



NATIONAL RIGHT TO WORK LEGAL DEFENSE FOUNDATION, INC.
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Myron Frans, Commissioner
Minnesota Management and Budget
400 Centennial Building
658 Cedar Street
Saint Paul, MN 55155

Dear Mr. Franz:

On June 27, 2018, the United States Supreme Court in *Janus v. AFSCME*, No. 16-1466, held that the automatic deduction of moneys from nonmembers' wages for payment to a union "violates the First Amendment and *cannot continue*. Neither an agency fee nor any other payment to the union may be deducted from a nonmember's wages . . . unless the employee affirmatively consents to pay." Slip op. at 48 (emphasis added).

The Court also held that any agreement by nonmembers to pay money to a union is a waiver of their First Amendment rights, which "cannot be presumed. Rather, to be effective, the waiver must be freely given and shown by 'clear and compelling' evidence." *Id.* (citations omitted). Obviously, a nonmember's authorization for the deduction of moneys for a union signed prior to *Janus* under a statute or collective bargaining agreement requiring payment as a condition of employment was not freely given with knowledge of his or her constitutional right not to pay and cannot provide any basis for the State's continued deduction of union fees.

The State should immediately stop the deduction of union fees from the paychecks of all nonmember state employees. At least one other state comptroller has announced the immediate cessation of nonmember deductions. If you do not immediately follow that example, Foundation staff attorneys will bring a civil rights action seeking class-wide injunctive relief, damages, and attorneys' fees for any nonmember state employees who request their assistance.

Sincerely yours,

Raymond J. LaJeunesse, Jr.

RJL/mmw