



Foundation *Action*

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Foundation Sues NLRB for 17 Year Delay in Case

*Workers have awaited a
final decision since before
the fall of the Berlin Wall*

WASHINGTON, DC – Although the American legal system has been criticized as a slow-moving creature, a recent lawsuit brought against the National Labor Relations Board (NLRB) demonstrates that the dilatory federal agency is far worse than the courts.

Raising embarrassing questions of negligence and incompetence, the NLRB has failed to issue a final ruling in a case brought in 1989 by the National Right to Work Foundation for two Schreiber Foods employees from Green Bay. Accordingly, the employees have asked a federal appellate court in Washington, DC to order the NLRB to decide the case immediately.

The complaint—originally filed by David and Sherry Pirlott more than 17 years ago against the Teamsters Local 75 union in Wisconsin—is the oldest of scores of cases in which Foundation-assisted employees are trying to reclaim their forced union dues used for non-bargaining activities.

As a matter of historical context, since the Pirlotts filed their original charges, the Berlin Wall fell, the American public voted in four presidential



David and Sherry Pirlott filed unfair labor practice charges the day before the Berlin Wall fell, but they still await justice from the NLRB bureaucracy over 17 years later.

elections, and presidents have appointed six new justices to the U.S. Supreme Court.

“Justice delayed is justice denied,” said Stefan Gleason, vice president of the National Right to Work Foundation. “By failing to do its job, the NLRB is, in effect, helping union officials fill their coffers with forced dues seized from the paychecks of countless Americans.”

Federal labor board’s inaction denies basic employee rights

The NLRB, which has long been plagued by political in-fighting and institutional pro-union bias, faced similar appellate court scrutiny in the Pirlott

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Feds to Prosecute Freightliner for Retaliation Against Worker

Worker suspended for questioning special treatment of union officials

CHARLOTTE, NC – The Regional Director for the National Labor Relations Board (NLRB) has filed a formal complaint and agreed to prosecute Freightliner for federal unfair labor practices after an autoworker suffered harsh retaliation for questioning a pattern of special treatment of United Auto Workers (UAW) union members by company officials.

Kristi Jones, a Freightliner employee at the company's Gastonia facility, sought free legal assistance from the National Right to Work Foundation in filing unfair labor practice charges in early April after she was punished for posing a simple inquiry over a new work rule.

Company officials retaliated against Jones in response to an email she sent in December 2005 that simply questioned whether a new shop policy applied to UAW union officials as well as nonunion workers. The rule in question specified that workers on the facility floor must wear safety glasses with clear lenses.

Jones sought the clarification of how the new rule would be enforced because

there was already an ongoing pattern of special treatment for union officials at Freightliner – including the exemptions of union stewards from ten-minute team “huddle meetings” and from a requirement that workers formally sign in when working overtime. For raising concerns about this illegal favoritism, she was suspended, demoted, threatened, and stripped of her leadership position.

“UAW officials have enlisted Freightliner to do their dirty work by



Kristi Jones is facing union retaliation for filing a federal racketeering lawsuit. Her co-plaintiffs Tim Cochrane (at podium) and Katherine Ivey (right) traveled to the UAW's Detroit headquarters to speak to the media.

retaliating against employees that refuse to toe the union line,” said Ray LaJeunesse, National Right to Work Foundation Vice President and Legal Director. “The bullying of employees who do not support a monopoly union requires swift legal action.”

The NLRB has scheduled a hearing before an administrative law judge to prosecute Freightliner and remedy the allegations set forth in Jones' complaint.

“I would like my team leader status reinstated and I want the the union to know they can't push us around,” said Jones.

Retaliation follows workers' federal racketeering suit

The illegal retaliation against Jones is only the latest in a history of illegal collusion between UAW and Freightliner officials that systematically undermines employees' rights.

In recent months, employees assisted by the Foundation filed a federal racketeering lawsuit against Freightliner and the UAW union in U.S. District Court seeking significant damages. And in another related case, UAW union officials had already been found by NLRB investigators to be in illegal collusion with Freightliner management.

The pending racketeering complaint outlines a secret *quid pro quo* arrangement between Freightliner and the union in which UAW officials agreed in advance to significant concessions at the expense of Freightliner's workers at its nonunion facilities in the state in exchange for valuable company assistance in coercing those employees into union ranks.

“UAW bosses want to make an example of Kristi Jones so that her coworkers think twice before defying their edicts,” said LaJeunesse. 📌

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.

Foundation Defends Grocery Workers from Coast-to-Coast

Cases seek to force union officials to stop trampling workers' basic rights

SPRINGFIELD, VA – A pair of National Right to Work Foundation cases are helping beat back widespread practices by United Food and Commercial Workers (UFCW) union officials to corral workers into forced-dues-paying ranks in violation of their basic civil rights.

The cases, filed only weeks apart in Virginia and Washington State, demonstrate UFCW officials' hostility towards workers' rights – from the right to resign from formal union membership, to the right not to pay forced dues to a union when doing so conflicts with one's sincerely-held religious beliefs.

Washington UFCW union bosses violate workers' religious liberties

In Washington State, the Foundation came to the assistance of Safeway employee Daniel Gautschi who suffered illegal discrimination at the hands of UFCW officials. Gautschi filed a lawsuit in U.S. District Court for the Western District of Washington after union officials set forth unlawful conditions that force him to affiliate with – and pay additional money to – a union he finds morally offensive if he should ever have an employment grievance.

The illegal scheme forces only employees who file religious objections to pay the union all costs associated with use of grievance procedures – even though union officials tightly control the process and employees are completely barred from filing grievances on their own.

“UFCW officials seem to think paying tribute to a union is more important than paying tribute to your faith,” said Foundation President Mark Mix.

As a devout Christian, Gautschi believes that supporting the UFCW union violates his sincerely held religious beliefs due to the union hierarchy's political support for causes completely unrelated to monopoly bargaining such as special rights for homosexuals. Under Title VII of the Civil Rights Act, union officials may not force any employee to financially support a union if doing so violates the employee's sincerely held religious beliefs.

Law allows employees to divert forced dues to charity

To avoid this conflict, the law requires union officials to accommodate the employee – most often by designating a mutually acceptable charity to receive the funds. However, union officials often stack the deck against such employees of faith by inserting restrictive language into monopoly bargaining contracts that make it difficult and enormously costly for employees to assert their Title VII rights.

Union bosses bully teenager to collect forced dues

Meanwhile, in Annandale, VA, Giant Foods worker Kevin Nguyen filed unfair labor practice charges against UFCW



UFCW top dog Joe Hansen guides the union in its charge to corral workers into its forced dues-paying ranks.

Local 400 after a UFCW official misled Nguyen into paying forced dues and continued to seize the forced dues from his paycheck despite repeated requests that they stop. Foundation attorneys helped Nguyen file the charges at the National Labor Relations Board (NLRB).

Nguyen – a teenager who works part-time at the grocery store as an after-school job – was approached by a menacing UFCW union official who said that he was “from Giant” and had additional paperwork “from Giant” that Nguyen needed to sign. Through this deceit and coercion, the union unlawfully obtained Nguyen's signature on a union dues deduction card authorizing the automatic seizure of a significant amount in union dues from his small paycheck. Federal law provides that private sector employees cannot be required to sign payroll dues deduction cards as a condition of employment.

In addition to violating federal law, the union hierarchy's actions violate the spirit of Virginia's highly-popular Right

Foundation Aids Workers in Fending Off Illegal Fines

Union officials nationwide issue retaliatory fines of up to \$7,400 per worker to stifle dissent

DECATUR, AL – Working to rein in a menacing national pattern of union abuse, Right to Work attorneys are taking union officials to court for slapping workers with retaliatory fines for refusing to strike against their employers.

With free legal assistance from the National Right to Work Foundation, eight Boeing employees have filed federal charges against International Association of Machinists (IAM) local officials for the illegal fines levied against them for refusing to abandon their jobs during a strike that lasted from November 2, 2005 to February 1, 2006.

In a thuggish attempt to stifle dissent, IAM union officials fined employees at the rocket manufacturing facility in Alabama \$4,500 apiece for working to feed their families.

The employees, led by Larry Bonner, filed the federal unfair labor practice charges at the National Labor Relations Board (NLRB) against IAM union Local Lodge 44.

Nonunion workers avoid internal union discipline

Foundation attorneys point out that the eight Boeing employees cannot be lawfully fined because they resigned their formal union memberships (and thus were no longer subject to internal union rules) before continuing to work – their right under the Foundation-supported *Patternmakers v. NLRB* U.S. Supreme Court decision.

Because Alabama has been a Right to Work state since 1953, IAM union officials' actions also run contrary to the spirit of that highly-popular state law.

Additionally, once an employee becomes a nonmember – even where



California's ugly grocery strike involved harassment of customers, confiscatory fines against non-strikers, and bloody violence.

they are not protected by a Right to Work law and, therefore, can be forced to pay certain dues to a union to get or keep a job – union officials have no legal basis for enforcing internal union “discipline” against them.

“It is despicable for union bosses to try to put employees into the poorhouse for refusing to abandon their jobs,” said Stefan Gleason, vice president of the National Right to Work Legal Defense Foundation.

The NLRB will now investigate the workers' charges and decide whether to issue a formal complaint and prosecute the IAM union.

Teamsters union forced to forfeit \$100,000 in illegal strike fines

Meanwhile, Foundation attorneys just won a significant victory against the Teamsters union for similar workers'

rights violations in the Golden State.

Responding to federal charges filed by over 60 employees of Albertsons and Ralphs grocery chains who were subjected to retaliatory fines for refusal to engage in “sympathy strike” activities during the California grocery strike in 2003, the NLRB has ordered the Teamsters union to allow the workers to rescind and void the unlawful fines.

In the wake of the grocery strike, Teamsters Local 952 union officials socked employees with confiscatory fines – ranging up to \$7,400 per employee and totaling over \$100,000 – simply for observing the union's own “no strike” contract with their employers. The targeted employees had continued to report to work during the crippling grocery strike ordered against Albertsons, Vons, and Ralphs by United Food and Commercial Workers union officials.

see **STRIKE FINES**, page 8

NLRB Perceived by Some as Laughing Stock among Federal Agencies

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case in 1998. But rather than fully decide the case that had long been pending on the docket, the Board sent it back to an administrative law judge for further fact finding. The case returned to the nation's capital in 2001 where it has since collected dust for five years awaiting a final decision.

The Pirlott's writ of *mandamus* petition, filed with the U.S. Court of Appeals for the District of Columbia, points out the Board's egregious and unjustifiable delay in issuing a decision should result in judicial intervention.

A writ of *mandamus*, from the Latin meaning "we command," would compel the recalcitrant federal labor board to

issue a decision in the case. A *mandamus* action is extremely unusual.

The employees are simply asking the NLRB to follow U.S. Supreme Court rulings that uphold workers' rights not to pay for recruiting more dues-paying workers into organized labor's ideological movement.

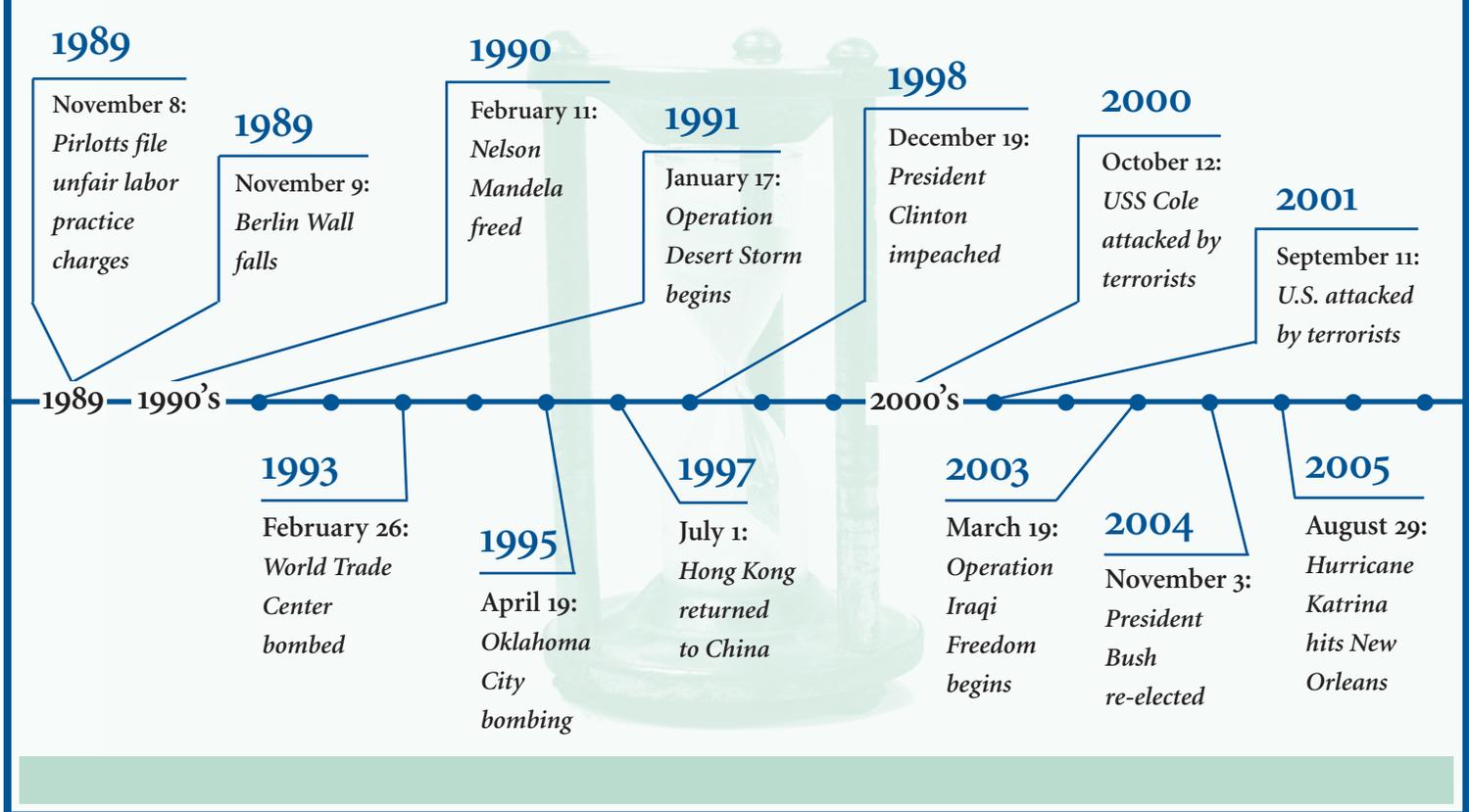
Under the Supreme Court's rulings in *Communications Workers v. Beck* and *Ellis v. Railway Clerks*, cases brought by employees represented by Foundation attorneys, workers may not be lawfully forced to pay for any union activities unrelated to collective bargaining, contract negotiation, or grievance

adjustment such as union organizing, politics, extra-unit litigation, and member-only programs.†

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.

World Events Since David and Sherry Pirlott Sought Justice from the NLRB:



Judge Blocks Illegal Dues Seizures from Cincinnati Firefighters

Black firefighters win restraining order against historically racist union

CINCINNATI, OHIO – A group of nonunion Cincinnati firefighters won another victory in their protracted legal battle with International Association of Firefighters (IAFF) union officials. National Right to Work Legal Defense Foundation attorneys persuaded U.S. District Court Judge Walter Herbert Rice to issue a temporary restraining order against the union and city officials to block the seizure of forced union dues.

The order, confirming a ruling handed down in November, stems from a complaint filed in U.S. District Court for the Southern District of Ohio by five local members of the Cincinnati African-American Firefighters Association. The firefighters have also had ongoing disputes with IAFF union bosses whom the firefighters charge have engaged in racist treatment of minority firefighters.

Judge finds violations of nonunion firefighters' rights

In renewing the temporary restraining order, Judge Rice wrote that the nonunion firefighters are likely to win their case on the merits, and that the court will likely protect the constitutional rights of all of the approximately 100 nonunion firefighters in Cincinnati by certifying the five plaintiffs' request to make their suit a class action complaint.

This latest development comes after City and union officials renewed their contract but failed to rectify the illegal dues seizures and appeals procedure. This prompted Foundation attorneys to file a new request for a temporary restraining order.

City chiefs named for backing union officials

The original complaint, filed in summer 2004, also named then-Cincinnati Mayor Charlie Luken, among other top City officials, for signing the agreement with the union and enforcing the unconstitutional fee seizures. In the firefighters' complaint, they alleged that IAFF Local 48 union officials acted in concert with the City of Cincinnati to illegally seize compulsory union dues from nonmembers without first providing the required independent audit of union expenditures. Additionally the complaint laid out how union officials subjected workers challenging the fee to unlawful appeal procedures.

In the Foundation-won U.S. Supreme Court *Chicago Teachers Union v. Hudson* decision, the Court ruled that before collecting any forced dues, union officials must provide an audited disclosure of the union's expenses. Such audits are intended to ensure that forced union dues seized from nonunion public employees do not fund union activities unrelated to collective bargaining.

"These IAFF union bosses continue to trample the basic constitutional rights of the very firefighters whose interests they claim to 'represent,'" said Stefan Gleason, Vice President of the National Right to Work Foundation. "Until Ohio's employees are given the protections of a Right to Work law, such abuses will inevitably continue."

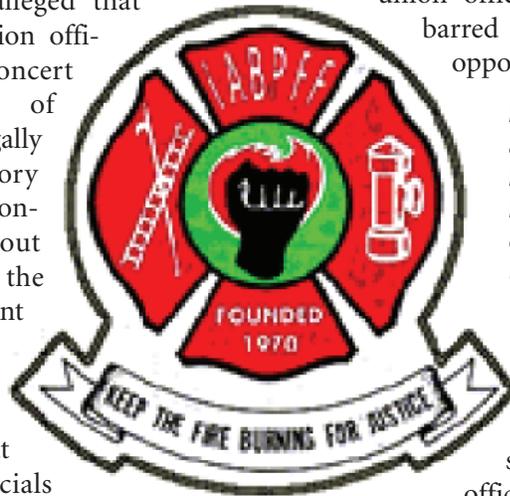
Minority firefighters get short shrift from union

Independent black firefighter groups are typically Right to Work allies, as they often find that the "old boys" network running the IAFF union hierarchy has acted discriminatorily toward minorities. A history of racism has plagued organized labor for more than 100 years, as union officials have frequently barred minorities from job opportunities.

Black firefighters associations are often Right to Work allies because of racism entrenched in the union hierarchy.

The injustice of forced unionism becomes especially clear in circumstances where union officials who may harbor racist views are granted a monopoly on workplace representation of all employees. Employees under a monopoly bargaining structure are denied the right of self-representation, even when the union brass may be actively discriminating against them.

This is one reason why groups like the International Association of Black Professional Fire Fighters have partnered with the Foundation. In fact, the group recently invited Foundation vice president Stefan Gleason to speak at its international conference held in Los Angeles and a regional conference in Chicago. 



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Foundation Pressures TSA to Oppose Compulsory Unionism

TSA bureaucrats caught undermining Bush policy against forced unionism

WASHINGTON, DC – The cover article of the September/October Issue of *Foundation Action* (available for download at www.nrtw.org/foundation-action/) detailed how the National Right to Work Foundation sprang into action to stop the forced unionization of security screeners at America's airports.

In a submission to the National Labor Relations Board (NLRB) about the pending *Firstline Transportation Security* case, the Transportation Security Administration (TSA) tacitly approved imposing forced unionism on airport security workers employed by private contractors under an expanding pilot program.

More recently, after Foundation President Mark Mix wrote a strongly worded letter to the White House and focused the media spotlight on the rogue actions of the federal agency, TSA issued a



Foundation pressure forced the TSA to get with the program and oppose forced unionization of airport screeners.

“clarification” which is tantamount to a 180 degree reversal of its position in the pending NLRB case. The agency now apparently agrees with the Foundation that the NLRB is precluded from allowing to have monopoly bargaining privileges union bosses.

TSA had undermined Bush directive on national security

The closely watched *Firstline* case involves efforts by union officials to forcibly unionize private airport screeners

who are under direct TSA control at Kansas City International Airport. Meanwhile, union officials have their sights on all other airports under TSA's pilot privatization program – San Francisco, Rochester (New York), Tupelo (Mississippi), and Jackson Hole (Wyoming).

The Foundation filed an *amicus* brief in the case arguing that federal law and an agency directive citing national security concerns provide the rationale for disallowing the forced unionization of privately employed airport security screeners. The reasons are legion: not the least of which are the increased likelihood of illegal strikes and inability to fire incompetent employees.

“Aside from violating workers' freedom of association, history tells us that interjecting forced unionism into such sensitive areas would undoubtedly have severe ramifications for Americans,” Mix concluded. 

Grocery Union Drives Up Consumer Costs While Hurting Workers

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to Work law. Virginia is one of 22 states with a Right to Work law that protects employees from being forced to support a union as a condition of employment.

UFCW union organizers prey on the vulnerable

The NLRB charge also alleges that this illegal misrepresentation was part of a pattern in which UFCW union operatives prey on students, part-time workers, and non-English speaking employees to improperly swindle them into paying union dues.

Adding insult to injury, union officials continued to deduct forced

union dues even after Nguyen realized that he could not be legally forced to pay the union dues and sent a letter to the UFCW local treasurer, resigning his so-called “membership” and asking that the dues seizures stop. Union officials have so far ignored his demands and continue to deduct full dues from his paycheck.

UFCW at the forefront of new coercive organizing drives

The UFCW is one of the unions that broke away from the AFL-CIO to form the so-called “Change to Win” Coalition in 2005. The breakaway unions left the

AFL-CIO because they advocated the expenditure of even greater resources on coercive organizing drives. In a sad irony, these union officials exercised the same freedom to disassociate with the AFL-CIO that they routinely work to deny countless thousands of American workers wishing to refrain from compulsory unionism.

“Rather than working to preserve and expand their power to order workers to ‘pay up or be fired,’ union officials should work to improve their product in order to attract workers' voluntary support,” said Mix. “In the end, it doesn't matter who is steering Big Labor's ship so long as individual workers are strapped to the mast.” 

Strike Fines

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Judge finds Teamsters bosses violated employees' rights

Agreeing with arguments presented by Foundation attorneys, an NLRB Administrative Law Judge in Los Angeles handed down the ruling that also mandated union officials must allow several hundred – perhaps even thousands – of workers in eight different bargaining units to retroactively revoke their formal union membership and receive certain back-dues rebates.

The judge ruled that Teamsters Local 952 officials illegally failed to inform workers of their rights under the

“Like bloody strike violence, confiscatory fines are used to enforce union edicts”

Foundation-won *Communications Workers v. Beck* decision to refrain from formal union membership and to object to paying for the union's nonrepresentational activities, such as politics.

Because the employees thus cannot be considered voluntary members, the judge ruled that internal union disciplinary measures could not be taken against them.

Teamsters officials have publicly vowed to appeal, but the Foundation plans to stand behind the employees every step of the way, defending their victory.

“Like bloody strike violence, confiscatory fines are used to enforce union edicts,” said Gleason. “Compulsory unionism manifests itself in many ugly ways.” 



A Foundation For The Future

Mark Mix, President
National Right to Work
Legal Defense Foundation

Dear Foundation Supporter:

Do you want the government to decide who gets your money?

If your answer, like mine, is “No,” then I hope you will take a look at the planned giving brochure enclosed with this newsletter. The Foundation is creating some exciting new options for donors to help the Right to Work cause while also gaining valuable tax advantages.

These options include the Reed Larson Legacy Fund to provide a permanent endowment to support the Foundation's program, as well as a brand-new planned giving option for donors: Pooled Income Funds.

We're also continuing to build the National Right to Work Legacy Society as a means of recognizing Foundation supporters who have made planned gifts.

As a supporter of the Right to Work movement, you know that the Foundation's strategic legal program attacking coercive union power plays an essential role in our battle for the freer, more just world we want to pass on to the next generation.

There is a sense of peace that comes from knowing that the people and causes we care about will be provided for after we are gone. That's why I'm especially grateful when Right to Work supporters remember the Foundation through planned giving.

If you have recognized the advantages of planned giving and have decided to include the Foundation in your plans, please let us know now so we can thank you.

We can also advise you on various ways you can structure your planned giving to achieve the maximum tax advantage for your estate. For more information, I urge you to call me or my assistant Ginny Smith at 1-800-336-3600, or e-mail plannedgiving@nrtw.org.

Thank you for propelling our movement forward with your gifts.

Sincerely,

Mark Mix