



Foundation Action

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

Vol. XXIII, No. 6

8001 Braddock Road • Springfield, Virginia 22160

www.nrtw.org

November/December 2003

Foundation's Anti-Top-Down Organizing Task Force at Full Tilt

***Litigation attacks
“neutrality agreements”
and other tactics that
impose forced unionism***

SPRINGFIELD, Va. — The National Right to Work Foundation's litigation team has been inundated in recent months with legal aid requests relating to union officials' aggressive roll-out of their broad program to impose union representation on thousands of American workplaces without so much as a vote of the employees.

Having already filed a half dozen high profile cases at the National Labor Relations Board and one lawsuit in U.S. District Court, Foundation attorneys are the leaders of a national effort to slow, and ultimately reverse, the overwhelming momentum behind what is widely recognized as Big Labor's coercive organizing model for the future.

Even though federal labor law is tilted in their favor, union officials are increasingly going “outside the box,” using “top-down” organizing to bolster their ranks and preserve their forced-dues power.

Appalled by the union corruption, political chicanery, and destroyed jobs and businesses left in Big Labor's wake,

workers have chosen increasingly to reject unionization. In response, union officials have refocused their priorities towards organizing employers and imposing unionization on employees from the top down through devices known as “neutrality and card check agreements.”

Under such schemes—usually reached after a targeted employer's business is disrupted through union picketing, threats, or comprehensive “corporate campaign” tactics involving organized pressure from suppliers, stockholders, negative media coverage, and elected officials—employers feel they have no choice but to agree to support a union's efforts to impose compulsory unionism on workers.

“Despite their rhetoric, union operatives are less interested in building voluntary support among rank-and-file workers than in maintaining a steady flow of compulsory dues,” said Foundation President Mark Mix.

Union operatives coerce workers through abusive “card check” schemes

In one pending Foundation legal challenge, two employees of Warnaco Inc., in Altoona, Pa., are asking that officials of the Union of Needletrades, Industrial, and Textile Employees (UNITE) union be stripped of their exclusive representation power over



Even with federal labor law stacked in their favor, union organizers (like those pictured above at a recent UAW press conference) are bullying companies into doing their dirty work.

Warnaco's Altoona-based employees, as the union's recognition was based on a “false and tainted” process. In fact, 60 percent of the Warnaco employees have

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Machinist Union Must Honor Religious Objections

Lockheed Martin employee found union's agenda morally offensive

ORLANDO, Fla. — A three-year religious liberty battle and federal civil rights lawsuit between an individual employee and the International Association of Machinists (IAM) Local 610 has come to an end.

Robert Beers, an employee at Lockheed Martin's Cape Canaveral Air Force Station facility, faced threats by union officials that he would be fired from his job (and lose his health insurance while his now-deceased teenage son was in cancer treatment) unless he paid fees to a union that he believes is deeply involved in activities that violate his sincerely held religious convictions.

After the Equal Employment Opportunity Commission (EEOC) announced its agreement that the union had violated federal law, National Right to Work Foundation attorneys filed the federal suit for Beers in the



Tom Buffenbarger's IAM union waged a three-year legal battle against Robert Beers to crush his religious objection.

United States District Court for the Middle District of Florida against IAM Local 610.

"For years IAM union officials have been unfairly persecuting Robert Beers because he put his faith ahead of their radical agenda," said Stefan Gleason, Vice President of the National Right to Work Legal Defense Foundation. "No one should be forced to sacrifice their faith in order to keep their job."

Worker objected to union hierarchy's radical social agenda

Beers' sincerely held religious beliefs prevented him from supporting the union's militant ideological agenda, particularly its support for abortion and homosexuality, which he believes are

forbidden by the Bible. He asserted his right as a religious objector under Title VII of the Civil Rights Act of 1964 to refrain from union activities and withhold the payment of dues to the union, offering to send his union dues to a mutually agreed-upon charity.

Union officials refused his request and informed Beers they would have him fired from his job if he refused to pay them. Beers paid the union under protest.

Union officials refused to grant religious accommodation

Foundation attorneys originally filed the religious discrimination charges for Beers against the union in the fall of 2000 with the EEOC. The EEOC found in his favor and attempted to persuade the union's officials to agree to a settlement. However, IAM Local 610's lawyers thumbed their noses at the EEOC offer and continued to oppose Beers' religious objection, forcing him to sue in federal court.

When contacted, Beers reported that he has now been provided a religious accommodation by the union. That accommodation is that he is not required to support financially - the union.

Federal law trumps Right to Work protections on "federal enclaves"

Although Florida has a highly-popular Right to Work law that allows employees to cut off dues payments to unwanted unions, Cape Canaveral is considered an exclusive "federal enclave" subject to provisions in federal labor law granting union officials the power to compel the payment of dues as a job condition. *✠*

Foundation Action

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Distributed by the
National Right to Work Legal Defense Foundation, Inc.
8001 Braddock Road, Springfield, Virginia 22160
www.nrtw.org • 1-800-336-3600

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 Attorneys Beat Union Fines Against Janitors

Union officials imposed confiscatory fines or chores to punish non-striking workers

LOS ANGELES, Calif. — Settling a National Labor Relations Board (NLRB) complaint based on the work of National Right to Work Foundation attorneys, the Service Employees International Union (SEIU) Local 1877 has agreed to rescind fines that were illegally levied against 32 Los Angeles-area janitors.

The union hierarchy levied the fines because the janitors dared to continue working to support their families during the widely publicized “Justice for Janitors” strike in April 2000. In a similar 1997 case, SEIU Local 1877 sent threatening letters to janitors in Oakland, California, demanding that they pay outrageous fines—some as high as \$3,000—for working during the 1997 strike. Foundation attorneys similarly forced union officials to rescind the illegal fines through legal action.

“This settlement is a victory for those workers who have the courage to stand up and put their families ahead of the demands of a self-serving union bureaucracy,” said Stefan Gleason, Vice President of the National Right to Work Foundation. “Union officials waged a three-year NLRB battle to retaliate against the very employees whose interests they claim to represent.”

The janitors are employees of American Building Maintenance Janitorial Services Company and two other janitorial services in Southern California which faced a crippling strike in 2000.

Janitors were targeted for staying on the job

After the strike ended, Local 1877 union officials levied the illegal strike fines—amounting up to \$500 per janitor—against janitors who refused to walk off the job. The union officials demanded that the workers either pay the fines or perform so-called “community service,”



AP/Wide World Photo

After fining 32 janitors for refusing to abandon their jobs during the so-called “Justice for Janitors” strike, the SEIU union must now rescind the illegal fines.

such as scrubbing floors at the union hall. The intent of the fines was to punish those who dared to defy union edicts.

“It’s ridiculous,” Rose Lugo, one of the janitors involved, told the *Pasadena Star-News*. “I think the union should let the people decide on their own whether to strike or not. Some of us couldn’t afford to strike.”

Union bosses cannot lawfully keep workers in the dark

Because Foundation attorneys were able to establish that the janitors had never been informed of their rights to refrain from formal union membership—a status which exempts employees from internal union discipline—NLRB Region 21 agreed to prosecute the union hierarchy for unfair labor practices. Using the same legal theory, Foundation attorneys won protection for janitors against the same union in Oakland.

As part of the settlement, SEIU Local 1877 must also post a notice alerting all workers in the bargaining unit to their right to refrain from formal union membership and pay a reduced fee covering only the cost of activities directly related to collective bargaining—rights established by the Foundation-won Supreme Court decision in *Communications Workers v. Beck* as well as *General Motors v. NLRB*.

Despite these rulings, union officials often fail to inform workers (or lie to them outright) about their right to refrain from formal, full-dues-paying union membership.

“As demonstrated by these vindictive bully tactics, SEIU union bosses have a perverted view of exactly what constitutes ‘Justice for Janitors,’” stated Gleason. “Until California workers enjoy the protections of a Right to Work law, which would end the practice of forcing employees to join a union or pay any dues whatsoever as a job condition, Golden State workers will continue to suffer similar abuse at the hands of union officials.”

Department of Labor Guts New Union Disclosure Regs

Last-minute concessions to union lobbyists create gaping loopholes for abuse

WASHINGTON, D.C. — In a last minute move, apparently intended to appease union bosses who have been consistently hostile to President George W. Bush's administration, officials within Bush's Department of Labor (DOL) made a series of concessions that have significantly weakened the President's attempts to require that employees are provided with a meaningful accounting of how their compulsory union dues are spent.

Last year, the Bush Administration announced that the Department of Labor planned to reform the annual financial forms unions must file under the Labor-Management Reporting and Disclosure Act (LM-2s). This is the first revision of outdated forms originally designed 40 years ago. At the time of the announcement in 2002, employee rights advocates such as the National Right to Work Foundation hailed the news as a promising first step toward increasing union accountability during an epidemic of embezzlement and other crimes committed by union officials across America.

That's why labor experts and political observers were stunned to learn that, in the days leading up to the issuance of the final disclosure requirements this fall, itemization thresholds were raised dramatically, distinct reporting categories were inexplicably combined, and a requirement for independent auditing was dismissed out of hand.

"This last-minute gutting of the new disclosure regulations was foolishly intended to blunt union officials' criticism, but it has predictably failed to do so," stated Foundation President Mark Mix. "This entire process further demonstrates that the only way to confront union corruption in a meaningful way is to eliminate the government-granted special privileges union officials enjoy to force employees to join or support a union in the first place."

Reforms were intended to increase transparency

Recent high-profile scandals involving misappropriation of union funds on behalf of Big Labor bosses had led to increased calls from rank-and-file union members and workers' rights advocates for strengthening union financial disclosure requirements which had previously proven to be totally ineffective in deterring corruption.

For example, Frank Massey, a partner at Thomas Havey, LLP., the nation's largest union accounting firm, pleaded guilty last year to helping Ironworkers union officials hide over \$1.5 million in union expenditures to buy everything from liquor to prostitutes.

Massey helped the Ironworkers union president Jake West and his comrades veil their self-indulgence by listing the expenditures as "Office and Administrative expenses" or "Education and Publicity" on the union's LM-2 disclosure forms.

In addition, union bigwigs on the board of the Union Labor Life Insurance Company (ULLICO) pocketed millions in personal profits that devalued employee pension funds through an insider trading scheme widely known as "Big Labor's Enron."



Congressman Charlie Norwood (R-GA) raised his concerns about the gutting of disclosure requirements to Secretary of Labor Elaine Chao.



Secretary Elaine Chao's team drops ball

However, at the direction of key players within the DOL hierarchy, the Department inexplicably made a last minute decision to raise the threshold for itemization of union expenditures to \$5,000 from an originally proposed level of \$250 (and later \$2,000). This move allows union officials to conceal on the new forms the vast majority of disbursements from union treasuries.

As Congressman Charlie Norwood recently wrote in a very direct letter to Secretary of Labor Elaine Chao about the embarrassing final product that represents nearly two years of work, "What can \$4,999.99 buy union officials? At four cents each, 125,000 phone calls from phone banks. That's unacceptable."

In addition, the new disclosure requirements fail to mandate an independent audit or verification of any kind—an exemption that companies and most non-profit organizations do not enjoy. The statute clearly authorizes the Department of Labor to establish such a requirement, and Foundation attorneys provided to DOL officials a legal analysis that demonstrated this fact.

But the greatest betrayal of the goal of union transparency is embodied by the last-minute decision to combine distinct categories of union expenditures. The most egregious of these combinations is allowing expenditures for union organizing

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AP/Wide World Photo

Teamsters union president James R. Hoffa (left) and Carpenters union president Doug McCarron (right) surely worked to persuade administration operatives to undermine Bush's plan to improve union financial reporting.

Union Organizers Clamor to Bypass Employee Consent

continued from cover

signed a petition declaring that they never signed union authorization cards that were used to show that the union had majority support.

With help from Foundation attorneys, two non-union workers at Warnaco, Donna Taneyhill and Helen Holdsworth, filed charges with the National Labor Relations Board (NLRB) against UNITE officials and its Mid-Atlantic Regional Joint Board.

Without clear evidence that a majority of workers support the union, UNITE officials have no legal right to act as the workers' exclusive representative. Meanwhile, other employees have come forward alleging that UNITE organizers harassed employees and coerced them to sign union authorization cards. The workers' charges seek to bar UNITE union officials from bargaining on their behalf based on the tainted card check campaign.

Despite Big Labor's claims about the fairness of card checks, even the AFL-CIO hierarchy itself once acknowledged that collecting employee's signa-

tures on cards proves little, if anything. The *AFL-CIO Guidebook for Union Organizers* explained "[C]ards are at best a signifying of an intention at a given moment. Sometimes they are signed to 'get the union off my back.'...Whatever the reason, there is no guarantee of anything in a signed...pledge card..."

Union officials cancel election, impose quick-snap card count

A similar instance of abuse occurred recently in Elizabethtown, Kentucky. Pam Lippe, an employee of Dana Corporation, with the help of Foundation attorneys, filed federal charges challenging a similar "neutrality and card check" agreement—signed between Dana and the United Auto Workers (UAW) union—on the grounds that it violates employees' rights to refrain from union representation.

The charges seek an injunction against the UAW and Dana Corporation to block implementation of the agreement which has already included pro-union "captive audience" speeches given by Dana executives, prohibition of employee-generated signs opposing the union, and refusal to allow employees to void previously signed union authorization cards.

Fearing defeat, union officials canceled an NLRB-supervised secret-ballot election three weeks before it was to take place, and they moved to impose the union on Dana workers through a quick-snap card count. Previous efforts by the UAW to organize the facility have failed—with over 60 percent



Stefan Gleason, the Foundation's Vice President, appeared on national TV to expose the injustices of top-down organizing.

of workers voting against unionization in an election held in just over a year ago.

Workers' wage hike held hostage over forced unionization scam

The UAW union faces a second legal challenge from two Freightliner employees, David Roach and Mike Ivey, from Gaffney, South Carolina. With the help of Foundation attorneys, the workers charged Freightliner, Daimler-Chrysler, and the UAW union for withholding pay raises as part of a strategy to coerce employees into bowing to unwanted unionization.

As in the Kentucky case, workers at the Gaffney plant had rejected unionization in the past. Approximately 70 percent of the plant's employees signed a petition stating that they prefer to negotiate directly with company officials over wages and benefits. The petition states in part that the undersigned employees "recognize the destructive and self-serving behavior of the UAW, and its documented role in union violence, union corruption, and plant closures caused by featherbedding and other uneconomic union work rules."

"UAW operatives held the wage increase hostage in order to coerce workers into signing union cards," said Mix.

see next page



Because they keep losing secret ballot elections, union bosses now claim that such a process is "unfair" and must be replaced with a card-check shakedown scheme.

Foundation Answers... *What is "exclusive representation"?*

"Exclusive representation" (better described as "monopoly bargaining") is the special coercive privilege, given by the federal laws governing employees of private companies (and the laws of more than 30 states covering government employees), that empowers union officials to represent all employees in a unionized workplace—whether or not the individual employee wants such "representation."

Monopoly bargaining establishes a system of compulsory union representation that deprives employees, even in Right to Work states, of their right to bargain for themselves. Employees in unionized workplaces are

therefore not rewarded on the basis of their individual merit, but are instead forced to accept the terms and conditions of an arbitrary, one-size-fits-all collective bargaining agreement that has the effect of reducing the level of performance to the lowest common denominator.

Union officials demand this monopoly bargaining authority not only to ensure that they are installed as middle men who exercise final authority over all employees' terms and conditions of employment, but also to use cynically as their primary supposed justification for forcing all employees to pay union dues.

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"The employees simply don't want the union around—but Freightliner and the UAW are refusing to get the message."

Knowledge is power

Workers facing top-down organizing campaigns have, in a few cases, fended off union organizing drives—despite all the advantages the organizers enjoyed.

For example, facing stiff opposition from workers at a major Johnson Controls, Inc. (JCI) facility in Athens, Tennessee, UAW union organizers abandoned efforts to impose union representation on that plant's workers pursuant to the union's "neutrality and card check" agreement with the major automotive parts supplier, but only after several Athens workers contacted the Foundation for help early last summer.

Realizing that employees had been kept in the dark by JCI and UAW officials, the Foundation launched an ad campaign. The Foundation's ads informed employees about the true nature of the back-room deal that had been struck affecting their freedom and employment. And the ads recommended ways to ensure that JCI does not hand UAW organizers employees' personal information, such as names, phone numbers, and home addresses, for the purpose of making "home visits" intended to bully workers into signing union authorization cards.

It is believed that UAW union operatives only obtained signatures from 10 percent of the employees at the plant, well short of the majority needed to install the union as the workers' exclusive representative. So hostile was the workers' reaction to the UAW's organizing attempts, employees attending JCI management's pro union speeches even donned homemade t-shirts saying "UAW-Union Ain't Wanted."

While the Athens JCI employees' repudiation is a setback to the UAW union's ongoing efforts to expand control over auto industry suppliers, the union hierarchy is rolling out its program at many other JCI facilities and those of other companies, such as Magna-Donnelly and Freightliner.

NLRB must act to protect workers' freedoms

As all of these cases show, there are serious issues at stake in the battle over "neutrality and card check" agreements. Left unchecked, they have the potential to lock millions more workers into forced unionism contracts, undermine state Right to Work laws, drive millions of jobs overseas, and send America's already struggling economy veering into a ditch.

That's why on Labor Day weekend the Foundation announced that it will triple the resources spent on defending

employees against these emerging methods of joint employer/union coercion of employees in the decision of whether to unionize.

The onus is largely on the NLRB to take action to block the implementation of these highly coercive "neutrality and card check" agreements. However, the regional directors under the jurisdiction of General Counsel Arthur Rosenfeld have not yet issued complaints in any of these cases. In the coming months, the Foundation intends to build legal and political pressure to force positive action on this battlefield. ♣



NLRB General Counsel Arthur Rosenfeld, a Bush appointee, has unreviewable discretion to initiate NLRB prosecutions.

LM-2 "Reform"

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activity—activity on which some unions now spend a majority of workers' forced dues—to be dumped into the unrelated "representational activities" category.

Aside from undermining enforcement of the Foundation's Supreme Court precedents, which establish that employees cannot be forced to pay for union organizing because it is unrelated to collective bargaining, this decision will allow union officials to conceal how much of their dues are actually spent on efforts to recruit new forced-dues-paying members to their private ideological cause.

Mix urges Bush to drop Radzely nomination

Howard Radzely, Acting Solicitor of Labor and President Bush's nominee for the permanent Solicitor position, oversaw—and is reported to be largely responsible for—the last minute changes.

In response, Mark Mix, acting in his capacity as president of the Foundation's sister organization, the National Right to Work Committee, formally called upon President Bush to withdraw Radzely's nomination for the Solicitor position. Doing so, Mix explained, would help head off similar core policy concessions in the future by top DOL staff.

"To put it plainly, this last-minute gutting of the LM-2 regulations has not only betrayed your goal to provide meaningful financial disclosure to unionized employees," wrote Mix in his letter to President Bush, "but it has also betrayed your commitment to enforcement of the *Beck* decision."

"However, there is action you can take right now to head off further compromises of your pro-employee rights agenda apparently made by certain personnel at Labor. Accordingly, we urge you to immediately withdraw the nomination of Howard Radzely for Solicitor of the Department of Labor." ✠



Message from Mark Mix

President
National Right to Work
Legal Defense Foundation

Dear Foundation Supporter:

Bill Clinton appointed a daunting 377 federal judges.

That's nearly half of all full-time federal judges. And because of their life tenure, many of those judges will be haunting those of us who support voluntary unionism, the Constitution, and the rule of law for decades.

It's no shock that Clinton stacked the federal judiciary with union boss apologists, including many union lawyers. The union hierarchy understands the power of the judiciary. Control over judicial appointments is a central reason why Big Labor spends more than \$800 million in each election cycle to elect its handpicked candidates to political office.

Today, it's President George W. Bush who has the right to nominate judges. But a group of powerful union-owned Senators has been trying to take that right away by abusing the "advice and consent" power to kill nominations of respected, well-qualified legal minds who do not desire to legislate from the bench and who don't pass Big Labor's ideological litmus test.

Using a tactic that some call an assault on the U.S. Constitution, certain Senators are refusing even to allow up-or-down votes on several of the President's nominees to federal appellate courts.

Big Labor's scorched-earth tactics in trashing Bush's judicial nominees are merely a warm-up for Bush's eventual Supreme Court nominations—with several potential vacancies already being discussed. For the union bosses, a judiciary that would eagerly join with the Foundation in protecting workers—and America—from the abuses of compulsory unionism is their worst nightmare.

That's a major reason why union officials are using their power and forced-dues cash to keep an iron grip on the U.S. Senate, and it is why your ongoing support for the Foundation's program to oppose union tyranny is so vitally important.

Sincerely,

Mark Mix