



# Foundation Action

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

Vol. XXXI, No. 2

8001 Braddock Road • Springfield, Virginia 22160

www.nrtw.org

March/April 2011

## Obama Labor Board Pushes Card Check Forced Unionism

*Forced union advocates cherry-pick enforcement powers to assist union bosses*

WASHINGTON, DC — Never satisfied with their plethora of government-granted special privileges, union officials spent a record-smashing billion dollars in workers' union dues to elect President Barack Obama and other forced unionism allies into political office in 2008.

The effects of Big Labor's spending spree continue to reverberate, as Obama's extreme pro-forced unionism appointees to the National Labor Relations Board (NLRB) are selectively using the Board's enforcement powers to grease the skids to force more workers into union dues-paying ranks via "card check" forced unionism.

As a result, Obama's NLRB ideologues are undermining any remaining appearance of impartiality, creating a biased agency that prioritizes advancing aggressive union organizers' interests at the expense of independent-minded workers' rights. Stacked with Big Labor-approved appointees, the ideologically-charged Board is chiseling away at workers' rights against card check forced unionism at an alarming rate.

Last year, voters in Arizona, South Carolina, South Dakota, and Utah supported



*Obama's Big Labor-approved NLRB is pushing a radical forced-unionism agenda on America's workers.*

state ballot amendments aimed at prohibiting coercive card check union organizing drives. After the laws were enacted, the NLRB publicly threatened to sue the states citing "federal preemption," the legal concept that federal statutes preempt state law.

### NLRB Hypocritically Threatens States with Lawsuits

Meanwhile, the Big Labor-controlled NLRB has not asserted federal prerogatives in potential cases that could undermine union special privileges.

For example, National Right to Work Foundation attorneys are currently representing Carol Jean Badertscher, an independent-minded nurse who was threatened with fines and jail time under California's draconian "anti-strikebreaker" law for crossing a union picket line.

Although the NLRB's own General Counsel acknowledged that the Califor-

nia law is preempted by the National Labor Relations Act, the Board declined to act to negate the law or issue remedial information to California workers about their rights to continue working during a strike.

### Board's new rules would unfairly benefit predatory union organizers

Earlier this year, the NLRB also proposed new rules governing the notification of employee rights in the workplace — prioritizing the advancement of union officials' interests over providing truthful and accurate information to employees.

Under the proposed rules, every employer in the country would be forced to inform their workers about their ability to organize a union. But workers would not be told what their rights are under Right to Work laws or under the Foundation-won U.S. Supreme Court *Beck* decision, which

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## Obama NLRB's Big Labor-approved forced unionism agenda

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held that workers forced to pay dues don't have to pay the part used for politics.

In contrast to the notice requirement the Board would impose on employers, union officials would not be required to issue information about workers' rights to refrain from union membership or opt out of union dues.

The NLRB also refrained from proposing a requirement that workers be informed that an organizing campaign could result in the mandatory payment of union dues as a condition of employment. Additionally, the proposed rules fail to require union organizers to explain to workers exactly what they're signing when presented with union authorization cards during coercive card check organizing drives.

### Just the beginning

Media reports suggest that the NLRB is poised to institute a form of card check forced unionism nationwide via bureaucratic fiat. Meanwhile, Right to Work attorneys have filed briefs with the Board to protect Foundation-won workers' rights to a secret ballot election within 45 days of a card check forced-unionism campaign.



**Mark Mix, President of National Right to Work, appeared on Fox News to warn Americans of the dangers posed by Obama's radical appointees to the NLRB.**

"It seems the NLRB is determined to make sure union bosses are not disappointed in the results of their forced-dues funding political activism," said Mark Mix, President of the National Right to Work Foundation. "I'm afraid we have just seen the beginning of the Board's obvious pro-union-boss bias as it has begun

issuing rulings that could shape American labor law for decades to come."

"Of course not all is lost," added Mix. "With your help, the National Right to Work Foundation — the premier worker advocate in the country — is fighting to roll back the NLRB's blatant union boss giveaways." ✚

## Foundation Action

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Distributed by the  
**National Right to Work Legal Defense and Education Foundation, Inc.**  
8001 Braddock Road, Springfield, Virginia 22160  
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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.



**Former SEIU and AFL-CIO union lawyer Craig Becker has long believed the NLRB should institute "card check" forced unionism on all of America's workers.**

# Right to Work Calls for Investigation into Pro-Big Labor Rule Change

*Union boss-dominated NMB changed election rules to stack deck for unionization*

WASHINGTON, DC — The National Right to Work Foundation is urging Congress to investigate a rule change at the National Mediation Board (NMB) that gives union operatives a leg-up when attempting to push air and railway workers into Big Labor's forced dues-paying ranks. Foundation President Mark Mix submitted letters to Representatives John Kline, John Mica, and Darrell Issa in mid-January, asking them to open an immediate investigation into the Board's newly-approved election procedures.

**“Beyond undermining workers’ rights, the new rules were also adopted under extremely suspicious circumstances.”**

Last year, the Board hastily implemented new union certification procedures over the vocal objections of NMB Chair Elizabeth Dougherty. Foundation attorneys currently represent five Delta employees who are challenging the NMB's rule change in federal court.

Beyond undermining workers' rights, the new rules were also adopted under extremely suspicious circumstances. The two NMB members who voted to approve the changes, Harry Hoglander and Linda Puchala, are former union officials with the Air Line Pilots Association (ALPA) and Association of Flight Attendants (AFA), respectively. Both unions were a major part of an AFL-CIO-led coalition that prompted the NMB to dis-

card its previous election procedures, which had remained in force for 75 years under both Democratic and Republican Administrations.

## New procedures favor union organizers

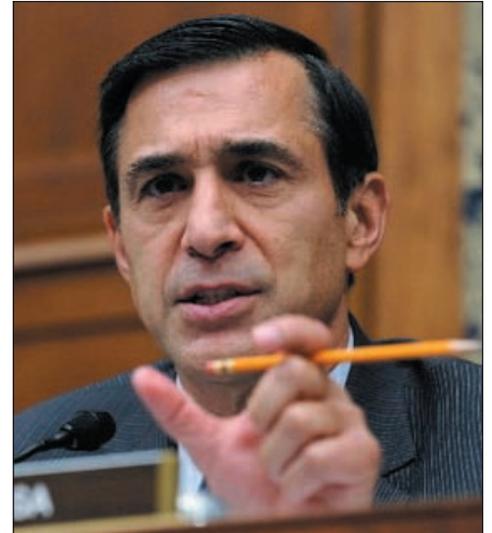
In his letter to Reps. Kline, Mica, and Issa, Mix pointed out that the rule change effectively “stacks the deck” in favor of union organizers. Under the previous standard, union organizers had to win majority approval from all workers in a given bargaining unit. Now, Big Labor operatives only have to win support from a majority of employees participating in a unionization election to acquire monopoly bargaining privileges over everyone in the workplace.

Foundation attorneys believe that the new rule is unconstitutional because it violates workers' rights of freedom of association and due process. The rule change is particularly troubling because the procedure for ejecting an unwanted union in the rail or airline industry is lengthier and more complicated than in other workplaces.

“Kicking out an unwanted union is an arduous process under the best of circumstances, but in the rail and airway industries, it's even more difficult,” said Patrick Semmens, Legal Information Director for the National Right to Work Foundation. “Former union bosses on the NMB have made union ranks into a veritable roach motel for employees — easy to get in, but impossible to leave.”

## Foundation attorneys help flight attendants challenge Big Labor power grab

While Mix urges Congress to investigate the NMB's abrupt rule change,



**Foundation President Mark Mix is urging Congressman Issa to open an immediate investigation into a rule change that dramatically increases the power of union officials to organize workers in the rail and airway industries.**

Foundation attorneys are helping a group of flight attendants fight the new election procedures in court. As reported in the July/August 2010 issue of **Foundation Action**, several Delta employees — led by Ashton Therrel, a 15-year industry veteran — contacted the National Right to Work Foundation for legal assistance.

Foundation attorneys promptly filed a motion for the employees to intervene in a federal lawsuit brought by the Air Transport Association (ATA) that seeks to overturn the NMB's dramatic rule changes.

When interviewed for **Foundation Action** last year, Therrel noted that AFA organizers have unsuccessfully tried to unionize him and his Delta coworkers three times since he became a flight attendant in 1995. The new union organizing rules make it much more difficult for independent-minded Delta employees to contend with Big Labor's well-funded professional organizing machine.

# Groundskeeper Asks Appeals Court to End Union Boss Pact

*Employee rights get lost in the weeds when company officials, union bosses meet in secret*

HOLLYWOOD, FL — With the help of Foundation attorneys, a Florida-based casino employee is taking his challenge of a corrupt agreement between his employer and local union officials back to a federal appeals court. His case may shape the landscape of how union bosses are held accountable to independent-minded workers in the workplace.

## District court nips workers' fight for rights in the bud

In 2008, Mardi Gras Gaming groundskeeper Martin Mulhall filed suit to invalidate a so-called "neutrality agreement" between the company and UNITE HERE Local 355 officials. Neutrality agreements are hardly neutral to workers' rights, as they regularly give union organizers license to browbeat and intimidate workers into acceding to unionization.

Mulhall's case initially suffered a setback after a federal district court ruled he did not have standing. Undeterred, Foundation attorneys helped Mulhall appeal the court's decision and won the right to proceed when the United States

Court of Appeals for the 11th Circuit ordered the lower court to decide the case on the merits. The lower court again ruled against Mulhall, who is now asking the Appeals Court to decide the merits.

## Casino rakes in \$100k in political support from union politicians

As reported in the November/December issue of **Foundation Action**, Martin Mulhall and his coworkers at Mardi Gras were subjected to the threat of a coercive "card check" union organizing scheme after company and UNITE HERE Local 355 union officials entered into the depraved deal.

Mardi Gras Gaming promised union operatives they would hand over employees' personal contact information (including home addresses), grant union officials preferential access to company facilities for the purpose of corralling workers into union ranks, and not request a federally-supervised secret ballot election to determine whether the employees actually want to unionize.



*Because of their backroom deal, UNITE HERE union bosses are laughing all the way to the bank while independent-minded workers are left to lament.*

In exchange for the agreement, Local 355 union bosses spent over one hundred thousand dollars in workers' union dues to lobby voters to pass a gambling ballot initiative and promised to not picket, boycott, or strike against Mardi Gras Gaming.

Federal law — namely the Labor Management Relations Act (LMRA) — explicitly prohibits employers from giving "any money or other thing of value" to unions to prevent unions from selling

see **UNION BOSS** page 8



## Join the Foundation's Legacy Society

We have highlighted the Foundation's Legacy Society in previous issues of **Foundation Action** and have been greatly encouraged by our supporters' response. We are just a few months away from celebrating our sixth anniversary of the Legacy Society, with a current enrollment of 115 members.

You can enroll today and become a member of the Legacy Society by making a planned gift of any kind to the Foundation and then letting us know of your plans. Your commitment to the future of the Foundation's program by making a planned gift will contribute to the long-term growth and well-being of the Right to Work Foundation's strategic litigation goals.

If you would like more information or have questions regarding planned giving, please contact Ginny Smith at 1-800-336-3600, ext. 3303.

# Foundation Stops Illegal Steelworker Kangaroo Court

*Union officials threaten employee for cooperating with a company investigation*

DENVER, PA — With free legal assistance from the National Right to Work Foundation, a Pennsylvania worker filed federal unfair labor practice charges against United Steelworkers (USW) Local 1035 union officials in late January for illegally threatening him with an internal union disciplinary hearing.

Brandon Portner, a Denver-based SuperValu employee, never agreed to join the Steelworkers. Despite his nonunion status, union officials attempted to force him to attend a union disciplinary “tribunal” for participating in a company investigation into a workplace dispute. Because Pennsylvania lacks a Right to Work law, Portner and workers like him are forced to pay union dues just to keep their jobs. However, nonunion employees, as well as workers who have never been informed of their legal right to refrain from forced union membership, cannot be subjected to internal union discipline.

“Nonunion workers are routinely forced to participate in union disciplinary proceedings as a means of stifling employee dissent,” said Patrick Semmens, Legal Information Director for the National Right to Work Foundation. “In this case, we were lucky enough to hear from Brandon Portner before Steelworker bosses could drag him before their kangaroo court.”

## Nonunion worker punished for cooperating with employer’s investigation

The dispute between Portner and the union began after he was involved in an altercation with a union official at work. Following a company investigation of the incident, the union official was disciplined by their employer.

## Union boss fines, threats used to keep independent employees in line

Steelworker officials retaliated by levying internal union charges against Portner despite the fact that he is not a member of the union and that unions are legally prohibited from disciplining employees for cooperating with valid workplace rules. Only after Foundation attorneys helped Portner file charges and publicized his plight to local media outlets did steelworker bosses reluctantly decide not to go through with the scheduled hearing.

Although union officials did not threaten Portner with a specific punishment, other Foundation clients have faced tens of thousands of dollars in fines and termination threats as a result of internal union disciplinary procedures.

“Workers who want nothing to do with a union shouldn’t be forced to pay dues just to keep a job, much less participate in fraudulent union disciplinary proceedings,” continued Semmens. “Internal disciplinary hearings are just another way for union bosses to harass independent-minded workers who refuse to toe the union line.”



*Union officials were planning to drag a Pennsylvania employee before their kangaroo court until Foundation attorneys intervened.*

## Congressional Investigation into Pro-Big Labor Rule Change

*continued from page 3*

“I was extremely disappointed to learn that the NMB had changed the voting rule,” said Therrel. “I truly believe that the burden for representation must be from the majority of the workers in that class and craft ... The law is stacked up against the worker. We do not have the right ‘not to join’ a union once a union is voted in and once a union is voted in they are here to stay as it is an impossible feat to vote them out.”

### Questionable rule change underscores Big Labor’s bureaucratic offensive

The NMB’s decision to abruptly change union election procedures is another example of Big Labor’s newest strategy. After receiving a stinging rebuke from voters in the 2010 midterm elections, union



*Former union bosses on the NMB have made union ranks into a veritable roach motel for employees — easy to get in, but impossible to leave.*

politicos have realized that — at least for now — their wildly-unpopular agenda is unlikely to gain much legislative traction. As a result, Big Labor operatives are now

turning to a slew of under-the-table bureaucratic power grabs to get what they couldn’t pass through Congress.

After the Obama Administration installed two former union officials at the NMB, the Board immediately changed its election rules to favor union organizers in the air and railway industries. Similarly, the powerful National Labor Relations Board (NLRB) — which administers labor law for the rest of the private sector — is already changing the law even further in favor of Big Labor.

“The NMB’s rule change is just the latest front in Big Labor’s new bureaucratic offensive,” continued Semmens. “We hope Reps. Issa, Kline, and Mica will open an immediate investigation to discourage union operatives from attempting to sneak other under-the-table power grabs past Congressional scrutiny.”

## IRA Gifts Extended Through 2011

You can contribute through your IRA to avoid federal income taxes (see below):

- the donor is 70 ½ or older when the gift is made;
- the transfer of funds is made directly from the IRA to the Foundation (a qualifying charity) during 2011; and
- the gift is given outright and in an amount of \$100,000 or less in 2011, aggregated with other such gifts.

*If you would like more information or have questions regarding planned giving, please contact Ginny Smith at 1-800-336-3600, ext. 3303.*



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# Foundation Wins Truck Driver over \$55,000 in Back Pay After Union Boss Discrimination

*Teamster union officials' ugly retaliation prevents employee from making a living*

CHARLESTON, SC — National Right to Work Legal Defense Foundation staff attorneys helped an ABC Studios truck driver win back over \$55,000 in lost income after Teamster union officials refused to allow him to do his job for nearly a year.

Thomas Coghill — who worked on the set of the Charleston, South Carolina-based *Lifetime* “Army Wives” cable television series — won the case before the National Labor Relations Board (NLRB).

## Truck driver blacklisted by Teamster union bosses

Teamster Local 509 union officials currently enjoy exclusive bargaining privileges with ABC Studios in Charleston, South Carolina — and thus have a monopoly bargaining agreement with ABC that forces workers to go through Teamster Local 509's hiring hall in order to obtain a job.

However, because Local 509 union members were working on other television and movie productions, Coghill — who is from Wilmington, North Carolina — was hired as a makeup truck driver on the set of “Army Wives” during the show's first two seasons beginning in 2008.

However, as more Local 509 union members finished working on other ABC productions and became available to work on the production of “Army Wives,” a dispute erupted among various Teamster union officials over who should be eligible to work on the set of the show.

Teamster Local 509 union bosses even threatened to picket the show if Local 509 union members were not given preferential treatment in job placement. Caught in the crossfire, Coghill was removed from Local 509's “Movie Referral List” because he was not a member of Local 509, effectively blacklisting him from making a living for over a year. Meanwhile, Local 509 union officials told Coghill that he was placed on an alternative job referral list. However, Teamster Local 509 union officials later admitted that they lied and no such list existed.

## Truck driver out of work for nearly a year

Despite Coghill's best efforts to get his job back, he was repeatedly rebuffed by Teamster union bosses. Meanwhile, Teamster Local 509 union members continued to receive preferential treatment in job placement on the set of the show.

Federal law prohibits union bosses who operate an exclusive union hiring hall from barring employees who are not members of that union from gaining employment at a workplace.

With free legal assistance from the National Right to Work Foundation,

Coghill pursued federal unfair labor practice charges against Teamster Local 509 union bosses for their ugly discrimination.

An NLRB administrative law judge in Charleston ruled in Coghill's favor and ordered the Teamster Local 509 union hi-



*The National Right to Work Foundation has a long, storied history of assisting workers in the entertainment industry, including “Brady Bunch” actor Barry Williams.*

erarchy to pay Coghill \$55,467.62 in lost wages (plus interest) and post a notice of employees' rights in the workplace.

## Foundation attorneys help defeat Teamster union boss discrimination

“In this tough economy, it is unconscionable that Teamster Local 509 union bosses would inflict such petty and disgusting discrimination on someone working to put food on the table” National Right to Work Foundation Legal Information Director Patrick Semmens told the *Charleston Post and Courier*.

Despite the Foundation's long history of legal victories over forced unionism abuses in the entertainment industry, union bosses still enjoy government-granted special privileges to force workers under their control in order to get or keep a job.

“National Right to Work Foundation attorneys will continue to assist workers of all stripes fight the evils of compulsory unionism wherever it rears its ugly head,” said Mark Mix, President of National Right to Work. ⚡

**“In this tough economy, it is unconscionable that Teamster Local 509 union bosses would inflict such petty and disgusting discrimination on someone working to put food on the table”**

## Union Boss Pact

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out workers' rights. However, because neutrality agreements are relatively new phenomena, the courts have had little opportunity to determine if workers' personal information and union access count as "things of value."

## Case may shape legal landscape toward more union accountability

In Mulhall's lawsuit, Foundation attorneys argue that the company's concessions to union organizers are of substantial monetary value because they made the union organizing process easier and less expensive, a position company officials even belatedly admitted is true.

"We're giving the court an opportunity to apply the law as written to prevent union bosses from using newer union organizing tactics to circumvent the law," said Ray LaJeunesse, Vice President and Legal Director of the National Right to Work Foundation. "Through groundbreaking legal battles like this, the Foundation's legal program will continue sowing the seeds of freedom for all of America's workers." ↗

### Newsclips Requested

The Foundation asks supporters to keep their scissors sharp for clipping news items exposing the role union officials play in disruptive strikes, outrageous lobbying, and political campaigning. 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,

You scratch my back, I'll scratch yours.

That just about sums up the crooked deal between union bosses and a casino you'll read about in this issue of **Foundation Action**.

And it's also the essence of the revolving door that currently exists between the Obama Administration and Big Labor bosses.

The Department of Labor and federal agencies like the National Labor Relations Board (NLRB) and National Mediation Board (NMB) are stacked with former union officials and lawyers, and they're ramming through special privileges for their former unions by bureaucratic fiat.

Big Labor is getting what it paid for after spending billions of dollars in recent election cycles to install pro-forced unionism politicians in the White House and Congress.

But the tides turned in November, and the voters kicked out scores of incumbent politicians who backed Big Labor power grabs, bigger government, and higher taxes.

Now, the union bosses are increasingly looking to the executive branch to get their backs scratched.

President Obama's appointees are happy to oblige, ramming through sweeping new bureaucratic rule changes and case decisions aimed at corraling American workers into forced-dues-paying ranks. And then the vicious cycle continues, with more money for the union bosses to funnel right back into politicians' coffers.

Your National Right to Work Foundation continues to expose and challenge these unprecedented power grabs being pushed by Big Labor appointees.

Fortunately, while they're looking out for each other, we're looking out for the American worker whose freedom has been denied. And thanks to you we're making a real difference.

Sincerely,

Mark Mix