



Foundation Action

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

Vol. XXIV, No. 1

8001 Braddock Road • Springfield, Virginia 22160

www.nrtw.org

January/February 2004

Oklahoma Supreme Court Upholds State's Right to Work Law

*Two union challenges
rejected, Oklahomans'
freedom from forced
unionism assured*

OKLAHOMA CITY, Okla. — The Supreme Court of Oklahoma has rejected two separate attempts by union lawyers to deny Oklahoma citizens the right to choose whether or not to join or financially support a union, upholding Oklahoma's constitutional Right to Work amendment which the state's voters passed in September 2001.

With its ruling, the state supreme court effectively ended a two-year legal battle waged by attorneys for former Oklahoma Governor Frank Keating alongside National Right to Work Foundation attorneys against Big Labor lawyers who were bent on reclaiming the special privilege of compulsory unionism enjoyed by union officials prior to passage of the Right to Work law.

"Oklahoma's workers have won an important victory," said Stefan Gleason, Vice President of the National Right to Work Foundation. "No longer will there be a cloud over Right to Work — an amendment which has already resulted in the creation of new jobs, an increase in wages, and more employee freedom compared to states without such protections."



Right to Work supporters "welcome" out-of-state union activists at a pre-election rally on the Capitol steps in Oklahoma City.

Foundation attorneys helped secure victory

In *Transport Workers Local 514 et al v. Keating et al*, a U.S. Court of Appeals earlier ruled that certain ancillary provisions of the amendment are preempted by federal law such that the amendment cannot apply to every single unionized employee in the state, such as employees working on exclusive federal property or in the airline or railroad industry (as is the case with all other state Right to Work laws). However, the federal court accepted a request by National Right to Work Foundation attorneys that the Oklahoma Supreme Court should itself decide the state law question of whether federal preemption invalidates the entire Right to Work constitutional amendment.

In December, Oklahoma's Supreme Court ruled that the union lawyers could not prove their assertion that Oklahoma voters would somehow not have approved the Right to Work amendment if they had known that it could not be applied to every single employee in the state.

State Supreme Court rejects a separate sham union suit

At the same time, the Oklahoma Supreme Court rejected arguments in a separate state court challenge to the Right to Work law. This past summer, National Right to Work Foundation attorneys discovered the existence of a "collusive lawsuit" quietly filed with the apparent intention by both parties (union and employer) of voiding the state's Right to Work law without serious arguments made

by a party that sincerely supports the law. Discovering this, Foundation attorneys intervened in that suit representing Stephen Weese, a Tulsa-area employee, to ensure that the law was vigorously defend-

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Largest Teacher Union Continues Its Religious Discrimination

Despite settlement agreement, NEA union continues persecution of objectors

CLEVELAND, Ohio — The Equal Employment Opportunity Commission (EEOC) has determined that officials of the National Education Association (NEA) union and its affiliates are again violating the religious freedom of school employees to refrain from union affiliation, despite a previous agreement to end such discrimination.

The formal determination released recently by EEOC officials comes on the heels of a two-year battle waged for educators in Ohio by National Right to Work Foundation attorneys as part of the Foundation's Freedom of Conscience litigation project. So far, these efforts have led to congressional hearings, sustained national media coverage, and a conciliation agreement requiring union officials to refrain from harassing teachers who assert religious objections to supporting a union they believe to be involved in immoral activities.

As a result of those legal battles, the EEOC found that the NEA union and its state of Ohio affiliate, the Ohio Education Association (OEA), have been systematically discriminating against teachers by stone-

walling religious objections and forcing objectors to undergo annually a formal probe into their deeply held personal beliefs.

"This outrageous and repeated religious discrimination by NEA officials shows they think they are above the law and have no respect for people of faith," said Mark Mix, president of the National Right to Work Foundation. "This arrogant union hierarchy seeks to harass and deter teachers who dare to resist funding the union's radical political and social agenda."

"Some NEA officials think they are above the law and have no respect for people of faith," said Mark Mix.

Union officials thumb noses at agreement, law

The breached conciliation agreement, signed last year by the NEA, OEA, and local unions, required union officials to process Ohio teachers' religious objections in a timely fashion and stop forcing them annually to object to supporting the union.

Under Title VII of the Civil Rights Act of 1964, union officials may not force any



AP/Wide World Photo

Ohio union officials overseen by NEA boss Reg Weaver have routinely trampled on the civil rights of teachers and other school employees.

employee to support financially a union if doing so violates the employee's sincerely held religious beliefs. To accommodate the conflict between an employee's faith and a requirement to pay fees to a union believed to be immoral, the law allows employees instead to donate that money to charity.

The NEA union's continuing violations of Title VII became apparent during the investigation of charges filed at the EEOC earlier this year. Foundation attorneys provided free legal assistance to William Morgan, a practicing Quaker and custodian at Mentor Public Schools, who filed for a religious objection to supporting the union because it promotes pro-abortion and pro-homosexuality positions. Morgan's employer has a contract with the Northeast Ohio branch of the NEA union that requires union dues payment from custodians as a condition of employment.

In January 2003, Morgan asked the union hierarchy to accommodate his sincere religious objection. Illegally refusing to honor Morgan's request that his dues be redirected to charity, union officials required Morgan to respond to a series of invasive, highly personal questions regarding his religious beliefs. After a series of delays and inconsistent responses from union officials, they ultimately denied his accommodation request.

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Rev. Fred Fowler
Reed Larson
Mark Mix
Stefan Gleason
Ray LaJeunesse, Jr.
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Distributed by the
National Right to Work Legal Defense Foundation, Inc.
8001 Braddock Road, Springfield, Virginia 22160
www.nrtw.org • 1-800-336-3600

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.

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Oklahoma Victory Builds Momentum for Right to Work Laws

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ed. The state trial court then upheld the law as urged by Foundation attorneys.

On appeal, the Oklahoma Supreme Court rejected arguments union trial lawyers raised in that collusive suit that the Right to Work constitutional amendment somehow violated the due process and equal protection clauses of the same Oklahoma constitution. The Oklahoma Supreme Court followed U.S. Supreme Court precedents dating back to the 1940s that rejected similar arguments under the U.S. Constitution.

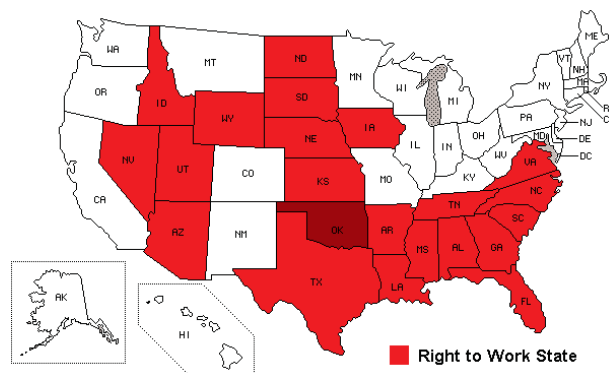
Right to Work boosts Sooner State's economy

Oklahoma became the country's 22nd Right to Work state in September 2001. Since it took effect, Oklahoma has led the nation in several economic performance categories — despite a struggling American economy.


Chief among these is that, according to the Bureau of Labor Statistics of the U.S. Department of Labor, Oklahoma has led the nation in the creation of jobs since the passage of Right to Work. The economic growth seen in Oklahoma is part of a larger trend that shows Right to Work states having higher rates of economic growth in comparison to states with pervasive forced unionism.

“It’s an outrage that union bosses were so hell-bent on destroying the freedom and prosperity that Oklahomans have begun to enjoy since the Right to Work amendment took effect,” stated Gleason. “This court battle shows how zealously union officials guard their government-granted special privileges.”

The passage of Right to Work in Oklahoma was, in large part, a result of



Foundation attorneys persuaded the Oklahoma Supreme Court to uphold the state's Right to Work amendment, holding the number of Right to Work states steady at 22.

the sustained efforts by the National Right to Work Committee — the Foundation's sister organization — over the past decade to lay the groundwork for victory. With the 22nd Right to Work law now enshrined in law, plans are well underway to pass Right to Work in several other states. 

Spotlight on...

John Martin
Staff Attorney



Hailing from the nation's newest Right to Work state, staff attorney John Martin has fought to protect worker freedom both in his home state and around the country in the early stages of his already successful legal career.

A Tulsa native, and a member of the National Right to Work Foundation's legal staff since 2001, Martin successfully defended Oklahoma's Right to Work law from multiple union legal attacks (see article above).

Last summer, Martin uncovered a “collusive lawsuit” filed stealthily to void the Sooner State’s Right to Work law. Martin intervened in the case on behalf of a Tulsa-area worker to assure that the law was vigorously defended. In a related case, Martin also convinced a U.S. Court of Appeals to allow the Oklahoma Supreme Court

to decide whether the core of the state's Right to Work law was valid, setting the stage for the final rejection of both union challenges.

Meanwhile, Martin just successfully settled a civil rights lawsuit affecting 223 Cleveland State University (CSU) employees. When Communications Workers of America union officials illegally forced the CSU employees to pay full union dues without providing a legally mandated audit, Martin helped the workers win back nearly \$39,000.

Martin received a bachelor's degree from Oklahoma State University and a law degree from the University of Texas at Austin. Prior to joining the Foundation's staff, he clerked for Judge Kenneth Starr at the Office of Independent Counsel.

CA Labor Board Files Complaint for Union's Mass Firings

Foundation attorneys persuade government to seek back pay for 150 berry pickers

OXNARD, Calif. — The General Counsel of California's Agriculture Labor Relations Board (ALRB) has issued a complaint against the United Farm Workers (UFW) union for unlawfully ordering the mass firing of more than 150 Coastal Berry employees who refused to join the union and pay full dues.



United Farm Workers union founder Cesar Chavez used bully tactics, crippling strikes, and a nationwide grape boycott to impose forced unionism on the agriculture industry.

With the assistance of National Right to Work Foundation attorneys, six Coastal Berry workers filed class-action unfair labor practice charges against the UFW union in June 2001. Coastal Berry, which employs approximately 750 workers, is the world's largest strawberry producer.

"These employees so disdained the notion of supporting the UFW union, and what it stood for, that they decided they would rather risk losing their jobs," said National Right to Work Foundation Vice President Stefan Gleason. "Though the wheels of justice have moved far too slowly, we are encouraged that the ALRB has finally decided to defend these victims."

The ALRB General Counsel seeks an order requiring UFW union officials immediately to have the workers reinstated to their former positions, or positions of equal stature. The ALRB also seeks to require union officials to compensate the workers with income lost since the day they were fired nearly two years ago.

Union officials failed to inform workers of their Foundation-won rights

The ALRB complaint states that UFW union officials unlawfully demanded that the berry pickers pay full union dues as a condition of employment, violating several Foundation-won U.S. Supreme Court

decisions, including *Chicago Teachers v. Hudson*. UFW union officials also unlawfully failed to inform employees of their rights to object to paying for non-collective bargaining activities (such as politics), and their right to challenge the union's fee calculations before an impartial decision maker.

A segment of the nationally televised "Voices of Vision" PBS documentary series featured this story. Francisco Alcazar, a Foundation-assisted worker, recounted, "They didn't give us any explanations. They just said whoever doesn't sign up by tomorrow morning is fired."

Now-ousted California governor helped impose abusive union brass

In May 2000, by order of an ALRB packed with three one-day appointments by now-ousted California Governor Gray Davis, UFW union officials gained monopoly bargaining power over employees at Coastal Berry. In March 2001, Coastal Berry entered into a collective bargaining agreement with the UFW union. Within days, UFW officials demanded that all Coastal Berry workers join the union and sign payroll deduction cards that would have allowed union officials to

seize full dues from their paychecks. Coastal Berry management heeded union demands to fire more than 150 workers who refused to comply with the UFW union's illegal ultimatum.

"UFW union officials may yet be forced to stop thumbing their noses at workers' rights," said Gleason. "How dare they claim to represent the interests of employees when those who object are put on the street."

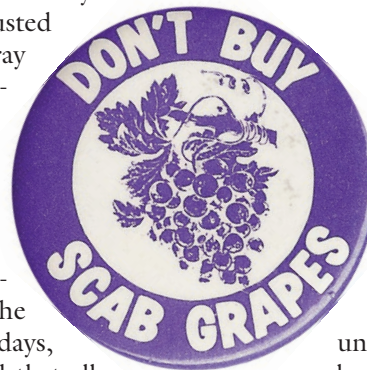
UFW union notorious for strong-arming workers

By viciously attacking the livelihoods of more than 150 laborers, UFW union bosses drew upon the bully tactics perfected by UFW union founder and longtime chieftain, Cesar Chavez.

Investigative journalist Ralph de Toledano, author of a best-selling biography entitled "Little Cesar," exposed what he termed "Cesar Chavez's war on the grape pickers of California." Chavez, who gained fame in 1965 by orchestrating a crippling strike and nationwide boycott of grapes, believed that farm workers were too stupid to think for themselves. Thus, he deployed supporters to "organize" farm workers and insert his union as their collective bargaining agent without so much as a vote.

Chavez attempted to impose "closed shops" (outlawed in other industries by the Taft-Hartley Act of 1947) requiring agricultural workers formally to join the union to obtain work.

Today in California, under state law, agricultural workers can still be required to become full-fledged union members to



see **CESAR CHAVEZ**, next page

Cesar Chavez's Legacy of Terror Continues in California

continued from page 4

keep their jobs. However, as a result of earlier Foundation-supported litigation, objecting union members cannot be required to pay for the union's political and other non-bargaining activities. The Foundation's berry pickers case has the possibility of increasing the procedural protections for objecting agricultural workers.

Union militants continue to celebrate Chavez's shameful legacy. In several states his birthday has even been declared an official state holiday and roads have been named after him — despite the fact that, in some circles, the man was considered a terrorist, not a hero or a role model. †



Laborer Francisco Alcazar appeared in a nationally televised PBS documentary on the Right to Work movement to recount how UFW union officials got him fired for refusal to pay full union dues. For a free copy of this documentary, please contact Jean Griffith at 800-336-3600.

Foundation Defends Dedicated Education Professionals

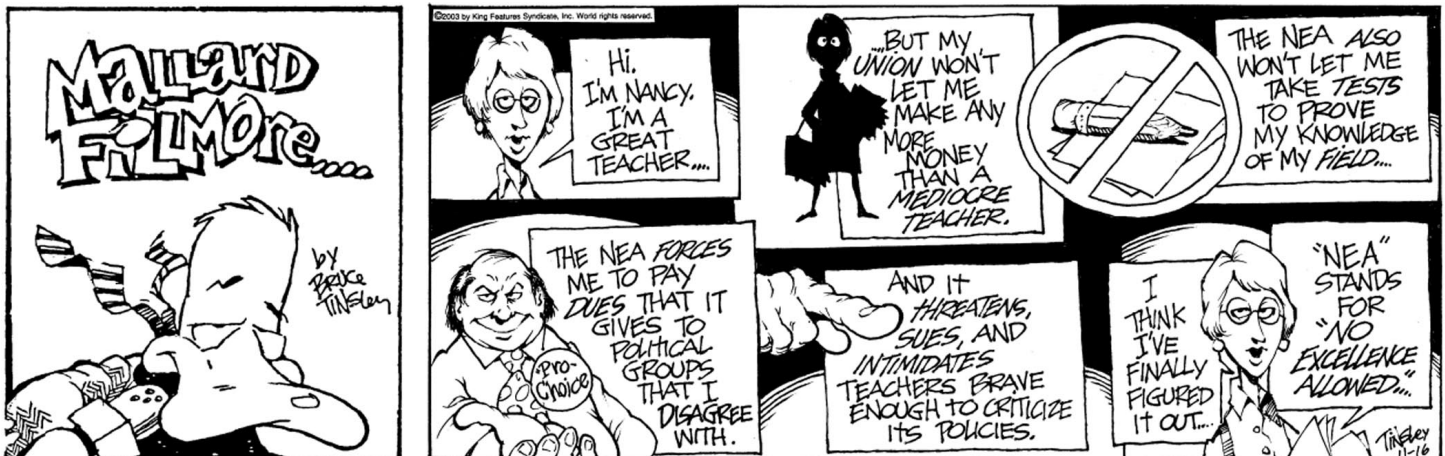
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EEOC to reconcile complaint

While the OEA union has been found guilty of violating its previous conciliation agreement to comply with the law protecting religious teachers,

the EEOC has not yet reached a settlement with the union that would protect teachers of faith in the future. If the EEOC fails to reach conciliation with the union hierarchy, it may either file suit against the union itself, or grant Morgan the right to do so with help from Foundation attorneys.

“Foundation attorneys stand by ready, willing, and able to aid religious employees in Ohio and across America,” stated Mix. “As more and more professionals stand up against this sort of harassment, this belligerent union hierarchy will be forced to back down.” †



A well-known national cartoonist recently featured California schoolteacher Nancy Dean, who won accommodation of her religious beliefs with the aid of Foundation attorneys.

Right to Work Movement Mourns Brave Michigan Educator

Carol Applegate helped pioneer personal 'Right to Think' in face of NEA union tyranny



Former Michigan educator Carol Applegate (left) took on the NEA union and won after being fired for refusal to join.

SPRINGFIELD, Va. — Carol Applegate's battle against compulsory unionism began nearly 36 years ago with what she described as a "very personal, private, quiet protest against what I considered to be unprofessional actions" of teacher union officials. Her personal crusade came to an end with her passing several weeks ago. However, her legacy lives on.

Departing this world late last year at the age of 87, the retired Michigan teacher will be fondly remembered as a pioneer in the battle against teacher union tyranny.

Applegate's personal struggle to reclaim her teaching job after she was fired in 1969 for refusal to pay forced dues to the National Education Association (NEA) union and its affiliates led to a successful high-profile legal battle, won with assistance from National Right to Work Foundation attorneys.

"After winning out over NEA union officials by standing on principle, Carol Applegate became a leader in the fight for the Right to Work of all Americans," recalled Foundation Executive Committee Chairman Reed Larson. "The plight of her fellow teachers under forced unionism was especially close to her heart."

After her legal victory, which secured her reinstatement to her teaching job and the right to negotiate her own contract annually, Applegate served on the board of the Foundation's sister organization, the National Right to Work Committee, from 1972 until 2000. In that role, Applegate helped steer the Committee through a series of important victories over the union political machine and the passage of two additional state Right to Work laws.

When Applegate resigned from the NEA-affiliated Grand Blanc (Michigan) Education Association (GBEA) union in 1968, she made no attempt to publicize her decision or influence anyone else to go along.

Nevertheless, GBEA union bosses were infuriated by this challenge to their power. They demanded that the local school board fire her. More than one-third of the people in her community signed petitions supporting Applegate's freedom to teach without paying union tribute. Yet, after first equivocating, the school board kowtowed to the GBEA brass and fired her anyway.

Years later, Applegate explained her refusal to fork over forced dues (an annual \$426 in current dollars) to keep the job she loved: "I vowed to test in any way possible the validity of a system that says, 'You either pay dues to the teacher union or you will be fired.'"

"I did this because I could not in good conscience stand before my classes and say 'think' when I was being denied the right to think myself," she added.

Foundation attorneys aided teacher in Michigan Supreme Court victory

Applegate and her Foundation attorneys held fast, despite a February 1970 decision by the Michigan Tenure Commission upholding her dismissal.


Finally, in 1972, the Michigan

Supreme Court found that the forced-dues contract authorizing her firing was illegal. The veteran educator soon resumed teaching English at Grand Blanc High School. After being reinstated, Applegate continued teaching until retiring in 1984. At the same time, she became a determined fighter for other teachers' Right to Work.

Two Right to Work awards annually honor teacher's struggle

In 1989, when it was a division of the National Right to Work Committee, Concerned Educators Against Forced Unionism launched the Applegate/Jackson/Parks scholarship to honor Mrs. Applegate and two other Michigan teachers who had been fired for refusing to pay union dues. The National Institute for Labor Relations Research has administered these scholarships since 1997.

Kay Jackson and the late Ann Parks were fired from the Swartz Creek and Detroit public school systems, respectively. The scholarship is annually awarded to the future teacher who submits the essay that most effectively depicts the threat posed to education and academic freedom by forced unionism in public schools.

Meanwhile, just four years ago, the National Right to Work Committee instituted the Carol Applegate Award for presentation to persons who have been most effective in communicating the evils emanating from NEA-style compulsory unionism. The first Applegate award went to G. Gregory Moo, author of "Power Grab: How the NEA is Betraying Our Children." The other recipients are Economics Professor Charles Baird, Ph.D., and journalist Peter Brimelow, author of "Worm in the Apple: How the Teacher Unions are Destroying American Education." 

Hotel Workers Challenge Top-Down Union Organizing Drives

Union organizers used intimidation, workplace harassment, and menacing home visits



At the Four Points by Sheraton Hotel in Santa Monica, HERE union operatives face federal charges.

SANTA MONICA, Calif. — Foundation attorneys have entered two high-profile legal battles in recent weeks on behalf of employees in the hotel industry who have faced everything from intimidation, to stalking, to workplace harassment from union operatives during recent “top-down” organizing drives.

Late last year, six employees at the Four Points by Sheraton Hotel in Santa Monica, California, filed federal charges to challenge a joint effort by union and company officials to corral the hotel staff into union membership against their wishes.

Evidence suggests that Hotel Employees and Restaurant Employees (HERE) Union Local 11 operatives repeatedly attempted to bribe and intimidate employees into supporting the union during a recent organizing drive. Feeling coerced, the group of employees contacted the National Right to Work Foundation, and Foundation staff attorneys filed charges with the National Labor Relations Board (NLRB) alleging unfair labor practices by both the union and the hotel.

Union organizers reportedly offered bribes and special favors

According to employees at the hotel, HERE union organizers used harassment (such as following employees to their homes), made significant rent payments for

many workers, and offered fruit baskets and other special favors to certain hotel employees in order to induce them to sign union recognition cards. After a union-designated official counted the cards and declared that a majority of employees supported unionization, Sheraton management recognized the union as the workplace representative for all employees. The union’s subsequent bargaining demands included a requirement that all employees be forced to pay union dues or fees as a job condition.

However, because union organizers coerced employees into signing such cards (some of which employees later revoked), and over 50% of the employees signed a petition opposing the union officials’ claim that the union has majority support, the union’s status is in dispute. The employees contend that HERE officials should be prevented from bargaining for them. Currently, the employees’ charges are under investigation by a regional office of the National Labor Relations Board.

So-called “neutrality agreements” on the rise

The card-check organizing campaign at the Four Points hotel came about as a result of a so-called “neutrality agreement,” under which union organizers use intimidation tactics to force employers to hand over their employees into forced

unionism in order to end the economic and public pressure brought against them.

“Union officials know they are increasingly less likely to win a traditional, less-abusive government-supervised secret ballot election of employees, and thus, they try to avoid them at all costs,” said Stefan Gleason, Vice President of the Foundation.

While the NLRB charges are pending, Foundation attorneys are also investigating whether, and to what extent, the City of Santa Monica imposed the unionization scheme on Sheraton. Such conduct by a local or state government entity would be preempted by federal law and could be actionable in federal court.

Pittsburgh hotel workers pursue federal case

In a strikingly similar case also involving HERE union officials, two workers at the Renaissance Hotel in Pittsburgh, Pennsylvania, asked the U.S. Court of Appeals for permission to file as *amicus curiae*, or “friend of the court,” in a high-profile federal suit. The workers argue that the “neutrality agreement” used to try to force them to unionize had been unlawfully imposed upon their employer by the city.

After workers throughout the hotel suffered a harassment campaign at the hands of HERE Union Local 57 officials, hotel employees Faith Jetter and David Harlich requested help from Foundation attorneys to file the *amicus* brief in the United States Court of Appeals for the Third Circuit. The two workers seek to block implementation of the back room deal that required their employer, Sage Hospitality Resources (Sage), to actively assist union organizers.

Meanwhile, many other Renaissance Hotel workers are reluctant to step forward publicly. Foundation attorneys have received numerous reports of incidents involving HERE union officials, including physical intimidation, harassment in the workplace, and intimidating home visits —



A Foundation Vice President recently appeared on regional broadcasts across America to expose the AFL-CIO’s plans to obtain more special privileges to aid in “top-down” organizing.

Hotel Workers

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all aimed at coercing employees to sign union authorization cards that would be counted as votes for unionization.

“Faith Jetter and David Harlich have shown tremendous courage by coming forward to stand up for worker freedom,” said Gleason. “The reluctance of their coworkers to speak out as well shows just how successful union operatives have been in striking fear into the hearts of rank-and-file workers.”

Under the “neutrality agreement,” union organizers gained broad access to the hotel to pressure employees into union membership. Union officials also gained access to personal employee information, such as names and home addresses.


Harlich and Jetter allege that the City of Pittsburgh unlawfully required Sage to give up certain rights that are protected by federal law, and that the neutrality agreement interferes with the rights of individual workers to decide their own representation.

HERE union reported to be notoriously corrupt

The HERE union has long been described as a “mob-infested union” rife with corruption. Indeed, the troubled union recently came under federal monitoring after failing to clean its house of organized crime.

Back in 1986, President Ronald Reagan’s Commission on Organized Crime reported shocking evidence that numerous HERE union bosses carried out fraud, money laundering, embezzlement, and racketeering schemes to enrich themselves and the Mafia dons who “took care of” those who opposed them.

Although the union has since been released from oversight by federal authorities, recent evidence suggests that the thuggish manner in which the HERE union operates has changed little.

Ominously, John Wilhelm, current top boss of the HERE international union, is rumored to be a possible heir to John Sweeney’s throne as president of the giant AFL-CIO. 



Message from Mark Mix

President
National Right to Work
Legal Defense Foundation

Dear Foundation Supporter:

Eternal vigilance is the price of freedom.

Recent events in Oklahoma show that the Right to Work movement must never become complacent or take any victory for granted.

As soon as the ink dried on Oklahoma’s constitutional amendment making it the nation’s 22nd Right to Work state, union lawyers filed suit to overturn the popular mandate in the courts.

Of course, the Foundation immediately pledged to devote “all resources necessary” to defending the nation’s newest Right to Work law. If Oklahoma’s law were somehow overturned, every other Right to Work law would be in jeopardy.

Now, the Oklahoma Supreme Court has issued its final ruling, and the result is a hard-won victory for the Right to Work movement and for the voters of Oklahoma.

In fact, Foundation attorneys had to deflect not just one but two union boss legal assaults, including a sneak attack in the form of a collusive lawsuit attempting to invalidate the law without giving its supporters a chance to defend it.

The full legal details of Big Labor’s desperate tactics are reported in this issue of **Foundation Action**, but the lesson needs to be stated clearly.

Big Labor never gives up, and neither should we.

Right to Work victories — whether in the polling place, the legislature, or the courts — are critical, but not enough by themselves. Union lawyers immediately start dreaming up ways of getting around them.

That’s why you and I must be vigilant in defense of our victories even as we pursue new offensive battles to curb Big Labor’s coercive power. Now, with the Oklahoma victory secure, we are facing new threats as they emerge while taking the offensive on other fronts.

Thanks for your continued loyal support. It goes without saying... we couldn’t do it without you.

Sincerely,

Mark Mix