplace had very little to do with the concerns of UAW members whose money he was using to push them. Now, with contract negotiations for the Big 3 automakers coming to a head, UAW leadership are talking more about what is happening in the workplace, including their goal of eliminat-

ing the unpopular two-tier wage system.

What's changed? Michigan, the UAW's traditional stronghold, now protects the right of employees to leave a union and stop paying dues, and when the old Big 3 contracts expire workers in a UAW organized workplace will finally get to exercise their rights under Michigan's new right-to-work law.

Michigan union officials are coming to grips with a principle that's instantly familiar to anyone who's run a club, civic association, or community organization: If your members aren't satisfied with the way things are going, they'll likely take their money elsewhere.

The case for right-to-work laws has always rested on the importance of employee freedom in the workplace. No worker should be forced to join or financially support a labor union, period. But protecting employee freedom also brings other benefits.

For members of the UAW and other unions in Michigan, right to work means they only have to pay union dues if they think it's a good use of their hard-earned money. That's a powerful incentive for the union hierarchy to be more responsive to its membership. 

This article was originally published in The Detroit News on 9/1/2014.


Teacher Settlement

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adjust its future accounting to reduce the fees objecting nonmembers must pay as a condition of employment.

"I thank National Right to Work for all their effort in pursuing this case," said Thaxton. "I never in a million years dreamed that my initial contact would result in a class action suit against such a large organization. I retired from a 33 year teaching career in 2012, but am so pleased that Ohio teachers who are required to pay . . . fees can now feel confident that the fees truly are 'fair' and will be used for the right purposes, not for political purposes for which they do not agree."

"OEA union officials have a long and sad history of abusing nonunion employees' rights to fund their political agenda," said LaJeunesse. "We applaud these teachers' commitment to defending the right of all Ohio educators to refrain from supporting union political activism."

"Despite this victory, it's important to remember that the OEA union orchestrated a campaign against public-sector union reforms in the Buckeye State in 2011 -- reforms that would have allowed teachers to opt out of all forced dues payments," added LaJeunesse. "The OEA's disregard for the rights of independent-minded educators highlights the need for an Ohio Right to Work law, which would make all union dues strictly voluntary." 

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Message from Mark Mix

President
National Right to Work
Legal Defense Foundation

Dear Foundation Supporter,

As we close in on the end of 2014, I can't help but look back at the incredible gains we've made thanks to your loyal and generous investments in our work.

Although the Obama administration continues to be one of the most aggressive promoters of Big Labor's coercive forced-unionism agenda, Foundation-assisted workers still managed to score impressive victories ranging from the shop floor all the way to the U.S. Supreme Court.

Thanks in part to the efforts of Foundation staff attorneys, Volkswagen workers in Chattanooga, Tennessee staved off unwanted unionization, overcoming a coercive card check campaign pushed by company management and United Auto Workers union officials.

Meanwhile, a growing number of Michigan workers are advancing the fight to protect their rights under America's newest Right to Work law. The Foundation has dozens of cases in the Great Lakes State.

And in the span of two days, Foundation staff attorneys scored victories at the U.S. Supreme Court in two cases involving home-based personal care and child-care providers in Illinois and Michigan. These victories will have a major impact on care providers across the country.

Notwithstanding our tremendous progress, the fight for worker freedom is far from over. In fact, like a cornered animal, Big Labor and its allies may be more dangerous than ever in their drive to expand forced unionism.

At the NLRB, Big Labor partisans continue to attack job providers and employees that refuse to toe the union-boss line or seek to remove unwanted unions from their workplaces.

Meanwhile, Big Labor is already gearing up for the 2016 elections, in which they'll spend billions of dollars to install another pro-forced-unionism politician in the White House and increase the number of their forced-unionism-supporting allies in Congress.

As we look back, it's important to remember that none of our efforts would be possible without your continued support. But more importantly, I look forward to your continued support as we gird for the battles ahead.

Sincerely,

Mark Mix