Foundation Action

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

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2,800 California Employees to Challenge Union Political Spending

Court allows class action status in suit reclaiming illegally seized forced dues

SACRAMENTO, Calif. — By certifying a federal suit as a class action, the United States District Court for the Eastern District of California has allowed more than 2,800 California state employees to challenge the illegal confiscation of their dues for union politics by officials employed within the administration of Governor Gray Davis. The dues were then handed over to the Professional Engineers in California Government (PECG) union.

National Right to Work Foundation attorneys originally filed the class-action suit, *Hoirup v. PECG*, in March 2002 on behalf of Donald Hoirup, who works for the California Department of Conservation California Geologic Survey in Sacramento.

"Union officials consider California state employees as their personal political ATMs," said Mark Mix, newly elected President of the National Right to Work Foundation. "Rather than actually represent these workers, union operatives simply want them to shut up and pay up."

Hoirup filed the complaint for all government engineers covered by the PECG's statewide monopoly bargaining contract who are not formal union members but are illegally compelled to pay for union political activities with their forced dues. The employees are asking the court to provide them with retroactive refunds, with interest, on all dues illegally collected since April 1, 2001.

AP/Wide World Photo

Big Labor stooge Gov. Gray Davis (D-CA) has grossly mismanaged California's energy, economic, and budgetary crises.

Public employee paychecks raided for union politics

The PECG is one of California's most politically active unions. In the past, PECG union bosses have seized compulsory dues from workers and used them to fund ballot initiatives and other political activities unrelated to collective bargaining. In fact, financial records obtained by Foundation attorneys indicate that the union spends far more money on political and ideological activities than anything else.

According to the union's own records, three of every four dollars of PECG's $8.1 million annual budget for the year 2000 was used for political activities. On April 1, 1999, then newly elected Governor Davis signed the agreement that forced thousands of engineers to pay compulsory dues or lose their jobs.

"Making a down payment to the union bosses who financed his election, Governor Davis handed California's union brass millions of forced-dues dollars with a single stroke of his pen," said Mix.

Government-sector forced unionism is an increasing threat

Just last year, in an earlier (but related) suit, *Wagner v. PECG*, the same California District court ordered the union to return nearly $300,000 to California state employees who were illegally forced to

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Court Whitewashes UAW Union Smear Campaign

Union bosses vowed to penalize Saturn workers in retaliation for resigning

CINCINNATI, Ohio — In what Foundation attorneys consider a legally flawed ruling, the U.S. Sixth Circuit Court of Appeals upheld the right of the United Auto Workers (UAW) union hierarchy to wage a vicious public humiliation campaign against non-union workers at Saturn's Spring Hill, Tennessee plant who choose to resign from union membership.

In 1997, National Right to Work Foundation attorneys filed unfair labor practice charges with the National Labor Relations Board (NLRB) on behalf of Saturn worker Earl R. Lee, against UAW Local 1853 officials. Lee and a group of fellow workers alleged that UAW union officials had been illegally penalizing, "restraining, and coercing" employees who have chosen to exercise their right to refrain from union affiliation.

"UAW union officials tried to make an example of Earl Lee so that all workers would think twice before defying their edicts," said Stefan Gleason, Vice President of the National Right to Work Foundation.

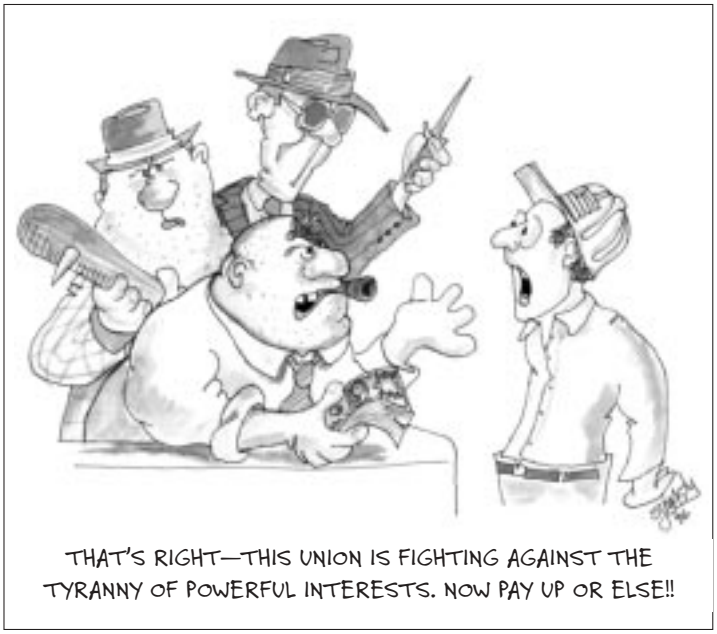
Saturn plant employees targeted for exercising Right to Work

In addition to using the union's newsletter to smear workers like Lee who merely exercised their rights to refrain from union membership under Tennessee's highly popular Right to Work law, UAW local officials branded these workers with the title "dishonorably withdrawn." Moreover, UAW officials maintain a discriminatory policy that forces employees who resign to fork over all "back dues" if they ever choose to rejoin the union in the future—a policy which the Clinton-stacked NLRB approved.

In September 2002, Foundation attorneys presented oral arguments before the U.S. Court of Appeals in Cincinnati, Ohio. Foundation attorneys sought a court order that UAW Local 1853 officials withdraw all threats against Saturn workers and notify workers of their right to resign without restriction or penalty.

Though union officials clearly sought to punish and humiliate "dishonorable" workers for exercising their Right to Work and to deter others from even contemplating the notion of resigning from the union, the Court's opinion stated that the punitive policy "…is reasonably designed to promote union membership."

"The spirit of this ruling makes a mockery of Tennessee's 56-year-old Right to Work law," stated Gleason. "It shows that even in states where worker protections exist, Big Labor's lawyers battle constantly to erode the rights of the rank-and-file to the benefit of a self-serving union hierarchy."



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Foundation Attacks UPS-Teamsters Collusion

Teamsters union faces federal charges for undermining Right to Work

NEW ORLEANS, La. — Five United Parcel Service (UPS) employees filed federal charges challenging a national contract that requires UPS supervisors to "encourage" employees in Right to Work states to join the Teamsters union—despite clear law that prohibits such coercion.

With the help of attorneys from the National Right to Work Foundation, the five non-union employees filed the unfair labor practice charges with the National Labor Relations Board (NLRB) against Teamsters Union Local 270. The NLRB is responsible for investigating the charges and will decide whether to prosecute the union for unfair labor practices.

This joint employer-union-boss pressure tactic at the nation's largest ground package delivery company represents a growing trend in union organizing efforts across America. As employees are increasingly rejecting union membership when actually given a choice, union organizers have resorted to tactics geared toward forcing employers to assist in corralling workers into union collectives and urging them to pay union dues—even where they have no legal obligation to do so.

www.house.gov

While lobbying to release the union from federal supervision, the Teamsters union hierarchy has exploited bloody violence and other illegal tactics to bully employees into union ranks.

Contract sidesteps Right to Work laws, federal protections

The National Labor Relations Act supposedly prohibits employers from supporting unions and coercing employees into joining them. In addition to running afoul of this federal statute, the Teamsters-UPS pact also violates highly popular state Right to Work laws. A Right to Work law simply frees workers from any employer or union requirement to join or to pay union dues or fees as a condition of employment.

"Teamsters officials wrote this agreement to undermine Right to Work laws and other protections against 'restraining and coercing employees' in the exercise of their right to refrain from union activities," stated Stefan Gleason, vice president of the Foundation. "If supervisors instruct employees that they ought to join the union, it signals to those employees that they could be penalized for failing to do so."

In December, the five Louisiana-based UPS employees—Danny Mitchell, Lowell Mayo, Jason Oliver, Arlyn Bonano, and Allen Stall—resigned their memberships from the union and revoked their dues deduction authorizations. Teamsters union officials continued illegally to seize full union dues from the workers.

So, in addition to challenging the collusive provision in the national contact, Mitchell and his fellow workers want the NLRB to force the Teamsters union officials to honor their dues revocations. They also seek an order forcing the union hierarchy to return any money that has been illegally confiscated from the workers since December.

Union operatives' "top-down" organizing robs workers of freedom

The Foundation's case challenging the UPS-Teamsters collusion fits into an overall legal-aid program designed to protect employees' right to refrain from union affiliation in the face of new, creative coercive organizing techniques.

Bolstered by a series of Clinton NLRB rulings, union operatives increasingly use so-called "neutrality agreements" and other "top-down" organizing techniques in order to impose forced unionism. As part of these agreements, workers are routinely denied the ability to reject union representation through a secret ballot election, and employers often hand over to union organizers employees' personal employment and contact information—such as home addresses and phone numbers—for the purpose of signing up workers under notoriously abusive "card check" authorization schemes.

"Stymied by Right to Work laws in their efforts to compel union affiliation, union organizers are focused more on organizing *employers* rather than *employees*," said Gleason. "That's why the Foundation is dedicating increased resources to attack these new tactics, which are intended to strip employees of their freedom of association."

Free Newsletter

If you know others who would appreciate receiving **Foundation *Action*,** please provide us with their names and addresses. They'll begin receiving issues within weeks.

Federal Court Blocks Hawaii Union's Dues Confiscation

Arrogant teacher union hierarchy must refund money taken from university profs

HONOLULU, Hawaii — In response to a federal civil rights lawsuit brought by attorneys from the National Right to Work Foundation, the U.S. District Court for the District of Hawaii has ordered the University of Hawaii Professional Assembly (UHPA) union to stop collecting agency fees from hundreds of non-union members.

The sweeping injunction comes in a federal class-action lawsuit, *Swanson v. UHPA*, filed last August on behalf of Sandra Swanson, an instructor at Maui Community College. In leading the legal battle on behalf of her colleagues, Swanson has exhibited tremendous courage, as union officials are notoriously powerful and abusive in the state of Hawaii.

Judge Helen Gillmor granted the injunction, which prevents the UHPA from collecting agency fees from all non-union members of the University of Hawaii faculty until the union officials implement procedures to prove they are not spending non-members' agency fees on activities not directly related to union bargaining such as politics, lobbying, organizing, and public relations.

"For years UHPA union officials have been trying to get away with hiding how they spend educators' money," said Ray LaJeunesse, Vice President and Legal Director of the Foundation. "This injunction is a step toward getting them to shape up, follow the law, and start respecting individual rights."

One's courageous stand opens door for all Hawaii professors

By certifying Swanson's federal lawsuit as a class action last January, the United States District Court for the District of Hawaii allowed over 600 non-union professionals at the University of Hawaii to challenge the collection of forced dues seized for politics and other activities by UHPA union officials.

AP/Wide World Photo

In the 2003-2004 election cycle, NEA top dog Reg Weaver will oversee the diversion of an estimated $100 million in teachers' forced dues to support the election of hundreds of far-left political candidates.

Since August 2000, the UHPA and its national affiliate, the National Education Association (NEA) union, have demanded that all non-members pay union fees equal to the cost of full dues. The NEA hierarchy never provided an independent audit of the union's books and records to back up their claims and ensure that objecting employees were not subsidizing non-collective bargaining activities.

Union publicly downplays undercurrent of dissent

Despite UHPA union lawyer Tony Gill's prediction to the media that he would "be surprised if more people joined in [the lawsuit] than they could count on their fingers and toes," all nonmember professors statewide are now part of the challenge to the union's illegal money grabs under Foundation-won precedents, thanks to the court's ruling.

Under the First Amendment of the U.S. Constitution, as interpreted in the Foundation-won Supreme Court decision in *Chicago Teachers Union v. Hudson*, union officials must provide independently audited disclosure of their books and justify expenditures made from forced union dues seized from employees who have chosen to refrain from union membership, before they compel payment of such fees.

"The arrogant attitude of UHPA officials shows how they take teachers for granted and only care about keeping the money flowing in," Dan Cronin, the Foundation's director of legal information, pointed out in the *Hawaii Reporter*. "It looks like the union's lawyer will have to grow more fingers and toes, as the suit now involves more than 600 nonmembers."

NEA union is extremely powerful advocate for far-left causes

The NEA union is one of the most politically active unions in the country. Every year, union officials seize millions of dollars in compulsory dues to support candidates and causes that many teachers find objectionable. Polls have consistently shown that a majority of rank-and-file employees object to having their dues spent for political activities.

Among the laundry list of its causes are resolutions advocating a radical social agenda that supports publicly funded abortions on demand, special rights for homosexuals, a nuclear arms freeze, and U.S. participation in the International Court of Justice. Regardless of the

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Feds May Abandon Utahans Facing Union Power Grab

Foundation attorneys file appeal to save non-union jobs connected to ports

SALT LAKE CITY, Utah — National Right to Work Foundation attorneys filed an appeal with the General Counsel of the National Labor Relations Board (NLRB) after the agency's Denver regional office refused to step in to protect over 30 Salt Lake City-area employees of Stevedoring Services of America (SSA) from losing their jobs because they refrained from joining a union.

Control over jobs held by Utah-based non-union employees of the major West Coast port company shaped up to be a top bargaining priority for the International Longshore and Warehouse Union (ILWU), whose officials sparked a crippling $2-billion-a-day closure of more than two dozen vital ports last Fall.

Before the 10-day shutdown in October, the ILWU hierarchy had already employed a variety of work slowdown tactics including deliberately understaffing key operations and sending workers to jobs for which they were not qualified, making it impossible for the ports to function.

"The shutdown of West Coast ports was a naked attempt to exploit an economic crisis for the purpose of increasing union coercive power at the expense of workers and the public," said Stefan Gleason, Vice President of the National Right to Work Foundation. "Unfortunately, this is not an isolated incident. Union bosses have a long history of using economic and wartime crises to grab power."

Since the settlement of the port dispute resulted in a requirement that work performed by the non-union employees be eliminated, SSA's Utah workers asked Foundation attorneys to file charges with the NLRB against the ILWU union and the port-employer conglomerate known as the Pacific Maritime Association (PMA).

AP/Wide World Photo

Taking greater control over every aspect of the shipping industry was the goal of the Longshoreman union hierarchy which caused a $2 billion a day shutdown of the West Coast ports.

If NLRB General Counsel Rosenfeld denies the Foundation's appeal, more than 30 non-union SSA workers will lose their jobs.

Union officials view marine clerk jobs as key to control over all port operations

SSA's Utah-based workers are responsible for tactical management of day-to-day activities and perform computerized planning work over the company's rail, yard, and vessel functions. By insisting that this planning work instead be performed at new facilities at the ports staffed by unionized "marine clerks" rather than non-union employees, ILWU and PMA officials are in violation of the employees' right to refrain from unionization under federal law and Utah's Right to Work Law. If allowed to stand, the NLRB region's decision solidifies union control over vital jobs now performed by non-union employees.

In response to this power grab, last February Senator Orrin Hatch (R-UT), Senator Robert Bennett (R-UT), and Representative Chris Cannon (R-UT) urged the NLRB to take quick action. Despite this congressional prodding, and the fact that the employees' case was based on well-established law, the NLRB office released a letter curtly dismissing the charges.

NLRB's Rosenfeld must act in order to save jobs

Aided by Foundation attorneys, the Utah workers have filed an appeal of the region's preliminary ruling with NRLB General Counsel Arthur Rosenfeld in Washington, DC. The Board's initial ruling whitewashes actions by PMA and ILWU union officials, and does nothing to prevent elimination of the non-union workers' jobs.

"Now is the time for Arthur Rosenfeld to step up and protect these workers from being the victim of another blatant union power grab," stated Gleason. "The actions of ILWU union officials make a mockery of the law."

Please contact NLRB General Counsel Rosenfeld and urge him to issue a complaint to save the Utah workers' jobs. He can be reached by calling (202) 273-3700 or by writing to NLRB Office of General Counsel, 1099 14th Street, NW, Washington, DC 20570-0001.

Electrical Union Ordered to Halt Bullying of Dissenters

Non-striking workers were threatened with fines, violence, and vandalism

ORLANDO, Fl. — After finding merit to unfair labor practice charges brought by 11 union-abused employees of Agere Systems (formerly Lucent Technologies), the National Labor Relations Board (NLRB) brokered a settlement agreement that requires union officials to cease their bullying tactics and threats of fines and vandalism to non-striking workers' vehicles.

National Right to Work Foundation attorneys assisted Alan Olds, Mark Mitchell, and similarly abused Agere Systems employees in filing the charges at the NLRB after International Brotherhood of Electrical Workers (IBEW) Local 2000 officials illegally threatened retaliation against employees who continued to work during a 1998 strike.

"The bully-boy tactics employed by IBEW officials to silence employee dissent are despicable," said Stefan Gleason, vice president of the Foundation. "Unfortunately, even in states like Florida where important Right to Work protections exist, many workers still suffer intimidation, abuse, and violence at the hands of union bosses."

Employees faced fines of nearly two thousand dollars

When IBEW Local 2000 officials ordered employees off the job during a 1998 strike against Lucent Technologies, scores of workers wished to exercise their right to resign from the union and return to work but were told they could not. Though illegal, this kind of deceit is not uncommon.

However, under the Supreme Court's *Patternmakers v. NLRB* decision, employees who wish to resign from a union may do so simply by sending a resignation letter to the union. One day after the letter is postmarked, they can return to their jobs without facing union-imposed strike fines.

The settlement requires IBEW union officials to post a notice for 60 days, conspicuously at locations within Agere Systems' main office, informing workers of their right to withdraw immediately at any time from union membership. The notice states that all resignations will be accepted, and that non-union workers will not face unlawful retaliation from the union hierarchy in the form of vandalism, retaliatory fines, or other intimidation tactics used by IBEW union agents.

Meanwhile, union officials have rescinded disciplinary fines of as much as $1,790 per worker.

Foundation Answers... *Facts you need about Right to Work issues*

How does the National Right to Work Committee differ from the National Right to Work Legal Defense Foundation? The Foundation and the Committee are separate and legally distinct organizations; however, their work is complementary.

Founded in 1968, the Foundation is a non-profit, charitable organization that provides free legal assistance to employees whose human or civil rights have been violated by abuses of compulsory unionism. Through strategic litigation, including seven victories at the U.S. Supreme Court, Foundation attorneys work to shape the law to lessen the crippling and discriminatory effects of union coercive power. Meanwhile, through its aggressive public information program, the Foundation shines a bright media spotlight on union abuse. Contributions to the Foundation are tax-deductible.

The Committee, founded in 1955, lobbies Congress and state legislatures for the elimination of all forms of forced unionism. The ultimate goal of the Committee is the enactment of a national Right to Work law to secure the liberties of all American workers. The Committee also conducts a nationwide educational program on the Right to Work principle.

How many cases has the National Right to Work Foundation won overall? Foundation attorneys have won or settled favorably nearly 2,000 cases since 1968.

How many workers has the National Right to Work Foundation directly assisted overall? Foundation attorneys have directly assisted more than 20,000 workers and another 313,500 workers in class-action lawsuits. Meanwhile, precedents established affect millions of people. Today, Foundation attorneys are litigating nearly 300 legal-aid cases nationwide.

In which case did the Foundation attorneys represent the largest number of individuals? The Foundation's largest case involved 75,000 workers in the class-action lawsuit *West v. Service Employees International Union (SEIU)*, a case which concluded in recent months.

Led by Carla West, a home care worker in Southern California, the suit forced union officials to return an estimated $5 million in illegally seized union dues taken from non-union home care providers and spent for politics and other non-bargaining activities.

Mark Mix Takes Helm of Right to Work Movement

Reed Larson, longtime leader, continues active service to the cause

SPRINGFIELD, Va. — A new chapter in the history of the Right to Work movement has begun.

After decades of admirable service, Reed Larson has stepped down as president of the National Right to Work Legal Defense Foundation. Meanwhile, the Board of Trustees accepted Larson's recommendation that Mark Mix be elected as his successor.

While stepping down as president, Larson will continue to serve both the Foundation and the Committee on a full-time basis as Executive Committee Chairman and Treasurer, advising Mix and his leadership team.

"Mark has worked with me for seventeen years, beginning as a Right to Work field man and progressing through all levels of responsibility for the National Right to Work Committee, while working closely with the Foundation," said Larson. "It is a source of much pride for me to know that the Right to Work movement is in the hands of a person of outstanding dedication, capability, and experience."

Former President Reed Larson now serves as Treasurer and Chairman of the Foundation's Executive Committee.

Foundation President Mark Mix (left) talks with the late Senator Strom Thurmond, a Right to Work stalwart.

Mix's career spans all levels of the cause

Mark Mix became active in public policy after receiving business degrees from James Madison University and the State University of New York. After working for several state Right to Work groups as an independent lobbyist, Mix then took up the position as Vice President of the National Right to Work Committee.

According to Mix, the resulting experience he gained working across the country, most notably in California, Arizona, Alabama, Louisiana, Iowa, and Mississippi, as well as his campaign service for the late United States Congressman Herb Bateman (R-VA), gave him valuable hands-on political and public policy experience at the grass-roots level.

Mix has more recently served as Executive Vice President for both the Committee and the Foundation since early 2002, and was Senior Vice President of the Committee for the two previous years. During that time, he assumed a major role in directing all Right to Work programs.

"While it is impossible for anyone to fill the shoes of Reed Larson, I will do my best to carry on his legacy of advancing individual freedom," said Mix.

Consistency and focus: hallmarks of movement's success

Mix credits Larson's leadership with helping to keep the Right to Work message consistent and principled while keeping the focus on the long term. According to Mix, these have been the hallmarks of the Right to Work movement's success.

"National Right to Work has always maintained that the ultimate solution to Big Labor abuses is the abolition of forced union membership, forced-dues payment, and forced union 'representation' as conditions of employment," stated Mix. "With the help of an exceptional, committed staff, I know we can build on the already impressive record of the organizations."

After 44 years of building and leading the Right to Work movement, Larson expresses great enthusiasm for the future.

"Under Mark's leadership, I plan to continue helping the Foundation and Committee to confront the problem of forced unionism head on," said Larson. "By staying the course, Right to Work forces will hold the line against Big Labor's relentless drive for more government-granted privileges and, ultimately, achieve total victory. I'm confident of that."

Davis Scandal

continued from cover

pay for lobbying and other union political activities. U.S. District Court Judge Garland E. Burrell, Jr., ruled that the union had illegally seized almost $100 per employee over a seven-month period in 1999 and ordered the union to pay nominal and compensatory damages to some 3,200 non-union employees, totaling approximately $298,000.

According to the constitutional protections construed by the U.S. Supreme Court in the Foundation-won decisions of *Abood v. Detroit Board of Education* and *Lehnert v. Ferris Faculty Association*, the union may not collect compulsory dues spent on activities unrelated to union bargaining. Politics, lobbying, organizing, public relations, and other non-bargaining activities are not lawfully chargeable to objecting employees who have exercised their right to refrain from union membership.

"The Foundation's strategic litigation and public information program has helped to expose the rampant corruption that has festered under the Davis administration," stated Mix. "Governor Davis has been such a disaster for the citizens of California that there is a strong possibility that he will face a grassroots-initiated recall election this fall."

NEA Radicalism

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merit of these positions, observers question why the union hierarchy spends its resources pushing for such causes, especially using the compulsory union dues of teachers who often do not agree.

"The NEA union is all about politics—they constantly support candidates and take stands on hot-button political issues that have nothing to do with education," said Cronin. "Teachers shouldn't be forced to compromise their beliefs to do a job they love."

Message from Mark Mix

President
National Right to Work
Legal Defense Foundation

Dear Foundation Supporter:

The AFL-CIO hierarchy has thrown down the gauntlet.

Where would America's economy—or long tradition of individual liberty—be today without the protections afforded by Right to Work laws?

Of course, you and I know that the Right to Work movement has made great strides in defending personal freedom and the dignity of workers. But it has also contributed greatly to our nation's prosperity by helping to keep manufacturing and other good jobs here in America.

Without the protections resulting from Right to Work laws and Foundation-won Supreme Court precedents, many more American jobs would have fled from heavily unionized American industries to low-wage areas overseas.

In that case, our present economic slump would be even worse than it is.

Even so, America's economic downturn is bad enough, and it is weighing heavily on the future of the Right to Work movement by making fundraising especially challenging this year.

That's why I hope you will make contributions to the National Right to Work Legal Defense Foundation a priority this year—in fact, a priority right now, since we need your help today.

By supporting the Right to Work cause, you will be doing more than just aiding the tens of thousands of employees to whom Foundation attorneys are providing vital information and legal assistance.

And you will be doing more even than just denying forced-dues cash to the union bosses as they plot their billion-dollar strategy for seizing political power in the 2003-2004 election season.

You will also be helping to keep the American economy strong and putting it, hopefully, on the road to recovery very soon.

Protecting and expanding Right to Work helps secure the prosperity that economic freedom and respect for individual rights naturally brings.

So, don't put your decision off. We need your help today. Please make Right to Work a priority in your charitable donations this year.

Sincerely,

Mark Mix

Mark Mix