



# Foundation Action

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Legal Defense Foundation, Inc.

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## Foundation Backroom Organizing Case Deals Blow to Legalized Union Bribery Scheme

*Appeals Court rejects Obama  
Administration's arguments for  
union deal-making*

HOLLYWOOD, FL - The United States Court of Appeals for the Eleventh Circuit just shot down the Obama Administration's attempt to undo a precedent-setting Right to Work Foundation legal victory against a local union.

The protracted legal challenge was initiated by Hollywood, Florida-based Mardi Gras Gaming employee Martin Mulhall, who is receiving free legal assistance from Foundation attorneys.

In 2004, Mardi Gras entered into a pact with UNITE HERE Local 355 union officials. The company agreed to hand over employees' personal contact information (including home addresses), grant union operatives access to company facilities for the purpose of launching a coercive card check campaign, and refrain from speaking about the downsides of unionization. In return, UNITE HERE officials spent over one hundred thousand dollars in union cash to support a gambling ballot initiative and guaranteed not to picket, boycott, or strike Mardi Gras facilities.

"Backroom organizing deals between company officials and unscrupulous union organizers aren't exactly new, but the cynicism of this agreement shocked



**Foundation attorneys beat the Obama Department of Labor, Department of Justice, and NLRB in court to win a precedent that will help stop union card check deals.**

even us," said Mark Mix, President of the National Right to Work Foundation.

### Union organizing deal was legalized bribery

Federal law aimed at preventing union officials from agreeing to undermine workers' rights in exchange for concessions from management explicitly prohibits employers from giving "any money or other thing of value" to unions. Mulhall's original lawsuit, filed against UNITE HERE and Mardi Gras Gaming in 2008, argued that the information and assistance company officials were supposed to give UNITE HERE organizers was of substantial monetary value to the union.

In fact, union officials admitted as much in a case they filed against Mardi

Gras seeking enforcement of the deal. "Organizing assistance that saves union operatives time and effort was definitely worth something to UNITE HERE bosses, which is why they committed over a hundred thousand dollars to pass a gambling initiative at the company's behest," continued Mix. "That's legalized bribery, and it's outlawed by the Labor Management Relations Act."

### Obama Administration intervenes for Big Labor

In their precedent-setting decision, a panel of the Eleventh Circuit agreed with Mulhall's argument, ruling that organizing assistance can be an unlawful "thing of value." Union lawyers subsequently petitioned the full court to rehear the case, a petition that the

See BACKROOM UNION ORGANIZING, page 8

## IN THIS ISSUE

- 2 Worker's Suit Stops Union Bosses from Forcing Employees to Pay Full Dues
- 4 Right to Work Foundation's Charter School Initiative Takes Off
- 4 Foundation Continues to Defend Indiana Right to Work Law
- 5 Charitable Tax Planning Now for Future Benefits
- 6 Union Bosses Set Forest Fire Captain's Religious Rights Ablaze
- 7 Hawaii Hotel Workers Hit Scofflaw Union with Federal Charges

## Worker's Suit Stops Union Bosses from Forcing Employees to Pay Full Dues

### *Verizon worker refused to leave job during highly-publicized strike*

NEWPORT NEWS, VA – With free legal assistance from the National Right to Work Foundation, a courageous Verizon worker has won a settlement from the company and local union officials affecting workers across the Mid-Atlantic region.

Late last summer, in the heat of tense negotiations over an expired contract, Communications Workers of America (CWA) union bosses in the Northeast and the Mid-Atlantic ordered Verizon employees to strike.

The strike ignited highly-publicized and contentious incidents between striking union goons and company employees who continued to work. Union militants cut phone, internet, and cable lines and intimidated workers who stayed on the job. Most famously, one union partisan ordered his young daughter to stand before a moving Verizon truck staffed by Verizon workers who refused to leave their jobs to continue to provide for their families.

Upset by CWA union officials' strike order and unwilling to walk off their jobs, Williamsburg-area Verizon worker Monika Cassell and several other



***A union militant was caught on video using his daughter to stop an oncoming Verizon truck while hurling expletives at the driver during a recent strike.***

Verizon employees resigned from the CWA union and its affiliate Local 2205 and revoked their dues deduction authorizations – documents used by union officials to automatically collect dues from employees' paychecks – while the union did not have a contract at their workplaces.

### **Union dues deduction authorizations were illegal**

Under Virginia's popular Right to Work law, no worker can be required to join or pay dues or fees to an unwanted union. Under federal labor law, employees can revoke their dues deduction authorizations only once a contract ends or during a small window of time when union and company officials agree to allow them to exercise their right to do so. Otherwise, workers who refrain from union membership can still be forced to pay union dues while their dues deduction authorizations are in effect – even in Right to Work states.

As if federal law wasn't already biased enough in pushing workers to pay dues to union bosses, Verizon and CWA Local 2205 negotiated a contract that explicitly stated that a dues deduction authorization can *only* be revoked during the 14 days leading up to the anniversary of when a contract was signed.

"After Cassell and her coworkers revoked their dues deduction authorizations, CWA union officials argued that

## 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.

because no contract was in effect, there is no 14 day window period and therefore the workers' must continue to pay full union dues," explained National Right to Work Foundation Legal Director Ray LaJeunesse. "In theory, as long as CWA union and Verizon officials did not negotiate a contract, workers who wanted to revoke their dues deduction authorizations while no contract was in place could be forced to pay full union dues indefinitely."

At the behest of CWA union bosses, weak-kneed Verizon officials continued to confiscate full union dues from Cassell and her coworkers despite their attempts to opt out.

## Worker fights back; Verizon sells out workers

Cassell contacted the National Right to Work Foundation and filed unfair labor practice charges with the National Labor Relations Board (NLRB) against the CWA union, its Local 2205, and Verizon for ignoring her right to refrain

from paying union dues. The pro-forced unionism NLRB quickly dismissed Cassell's charges, concocting an incorrect interpretation of a federal labor law not under their jurisdiction.

Meanwhile, spineless Verizon officials and CWA union bosses agreed to a contract that retroactively applies to the time no contract was in effect – a blatant attempt to force workers who exercised their right to refrain from dues paying union membership to pay full union dues again.

Undeterred, Cassell and Foundation attorneys then filed a lawsuit in federal district court.

## Federal lawsuit forces settlement

After seeing the writing on the wall, Local 2205 and Verizon officials finally caved, agreeing to a settlement to avoid federal court.

The settlement requires Verizon and union officials to return all illegally-seized union dues and fees with interest

to Cassell. But most significantly, the settlement requires CWA Local 2205 union officials to acknowledge the revocation of all workers' dues deduction authorizations during the strike and in similar situations in the future for all workers in the bargaining unit, affecting Verizon workers in Virginia; Washington, D.C.; Maryland; and West Virginia.

"It is indefensible that workers who exercised their right to resign their union membership and continued to work to support their families had to resort to a federal lawsuit after their rights were blatantly violated," said Mark Mix, President of National Right to Work. "Although Foundation attorneys have won a full capitulation from Verizon and CWA union officials in this case, CWA operatives continue to use illegal dues deduction authorizations that prevent other workers from exercising their statutory right to refrain from full union dues payments when a union contract is not in effect. I encourage employees in similar straits to contact our legal team immediately." 

## Spotlight on . . . Nathan McGrath, Staff Attorney



The National Right to Work Legal Defense Foundation recently hired Nathan McGrath, a native of Pittsburgh,

Pennsylvania, as the latest addition to its legal staff. McGrath is an active member of the Bar of the Commonwealth of Pennsylvania and a 2010 graduate of the Regent University School of Law in Virginia Beach, Virginia.

As the newest of the Foundation's 12 staff attorneys, McGrath will help build on the Foundation's litigation record for union-abused workers that

includes 15 cases at the U.S. Supreme Court. Currently, National Right to Work Foundation attorneys represent thousands of workers in nearly 200 active cases nationwide.

Before joining the Foundation, McGrath was an Associate Attorney for Lawlor & Lawlor, P.C., in Pittsburgh, Pennsylvania and served as an intern for the Honorable Robert J. Humphreys, a Virginia Court of Appeals judge. Prior to starting his legal career, McGrath worked at the National Right to Work Committee, advocating for legislation across the country to roll-back Big Labor's forced unionism powers.

Additionally, McGrath spent several years as a legislative assistant for U.S. House Representative Donald A. Manzullo (IL-16), during which

time he handled Rep. Manzullo's labor policy, in addition to other policy issues.

While at Regent, McGrath participated in a variety of organizations. He was the Symposium & Senior Editor of the Regent University Law Review and Vice Chairman of the Trial Advocacy Board. He also holds a bachelor's degree in Communications with a minor in Business from Grove City College, where he graduated in 2004.

He enjoys spending time with his family, including his wife and daughter, coaching soccer, and travelling.

McGrath brings energy and dedication to the mission of defending individual liberty against the injustices of compulsory unionism in the workplace.

## Right to Work Foundation's Charter School Initiative Takes Off

*Foundation publishes book educating charter school teachers and employees about their rights*

SPRINGFIELD, VA - Late last year, a teacher union boss declared online that “[C]harter schools are not going away despite 20 years of protesting... It is time to ‘get in the game’ and make it ours.”

Union bosses are definitely living by the creed “If you can’t beat them, conquer them” when it comes to charter schools. And that is why the National Right to Work Foundation’s new Charter School Initiative is so important.

The new initiative is geared toward educating charter school teachers and support personnel about their rights and helping them exercise those rights in a time of need. Foundation legal staff have already fielded calls from concerned charter school employees from across the country.

Meanwhile, major media outlets and education reporters are taking notice and Foundation staff have already received numerous inquiries about the Foundation’s new initiative.

Foundation attorneys recently published a new 94-page book aimed at educating charter school workers about their rights and are working diligently to provide the books free of charge to charter school employees who need them. The book is also available online at the Foundation’s website.

“Concerned parents and taxpayers are waking up to the detrimental effect teacher union monopoly bargaining power has on the educational attainment of the next generation of Americans. Consequently, more are opting for alternative means of education,” stated Mark Mix, President of National Right to Work. “And now union bosses, who have already proven they hate competition, have set their sights on charter school teachers and employees. But they will not succeed without a fight from independent-minded workers.”

“The Foundation’s charter school initiative provides charter school workers with the tools necessary to fight back

### Know Your Workplace Rights



**A new Foundation booklet is aimed at helping Charter School teachers protect their rights.**

against Big Labor’s newest scheme to coopt them,” added Mix. “And thanks to the support of concerned citizens like you, charter school teachers and employees will have someone in their corner when the going gets tough”

## Foundation Continues to Defend Indiana Right to Work Law

*Shameless union lawyers equate Right to Work with “slavery”*

SPRINGFIELD, VA - As a union-backed legal onslaught against Indiana’s new Right to Work law continues apace, Right to Work staff attorneys are defending worker freedom in state court. With free legal aid provided by the National Right to Work Foundation, two Indiana workers – David Brubaker and Douglas Richards – submitted an *amicus curiae* brief to protect their Right to Work.

Brubaker and Richards are responding to an anti-Right to Work lawsuit filed by United Steel Workers (USW) lawyers in April. The USW legal complaint makes a number of dubious claims about Indiana’s new law, including an argument that unions have a Constitutional right to force workers to pay for their unwanted services.



**After losing the legislative battle, union lawyers have turned to the courts to protect their forced dues.**

Both Brubaker and Richards are employed in workplaces where a forced dues contract remains in place between

their employers and the USW. Consequently, both workers are still forced to pay union dues just to keep their jobs, despite the fact neither belongs to the union nor sought the union’s so-called “representation.”

Although Indiana’s recently-enacted Right to Work law states that no employee can be required to pay union dues as a condition of employment, forced dues contracts between unions and employers entered into before the effective date of the law remain in force throughout the state.

According to Brubaker and Richards, monopoly bargaining agreements that force nonunion employees to subsidize union activities – such as the agreements to which both workers are currently subject – infringe on their First

Amendment rights to freedom of speech and freedom of association. Brubaker and Richards have no desire to affiliate with the USW union or contribute financially to union activities, and Indiana's new Right to Work law will free them from those obligations as soon as their employers' current contracts with the USW union expire.

## Union operatives say Right to Work equals slavery

In an Orwellian twist, another union legal challenge – this one from International Union of Operating Engineers (IUOE) bosses – claims that state Right to Work laws violate the 13<sup>th</sup> Amendment to the U.S. Constitution, which outlawed slavery. According to IUOE lawyers, requiring dues-paying union members to work alongside non-dues paying workers is tantamount to forced servitude.

“Meanwhile, millions of unwilling workers labor under monopoly bargaining contracts that force them to pay union dues just to keep their jobs,” noted Patrick Semmens, Vice President of the National Right to Work Foundation.

Unsurprisingly, the same union faces a series of unfair labor practice charges for violating workers' rights. Most recently, Foundation attorneys helped David Bercot file charges against the IUOE for refusing to provide him with any information about IUOE expenditures. Like Brubaker and Richards, Bercot will continue laboring under a monopoly bargaining contract that pre-dates Indiana's new Right to Work law until the agreement expires. He is, however, still entitled to information on union financial expenditures and to opt out of paying for union politics.

“If you believe union lawyers' outrageous arguments, giving workers a choice by ending union bosses' forced dues regime is equivalent to slavery,” continued Semmens. “Not only does this give you an idea of union bosses' skewed worldview, it also demonstrates the utter bankruptcy of their anti-Right to Work arguments.” 

## Charitable Tax Planning Now for Future Benefits

There is much to consider when reviewing planned giving options for you and your family. One thing is for certain: tax consequences must be considered when planning a charitable gift to the National Right to Work Foundation.

With the Dow Jones Industrial Average back up to recent highs in the 13,000 range, gifts of stocks and other appreciated securities hold renewed attraction to many supporters. If you own stocks, mutual funds, or other securities that have increased in value since they were purchased, this may be the time to consider a gift to the Foundation.

Appreciated securities are subject to a capital gains tax when they are sold. Gifts of stock may be deducted in amounts totaling up to 30 percent of your AGI limit. If you decide to contribute a gift of securities (that you have owned for more than one year) to the Foundation, the capital gains are not taxable and you will receive a charitable tax deduction for the full fair market value of the securities as of the date of the gift!

Please consider a gift of stock or mutual funds today. It is the best investment you can make to the future work of the Foundation – and you will ensure significant tax savings for you!

Shares of stock may be transferred directly to the Right to Work Foundation's investment account as follows:

### Donations of Stock or Securities Electronic Transfer of Securities to:

Bank of America, N.A.  
100 W. 33rd Street  
New York, NY 10001  
Beneficiary: Merrill Lynch  
11951 Freedom Drive, 17th Floor  
Reston, VA 20190  
Routing (ABA) Number: 026009593  
DTC# 5198  
Account # 6550113516  
C/O National Right to Work Legal Defense  
and Education Foundation, Inc.  
Foundation Account #86Q-04155

If you are planning to transfer securities to the Foundation, please contact our Planned Giving Department at 1-800-336-3600, Ext. 3303. Be sure to consult your own tax advisor to ensure that such a gift is right for you.

## Union Bosses Set Forest Fire Captain's Religious Rights Ablaze

*Union officials hide abusive practices behind state-sanctioned smokescreen*

SUSANVILLE, CA – With free legal assistance from National Right to Work Foundation attorneys, a California Department of Forestry (CalFire) fire captain has filed a religious discrimination charge against the California Department of Forestry Firefighters (CDFFF) union for violating his statutory right to refrain from paying forced union dues to support a union hierarchy involved in activities he considers immoral.

Susanville firefighter John Valentich filed the charge against the CDFFF union with the California Department of Fair Employment and Housing and the Equal Employment Opportunity Commission located in San Francisco.

### Union officials and state play God with firefighter's rights

The situation ignited when Valentich, who attends an Evangelical Free Church and has sincere religious beliefs which bar him from joining or paying money to the CDFFF union, asked union officials for a religious accommodation that would allow him to redirect his union fees to a mutually agreed-upon charity. Valentich objects to the union hierarchy's support for abortion and gay rights.

Despite Valentich's sincere religious beliefs, the union's lawyer told him that he was not a member of a church authorized for accommodation by California law, and therefore he was not entitled to an accommodation.

"I was very disappointed," lamented Valentich, who has over 24 years of service with CalFire. "In the fire service we are trained to protect life first, property, and then the natural resources of the state of California... It seems the union ignores the life part if it doesn't fit with their agenda."

Valentich turned to the National Right to Work Legal Foundation for help.



**Unscrupulous union bosses torched a California firefighter's religious rights to collect more forced dues for their political agenda.**

"I stumbled across the Right to Work Foundation when I was doing research about Right to Work states and found the website," said Valentich. "My experience with the Right to Work Foundation has been very positive... [Foundation attorneys have] been very helpful and I appreciate [them] for that."

"The state essentially empowered union officials to determine whose religious rights were fire proof and whose go up in smoke," stated Mark Mix, President of the National Right to Work Foundation. "It is outrageous that union officials and state bureaucrats get to decide which religions are state-approved and which are not."

### Right to Work law serves as religious discrimination firebreak

Title VII of the Civil Rights Act forbids discrimination against religious employees and requires companies and unions to attempt to reasonably accommodate employees' sincerely-held religious beliefs. The obligation to accommodate applies to the payment of compulsory union fees, as no employee should be forced to fund a union that engages in activities that offend their religious convictions.

Because California does not have a Right to Work law, nonmember workers can be forced to pay union dues and fees. However, employees who have a sincere religious objection to supporting a union – regardless of church affiliation – may divert their compulsory union dues to a mutually-agreed upon charity instead.

Although union bosses often use state law to turn down religious workers' requests to divert forced dues to charity, it is more often the fact that workers don't even know they have that option in the first place.

Union bosses often keep religious workers in the dark about their right to redirect their forced union dues to a third party charity. That's why the National Right to Work Foundation's legal aid program focuses on disseminating information about workplace rights to religious institutions and protecting employees' religious freedom of conscience in the workplace.

"If someone has a sincere religious objection to supporting a union, his or her rights should be respected by the state of California" continued Mix. "Protecting employee freedom of conscience is one of our core missions, but until California passes a Right to Work law, workers like John Valentich will have to resort to lengthy litigation to protect their religious freedom from unscrupulous union bosses." 

# Hawaii Hotel Workers Hit Scofflaw Union with Federal Charges

***Nonunion employees were forced to subsidize union politics, strikes***

HONOLULU, HI – With the help of National Right to Work Foundation staff attorneys, three Honolulu-based hotel workers are holding union officials accountable for illegally forcing non-member employees to subsidize union political lobbying and strikes.

Grant Suzuki, Daryl Sakugawa, and Steven Taono are employed at three different Honolulu hotels. All three employees are also subject to a monopoly bargaining agreement between their employers and the UNITE HERE Local 5 union, an agreement that requires them to pay union dues just to keep their jobs.

Because Hawaii is not one of the 23 Right to Work states that guarantee workers a free choice when it comes to union membership and dues payment, employees can be required to pay part of dues or fees to a union as a condition of employment. Thanks to the Foundation-won *Communication Workers v. Beck* Supreme Court case, however, nonmember employees cannot be forced to pay for union activities outside the scope of workplace bargaining, such as union politics or members-only activities.

“In this case, UNITE HERE union bosses ignored the law to extract forced dues for politics from nonunion employees,” said Patrick Semmens, Vice President of the National Right to Work Foundation.

## Union books reveal illegal dues-collection racket

In December 2011, UNITE HERE officials sent Suzuki and Taono a legally-required breakdown of union expenditures. Sakugawa received similar documents in March 2012. In both cases, the union’s books showed that nonunion workers were being charged for a variety of activities unrelated to workplace bargaining, including a union strike fund and UNITE HERE political lobbying.

“There is a Supreme Court precedent that allows nonunion members to avoid



***Trouble in paradise: Aloha State hotel employees were forced to support union lobbying just to keep their jobs.***

paying for things that support the union’s political agenda,” said Suzuki. “You have an absolute right not to join a union. Even in non-right-to-work states, you can’t be forced to join a union to get or keep a job.”

Shocked by the union’s brazen disregard for federal law, all three employees turned to the National Right to Work Foundation for help.

## Hawaii hotel union has a history of abusing workers’ rights

Unfortunately, this latest episode did not come as a surprise to Foundation lit-

igators. UNITE HERE Local 5 has a long history of ignoring nonunion employees’ rights.

Suzuki has repeatedly clashed with union officials, filing successful unfair labor practice charges in 2008 to force UNITE HERE operatives to return illegally-seized union dues. Suzuki has since been targeted by union officials for harassment because he informed his coworkers of their rights to opt out of union dues, resign their union membership, and continue working during union-instigated strikes.

“I was paying close to \$1,000 [a year] in annual dues. After I won that case, I started paying about \$100 [a year],” said Suzuki, explaining his decision to leave the union and opt out of paying full dues. “I didn’t want to pay for the things that I’m not obligated to pay for, like giving money to political candidates, picnics, and trips.”

## Aloha State Right to Work law is the only solution

**“I didn’t want to pay for the things that I’m not obligated to pay for, like giving money to political candidates.”**

Despite UNITE HERE’s troubled history, Suzuki, Sakugawa, and Taono can still be forced to pay union dues to keep their jobs. Until Hawaii adopts a Right to Work law, similar arrangements will remain in place throughout the state’s popular hospitality industry.

“Considering their track record, I don’t think this is the last we’ll hear from Local 5’s scofflaw union bosses,” continued Semmens. “Employees shouldn’t have to resort to years of litigation to protect their hard-earned paychecks, which is why a Hawaii Right to Work law – making union dues and membership completely voluntary – is the best way to protect workers from these abuses.”

## Foundation Fights Backroom Union Organizing

continued from page 1

appellate court denied.

Obama Justice and Labor Department officials, along with controversial National Labor Relations Board (NLRB) Acting General Counsel Lafe Solomon, filed an *amicus curiae* brief supporting the union lawyers' position.

Now that the Appeals Court has decided that the organizing assistance UNITE HERE received can be a "thing of value," the case has been remanded to Federal District Court to be decided on the merits. Even if Mulhall loses in District Court, Foundation attorneys believe that the precedent established by the Eleventh Circuit could prevent future backroom organizing deals between companies and union operatives that undermine workers' rights.

"Union bosses and the Obama Administration have failed to roll back a major, precedent-setting victory that breathes new life into a long-neglected section of the Labor Management Relations Act," concluded Mix. "The court's decision will help us protect employees from being victimized by backroom deals between management and union organizers." †

### Newsclips Requested

**The Foundation is always on the lookout for articles on union malfeasance, corruption, and violence.**

**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](mailto:wfc@nrtw.org)**



## Message from Mark Mix

President  
National Right to Work  
Legal Defense Foundation

Dear Foundation Supporter,

It's a classic David versus Goliath story.

Your Foundation versus the multi-billion dollar Big Labor machine – backed by its army of union lawyers – joined by the Obama National Labor Relations Board (NLRB), Department of Labor, and Department of Justice, all using your tax dollars to push for more forced unionism powers.

Outmanned, outgunned, and with only a fraction of the resources of Big Labor and its Obama Administration allies, the Right to Work Foundation still continues to win significant victories for American workers.

As you may have read in this issue of **Foundation Action**, Foundation attorneys staved off an attempt by union lawyers and the Obama Administration to strike down a worker's precedent-setting victory.

The very fact that the Obama Administration swooped in with a failed attempt to save the day for union bosses shows just how important this case is in the fight to protect independent-minded workers from the injustices of forced unionism.

Undeterred, the billion dollar Big Labor machine relentlessly seeks to seize control over more American workers in the private and public sectors, including in our schools (with new efforts aimed at charter schools). And the Obama Administration is more eager than ever to assist the union bosses in any way possible.

While Big Labor is backed by the billions of forced dues taken from hard-working Americans, and the Obama Administration is backed by billions more of taxpayers' dollars, your Foundation attorneys will continue to tirelessly defend liberty on a relatively tiny budget derived entirely from the voluntary contributions of generous supporters like you.

Against all the odds you have helped accomplish great things. And we didn't even need a slingshot and five stones.

Thank you for helping us. Keep up the good fight.

Sincerely,

Mark Mix