



Foundation Action

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VICTORY: California Workers Beat SEIU at Supreme Court

National Right to Work Legal Defense Foundation case sets sweeping new precedent

WASHINGTON, DC – As the muggy Washington, DC summer heated up, so did anticipation about several key U.S. Supreme Court cases at the end of the Court’s term in June. *Knox v. SEIU*, a case argued by National Right to Work Foundation staff attorney Jim Young, did not disappoint.

With the representation of Foundation staff attorneys, Dianne Knox, a courageous California civil servant and lead plaintiff in the case, set a new precedent that has far-reaching implications for America’s workers in the future.



Plaintiff Dianne Knox and Foundation President Mark Mix address the media after oral arguments in the precedent-setting *Knox v. SEIU* case.

SEIU illegally seized political cash

In 2005, Knox -- then an Associate Governmental Program Analyst for the California Department of Rehabilitation -- and her nonunion colleagues were blindsided by a Service Employees International Union (SEIU) “special assessment” aimed at raising money to defeat several state ballot initiatives, including one measure that would have required union officials to receive employee consent before spending their union dues on political activism.

State employees who refrained from SEIU membership were given no chance to opt out of paying the SEIU’s political assessment.

Knox and eight other courageous workers doggedly pursued a class-action lawsuit on behalf of the over 36,000 California state employees who were illegally forced to pay into the SEIU’s so-called “Political Fight Back Fund.”

“The SEIU compelled many nonunion employees to make financial contributions to an organization they had no desire to join or support,” said Knox, who currently works for the California Managed Risk Medical Insurance Board (MRMIB) as a regulations analyst. “That action violates a bedrock principle of American democracy.”

“I did not (and still do not) agree with many of their political stands,” continued Knox. “Freedom of association doesn’t just mean the freedom to sup-

port groups or causes you believe in, it also means the freedom to withhold support from organizations you disagree with.” See *WORKERS WIN* page 6

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Workers Begin Exercising Rights Under Indiana's New Right to Work Law

With the help of Foundation attorneys, employee cuts off union dues despite Teamster bullying

NOBLESVILLE, IN – With the help of National Right to Work Foundation staff attorneys, trucker Robert Symonds has just become one of the first Indiana citizens to exercise his right to stop paying union dues under the new Indiana Right to Work law.

On May 17, 2012, the contract between Teamsters Local 135 and Symonds' employer, Indianapolis Haulage, expired and a new contract was agreed upon. Under Indiana's Right to Work legislation, contracts entered into after March 14 – when the law went into effect – must respect employees' right to refrain from the payment of any union dues. Despite the fact that Symonds resigned his union membership and revoked his dues check-off, Teamster officials initially told him he wouldn't be able to stop paying dues until November 2012.

Symonds responded to this obstructionist tactic by sending a letter to his employer, requesting they comply with Indiana law and immediately stop



Robert Symonds, pictured here with his wife, is one of the first Indiana workers to assert his Right to Work without being forced to pay tribute to union bosses.

deducting dues from his paycheck. On June 29, Teamster officials sent Symonds a letter indicating they would honor his request to immediately stop deducting union dues.

“Unsurprisingly, Teamster bosses were reluctant to give up on their forced-dues privileges,” said Patrick Semmens, Vice President of the National Right to Work Foundation. “That’s why Foundation staff attorneys stepped in to help Robert Symonds assert his rights.”

Symonds' experience reflects an opportunity thousands of Indiana workers will have in the coming months. Under Indiana's Right to Work law, forced-dues contracts between unions and employers entered into prior to the legislation's passage are still valid. As these contracts expire or are modified, Indiana workers who have been forced to pay union dues as a condition of employment will now be able to refrain from paying any dues at all.

Foundation helps protect Hoosiers' Right to Work

Unfortunately, union officials often ignore or actively subvert state Right to Work protections. That's why Foundation attorneys are working hard to bolster Indiana's new Right to Work law at the state level. Two Foundation-assisted employees, Douglas Richards and David Brubaker, recently filed comments with the Indiana Department of Labor, urging state DOL officials to rigorously enforce Right to Work protections. The employees' comments also ask that new enforcement regulations make it clearer that union bosses will be held accountable for violating Hoosier employees' Right to Work.

“We're happy to report that Robert Symonds has stopped paying dues to a union he no longer belongs to,” said Semmens. “However, Foundation attorneys will remain vigilant to ensure that Indiana's Right to Work law is being followed to the letter.” 

Foundation Action

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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.

University Instructor Challenges Illegal Union Collections Racket

Michigan union officials face legal action for violating educator's disclosure rights

LANSING, MI - With free legal assistance from National Right to Work Foundation staff attorneys, a temporary instructor at Central Michigan University (CMU) has spurred a state prosecution against a local union for violating her First Amendment rights.

Nancy Rusch of St. Louis filed a charge with the Michigan Employment Relations Commission (MERC) against the Union of Teaching Faculty (UTF) for illegally confiscating union dues payments from her and her coworkers' paychecks without following federal disclosure requirements.

Because Michigan does not yet have a Right to Work law, nonunion employees like Rusch can still be forced to pay union dues just to keep their jobs at the university. However, Rusch cannot be required to pay union dues or fees for activities unrelated to workplace bargaining, such as union boss political lobbying and members-only events.

Union bosses ignore worker's procedural rights

In the Foundation's *Chicago Teachers Union v. Hudson* victory, the Supreme Court ruled that union officials must provide public workers with an independently-audited financial breakdown of all union expenditures. This procedural safeguard helps inform workers of where their forced union dues and fees are being spent and makes it a little less difficult for employees to opt out of paying dues unrelated to workplace bargaining. Despite this requirement, UTF officials ignored Rusch's repeated requests for information about the union's financial outlays.

After Rusch filed her charge in mid-April, MERC investigated the charge and issued a complaint against the UTF



Foundation staff attorneys helped one Central Michigan University instructor assert her disclosure rights against recalcitrant union officials.

union in early July. A hearing to determine the union's culpability is scheduled for later this summer.

"Union bosses are deliberately keeping rank-and-file workers in the dark to keep their forced-dues gravy train going," said Ray LaJeunesse, Vice President of the National Right to Work Foundation. "To prevent similar abuse in the future, Michigan needs to make dues payments completely voluntary by passing a Right to Work law."

Big Labor takes aim at college campuses

Meanwhile, aggressive union operatives have set their sights on private colleges and universities for future organizing drives. That's why the National Right to Work Foundation is now defending professors' freedom of association at the National Labor Relations Board (NLRB).

Foundation attorneys have just filed an *amicus curiae* ("friend of the court") brief with the NLRB asking it

to uphold the U.S. Supreme Court's long-standing precedent that disallows union officials from pushing most university professors into union ranks.

Foundation staff attorneys filed the brief with the NLRB in a case involving a Communications Workers of America (CWA) Local's attempt to organize professors at Point Park University in Pittsburgh and ultimately force them to pay union dues.

In their brief, Foundation attorneys argue that universities do not fit the industrial model of the National Labor Relations Act (NLRA) – the federal law governing private-sector labor relations for non-managerial workers – a conclusion that the U.S. Supreme Court upheld in *NLRB v. Yeshiva University* (1980). In *Yeshiva*, the Court reasoned that faculty members are endowed with "managerial status" at most universities and removed them from the scope of the NLRA.

"Desperate for more forced dues, Big Labor organizers have resorted to pushing unwilling college professors into union ranks," continued LaJeunesse. "That's why Foundation attorneys are fighting this latest coercive tactic at the NLRB." 

Government Union Officials Sic Collection Agency on Public Defender

Employee unaware of union officials' so-called 'representation'

ALBUQUERQUE, NM – With free legal assistance from National Right to Work Foundation staff attorneys, a public defender from the Alamogordo office of the New Mexico Public Defender Department has filed a state charge against a local government union for wrongfully charging her with failure to pay union dues for the past five years.

Nancy Fleming filed the charge with the New Mexico Public Employee Labor Relations Board against the American Federation of State, County, and Municipal Employees (AFSCME) New Mexico Council 18 union for illegally trying to confiscate forced union dues payments from her paycheck without notifying her that she was in the union's monopoly bargaining unit and while refusing to follow federal disclosure requirements.



Shakedown: New Mexico union officials are having collection agencies harass unsuspecting workers for failing to pay for unwanted union boss "representation."

Governor set stage for unionization of public defenders

In 2003, former New Mexico Governor Bill Richardson recognized AFSCME Council 18 as the monopoly bargaining agent of the state's public defenders. AFSCME Council 18 union officials never asked Fleming if she wanted to be a member or pay dues to the union. In fact, Fleming didn't even know the union claimed to "represent" her.

Because New Mexico does not have Right to Work protections making union affiliation voluntary, workers who refrain from formal union membership may still be forced to pay part of union

See COLLECTIONS RACKET page 7

Supreme Court May Take Another Foundation Case Next Term

Pam Harris's challenge to the forced unionization of homecare workers held over until Fall 2012

WASHINGTON, DC – Following the National Right to Work Foundation's landmark legal victory in *Knox v. SEIU*, the Supreme Court issued an order that postpones until next term a decision whether to hear another Foundation case. Instead of granting or denying review in *Harris v. Quinn*, a case that challenges the forced unionization of personal homecare providers in Illinois, the High Court asked the Administration's Solicitor General to submit a brief on the issues presented.

The *Harris* case challenges a scheme pioneered by disgraced former Illinois Governor Rod Blagojevich and expanded by his successor, Governor Pat Quinn. Under executive orders signed by both governors, personal homecare workers were designated as "public employees" solely for the purpose of



Pam Harris's case against the unionization of Illinois care providers will have to wait until next year.

union organizing, a move that has since forced many unwilling care providers into forced dues-paying ranks.

In fact, Service Employees International Union (SEIU) and American Federation of State, County, and Municipal Employees (AFSCME)

union bosses are now competing to acquire monopoly bargaining control over thousands of other Illinois homecare providers.

Pam Harris, the lead plaintiff in the case and a personal care provider to her developmentally-disabled son, had this to say about the governors' forced unionism scheme last November:

"My primary concern is that someone else will be telling me how to best care for my son. Union dues would be a deduction from what we have available to provide for my son's needs. And then I would be giving my money to a union to exercise their political muscle on issues I may vehemently disagree with."

With the help of Foundation staff attorneys, eight Illinois homecare providers are challenging the Governors' executive orders on the

See CARE PROVIDER UNIONIZATION page 8

SEIU Local Hit with Federal Prosecution for Rigged Card Check “Vote”

Workers stand up to corrupt union agreement with hospital to coerce them into dues-paying ranks

ORANGE, CA – Officials from a major Service Employees International Union (SEIU) healthcare affiliate and an Orange, California hospital are facing legal consequences for coercing and intimidating hospital workers to surrender to union boss control.

With free legal assistance from the National Right to Work Foundation, Chapman Medical Center employee Marlene Felter of Costa Mesa filed charges with the National Labor Relations Board (NLRB) after SEIU Healthcare Workers West and hospital officials colluded to illegally rig a union organizing “vote” to pave the way for the SEIU to claim to “represent” her and her co-workers.

SEIU thugs given free rein to intimidate workers

In the agreement, company officials granted union operatives access to company facilities to conduct a coercive “card check” organizing campaign and waived the right to have a federally-supervised secret ballot election to determine whether employees wished to be unionized.

“It is just ludicrous,” said Felter, a medical coder in the financial department who has been with the hospital’s parent company since 1982. “[The company] said the SEIU can come in and organize [workers without notice].”

“SEIU organizers were calling people on their jobs and showing up at people’s homes at 9 o’clock at night,” added Felter. “They would block people in their homes and driveways. How they got our cell phone numbers I don’t know, but we’ve received numerous calls from different numbers.”

In response to the union’s coercive tactics, a majority of hospital workers signed cards, letters, and petitions stat-



Marlene Felter’s courageous stand defeated SEIU organizers’ attempts to force her and her coworkers under union boss control.

ing that they did not want the SEIU bosses’ so-called “representation.” Instead of respecting the employees’ wishes, Chapman Medical officials accepted SEIU officials as the workers’ monopoly bargaining agents after a rigged “card count” was held.

Courageous workers take stand against union thugs

The situation came to a boiling point in late May, when hospital workers had to call the police to remove SEIU organizers from the hospital cafeteria.

“They would sneak in at the back-door and sit there in the cafeteria with no name badge, trying to organize workers in the cafeteria,” explained Felter. “SEIU [organizers were] in the cafeteria all morning and throughout lunch... [and] refused to leave when approached.”

“It was necessary to call the police for removal, in which they still refused,” added Felter. “When they left they told

me they would be back tomorrow.”

The NLRB Regional Office subpoenaed records from SEIU and found merit to Felter’s charges. The Regional Director then authorized the issuance of a complaint against SEIU and hospital officials for forcing the workers to accept an unwanted union in the workplace by rigging the card check vote.

Meanwhile, Chapman and SEIU officials were in the midst of negotiating a contract which almost certainly would have included a provision to force the workers to pay union dues as a condition of employment.

However, the NLRB will now prosecute the union and hospital if they do not agree to a settlement that includes rescission of the union’s representational status at Chapman.

“Marlene Felter’s courageous stand against SEIU union thugs shows that card check organizing schemes like this aim to force workers into union’s forced-dues-paying ranks, even when the employees want nothing to do with the union,” said Mark Mix, President of National Right to Work. “This further shows why California needs to make union affiliation completely voluntary, by passing a Right to Work law.”

Newsclips Requested

The Foundation is always on the lookout for articles on union bosses’ bad behavior. 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

Workers Win Important New Precedent at Supreme Court

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Workers' case takes long journey to Supreme Court

A federal district court ruled in 2007 that the SEIU was required to provide a notice to nonunion employees about the assessment, allow them to opt-out of paying into the union political fund, and a refund of monies spent on union politics with interest.

However, SEIU lawyers appealed to the U.S. Court of Appeals for the Ninth Circuit, which issued a 2-1 decision reversing the lower court's ruling in December 2010. On June 27, 2011, the United States Supreme Court announced it would review the Ninth Circuit's ruling and eventually set a January 2012 date to hear arguments.

"Allowing the Ninth Circuit's ruling to stand would have established a very bad precedent undermining state employees' First Amendment rights and encouraging union bosses to extract more forced dues for politics from nonunion workers," stated Mark Mix, President of the National Right to Work Foundation.

On June 21, 2012, the Court announced its decision in *Knox*. In a

major victory, the Court held 7-2 (Justice Samuel Alito, joined by Chief Justice John Roberts, and Justices Antonin Scalia, Anthony Kennedy, and Clarence Thomas; and concurred in by Justices Sonia Sotomayor and Ruth Bader Ginsburg) that the SEIU violated the First Amendment by charging political fees to nonmember California state employees without notice and opportunity to opt out.

Precedent could lead to future victories

Even more significantly, a 5-4 Court majority also ruled for the first time that union officials must obtain affirmative consent from workers before using workers' forced union fees for union politicking, stating "when a public sector union imposes a special assessment or dues increase, the union must provide [a notice of the purpose of the assessment or increase] and may not exact any funds from nonmembers without their affirmative consent" – ironically the very thing the SEIU hierarchy tried to prevent in California when it forced nonmember employees to pay into their political assessment.

The five Justices also hinted that they may be open to reconsidering other cases in which the Court previously upheld union bosses' extraordinary powers to require employees to opt out of giving them forced union dues for political activities -- opening the door for a greater expansion of freedom for America's workers.

University of California Irvine Law Dean Erwin Chemerinsky has called *Knox* "a major change in the law" and "the biggest sleeper case" of the Supreme Court's 2011-2012 term.

"Over the course of many years, Dianne Knox has never faltered in her efforts to hold union bosses accountable for illegally confiscating nonunion employees' dues for political activism," continued Mix. "The Supreme Court's precedent-setting decision in *Knox* is the culmination of her hard fought battle – and a total victory for America's workers.

"Of course, this victory was only made possible through the dedication of independent-minded workers like Knox and her colleagues, National Right to Work Foundation staff attorneys, and the Foundation's generous supporters," concluded Mix. 

Key Quotes from Justice Alito's Majority Opinion in *Knox*

"This aggressive use of power by the SEIU to collect fees from nonmembers is indefensible"

"By allowing unions to collect any fees from nonmembers and by permitting unions to use opt-out rather than opt-in schemes when annual dues are billed, our cases have substantially impinged upon the First Amendment rights of nonmembers."

"Unions have no constitutional entitlement to the fees of nonmember employees."

"Requiring objecting nonmembers to opt out of paying the nonchargeable portion of union dues... represents a remarkable boon for unions"

Collections Racket

Continued from page 4

dues to keep their jobs. However, federal case law requires union officials to inform nonmember workers of the amount of union fees they must pay and how the money is spent.

Starting in January, Fleming began to receive notices from a collection agency that the union reported her delinquent in paying union dues dating back to 2006.

Right to Work would negate unusual union boss power

New Mexico is unique among forced unionism states in that it allows union officials to report workers not making union dues payments to local collection agencies. Unfortunately, this quirky law is ripe for abuse, allowing collection agencies to harass unsuspecting workers for failing to pay union dues even if they do not know their workplace is unionized.

“AFSCME union bosses are charging an unsuspecting worker for ‘representation’ she did not even know existed until a collection agency repeatedly harassed her for delinquent payments,” said Patrick Semmens, Vice President of the National Right to Work Foundation. “Thanks to biased federal and New Mexico state laws, union officials are the only private individuals who can claim to ‘represent’ someone and then demand payment from them as compensation. Moreover, it is virtually impossible to know how widespread this problem is in New Mexico.”

“To prevent these types of forced unionism abuses in the future, New Mexico should immediately pass a Right to Work law,” added Semmens. “Making union affiliation and dues payments completely voluntary is the quickest way to close this loophole and ensure workers are no longer bamboozled into paying for unknown and unwanted union boss ‘representation.’”

Make a Planned Gift to Combat Forced Unionism



One of the most effective ways to assist the National Right to Work Legal Defense Foundation in its battle to combat compulsory unionism abuse is to make a planned gift now!

There is no way to know what the federal tax structure will look like even six months from now, but there are areas of certainty you can depend on. Your planned gift to the tax deductible Foundation will generate tax savings and possible lifetime income for you and your family. Here are a few ways to help the ongoing strategic litigation and education programs of the Foundation:

Charitable Lead Trust

A Gift to the Foundation now, return of principal later.

- You can make a significant ongoing gift to the Foundation;
- Your gift can be part of a plan that helps ensure future economic security for you and your family because the principal may be returned to you or your estate at the end of a pre-determined amount of time;
- You may be able to provide your heirs with a greater inheritance than would otherwise be possible;
- You can reduce or actually eliminate income, estate and gift taxes now and in future years with a Charitable Lead Trust.

Charitable Remainder Trust

Receive income now, provide a gift to the Foundation later.

- Increased income for low-yielding assets;
- Reduction or elimination of capital gain, estate or gift taxes that could otherwise be due upon death;
- Diversification of your investments and the potential for tax-free growth of assets;
- Creation of a source of needed income for your family, parents, or other relatives you designate in your trust.

We sincerely hope you will consider making a planned gift to the Foundation today. It is the best “investment” you can make to ensure the Right to Work movement has the resources it needs to fight the battle against forced unionism. Please contact Ginny Smith, Director of Strategic Programs for the Foundation, at 1-800-336-3600, ext. 3303 if you have any questions.

As with any planned gift, we encourage you to contact your estate attorney or tax advisor to help you and your family achieve your financial goals.

Care Provider Unionization

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grounds that forcing them to affiliate with a union and subsidize union activities violates their rights to free expression and association.

Illinois home care providers still stuck in legal limbo

The High Court's latest move keeps hope alive that the Justices will take the case next term and indicates heightened interest in the issues presented.

“My primary concern is that someone else will be telling me how to best care for my son.”

Meanwhile, the Supreme Court instructed the Obama's Solicitor General to submit a brief discussing the legal issues involved. This comes on the heels of an earlier order from the Court asking the State of Illinois to submit a similar brief on the case.

Unfortunately, Pam Harris and thousands of other Illinois homecare providers remain stuck in legal limbo until the Supreme Court makes a final decision regarding their challenge. Meanwhile, aggressive union organizers have copied Blagojevich's forced-unionism blueprint in states like Michigan.

“We hope the Supreme Court will uphold the constitutional rights of Pam Harris and thousands of other hard-working homecare providers, next term” said Ray LaJeunesse, Vice President of the National Right to Work Foundation. “Big Labor has already resorted to similar organizing campaigns in other states, which means even more personal care providers' rights are now at risk.”



Message from Mark Mix

President
National Right to Work
Legal Defense Foundation

Dear Foundation Supporter,

In this issue of Foundation Action, you'll read about some of the latest Foundation-assisted cases – and victories – helping victimized employees against union bosses at some of the most powerful unions in the United States, including the Teamsters, AFSCME, and the radical SEIU.

These unions have something in common besides their illegal attacks on independent-minded workers. Big Labor's top bosses are 100 percent committed to re-electing Barack Obama.

“President Obama, this is your army,” Teamster union chief Jimmy Hoffa, Jr. proclaimed last Labor Day.

“We must work our hearts out to re-elect President Obama,” newly-elected AFSCME top dog Lee Saunders insisted at the union's June convention.

“SEIU's agenda is my agenda,” Obama promised on the campaign trail in 2007 – and he's more than delivered on that promise. It's no wonder the SEIU union bosses were among the first to publicly endorse Obama's re-election.

But you and I both know that rank-and-file workers – even union members themselves – often don't support Big Labor's radical political agenda.

In fact, our poll just before the midterm elections showed that the vast majority of union members oppose the union bosses' political spending binges. 80 percent of union members said they support the Right to Work principle.

As election season heats up, workers across the country will find they've been forced to subsidize electioneering they personally oppose. And we'll be ready to take their cases, thanks to the continued support of concerned citizens like you.

Sincerely,

Mark Mix