



Foundation *Action*

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High Court to Hear Case that Could End Forced Dues in the Public Sector

Building on Foundation victories, lawsuit could give every civil servant Right to Work protections

WASHINGTON, DC – On the final day of the 2014-2015 term, the United States Supreme Court announced it would hear *Friedrichs v. California Teachers Association*, a potentially groundbreaking case that could end forced union dues in the public sector. The *Friedrichs* lawsuit builds on several Foundation legal victories, most notably *Harris v. Quinn* and *Knox v. SEIU*, two Supreme Court cases that raised serious doubts about the constitutionality of mandatory public sector union dues.

Friedrichs v. California Teachers Association was brought by several nonunion California public school teachers supported by the Center for Individual Rights and the Christian Educators Association. The teachers contend that being forced to pay dues to a union they have no interest in supporting violates the First Amendment.

Case builds on Foundation legal victories

In a statement quoted by several national media outlets, National Right to Work Foundation President Mark Mix hailed the Supreme Court's decision to take the case.

"The question of whether government employees can be required to subsidize the speech of a union they do not support as a condition of working for their own government is now squarely before the court," said Mix. "We hope



The Supreme Court could be on the verge of outlawing forced dues in the public sector, a ruling that would give all civil servants the Right to Work.

the Court will build on majority opinions from the National Right to Work Foundation-won *Knox v. SEIU* and *Harris v. Quinn* cases and rule that mandatory union dues violate the principles laid out in the Bill of Rights."

The *Friedrichs* legal challenge builds on the two most recent Supreme Court decisions won by National Right to Work Foundation staff attorneys.

In 2012, The Supreme Court issued a groundbreaking decision in *Knox v. SEIU*, a case argued by Foundation litigators. The *Knox* decision required union officials to refund political assessments taken from thousands of non-member California civil servants.

The Court's *Knox* opinion, written by Justice Alito, raised serious questions

about the constitutionality of forcing civil servants to pay any union dues at all, calling the practice "something of an anomaly" in American jurisprudence.

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Michigan Right to Work Laws Survive Union Lawyer Attacks

Foundation staff attorneys help employees defend their Right to Work in court

DETROIT, MI – In late July, National Right to Work Foundation staff attorneys received word of two welcome developments regarding one of the country's newest Right to Work states. First, the Michigan Supreme Court ruled that the state's Civil Service Commission has no authority to require state employees to pay union dues as a condition of employment. A few days later, a federal district court dismissed an AFL-CIO legal challenge to Michigan's private-sector Right to Work law. Both decisions affirm the right of all Michigan employees – public and private – to work without being forced to pay tribute to union bosses.

"As soon as Michigan adopted Right to Work protections for public- and private-sector employees, our legal team knew that union bosses would immediately launch a barrage of counter-attacks," said Patrick Semmens, vice president of the National Right to Work Foundation. "In two recent cases, the courts rejected union lawyers' spurious arguments and upheld the workplace rights of several independent-minded Michigan employees."



Union bosses have just suffered two serious legal setbacks to their effort to undermine employee freedom in Michigan.


Foundation attorneys defend Right to Work

In the public sector case, National Right to Work Foundation staff attorneys submitted an *amicus curiae* ("friend of the court") brief for Thomas Haxby, an employee of the Michigan

Department of Natural Resources. After Michigan's Right to Work law went into effect, Haxby resigned his membership in the Service Employees International Union (SEIU) Local 517M, one of the unions that filed the suit, and opted out of paying union dues.

Foundation staff attorneys responded to the AFL-CIO's legal challenge to the private-sector law by filing a brief for four Michigan employees, all of whom were employed in workplaces covered by a forced-dues contract between their employers and unions before the Right to Work law was enacted. Under those contracts, the four workers were forced to pay union dues or fees to keep their jobs, despite the fact they opposed a union presence.

Foundation attorneys are also actively involved in efforts to enforce the new laws for independent-minded Michigan employees. In late June, Right to Work staff attorneys helped a Howell, MI-based bus driver convince the Michigan Employee Relations Commission (MERC) to strike down an illegal Teamster policy. Teamster officials tried to force nonunion employees to wait until a union-designated "window period" to stop paying dues, but the MERC's ruling established a precedent that will apply to similar schemes throughout the state.

"Michigan's Right to Work laws must be defended and enforced in court and in the labor agencies," continued Semmens. "Foundation staff attorneys are willing and able to help Michigan employees fight for their rights." 

Foundation Action

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Work updates, visit
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Oregon Lawsuit Takes Aim at Forced Dues for Nonunion Caregivers

Lawsuit builds on landmark Foundation Supreme Court victory in Harris v. Quinn

EUGENE, OREGON – With the help of staff attorneys from the National Right to Work Foundation and the Pacific Northwest-based Freedom Foundation, an Oregon homecare provider has filed a federal class-action lawsuit against SEIU Local 503, Oregon Governor Kate Brown, and several high-ranking state officials. The lawsuit challenges a state policy that requires nonunion Oregon homecare providers to pay union dues and accept union monopoly bargaining over issues related to their caregiving practices.

Julian Brown, the suit's plaintiff, is a homecare provider from Deschutes County. Although Brown has never been an SEIU member, he was pushed into a state-wide bargaining unit of Oregon caregivers who are forced to accept SEIU bargaining and pay union dues as a condition of receiving a state homecare subsidy.

"I never signed a membership card, but from the time I began working as a homecare worker, the state pulled dues from my paycheck and forwarded that money to SEIU 503," said Brown. "I never wanted to join the union or be forced to support it and pay for its agenda."

Suit builds on Foundation Supreme Court victory

The lawsuit seeks to enforce and expand upon the National Right to Work Foundation-won *Harris v. Quinn* Supreme Court ruling, which outlawed mandatory union dues for homecare providers in 2014. The Court ruled in *Harris* that requiring nonunion caregivers to pay union dues violated their First Amendment rights.

Since the *Harris* decision was handed down, Foundation staff attorneys have actively sought to build on the Supreme



Foundation Staff attorneys are helping Oregon caregiver Julian Brown challenge an illegal policy that forces him to pay union dues.

Court's landmark decision in cases across the country. Brown's Oregon lawsuit is just the latest example of Foundation-assisted homecare litigation.

In Washington, a Foundation-assisted lawsuit filed by several caregivers prompted one SEIU local to drop its forced-dues demands. Meanwhile, Foundation staff attorneys are asking the Supreme Court to order refunds of millions of dollars in illegally-seized union dues to thousands of nonunion Michigan care providers.

Right to Work attorneys are also helping several Massachusetts homecare providers challenge a unionization scheme that allows the SEIU to bargain with state officials over their training and certification procedures.

Caregiver fights for the First Amendment

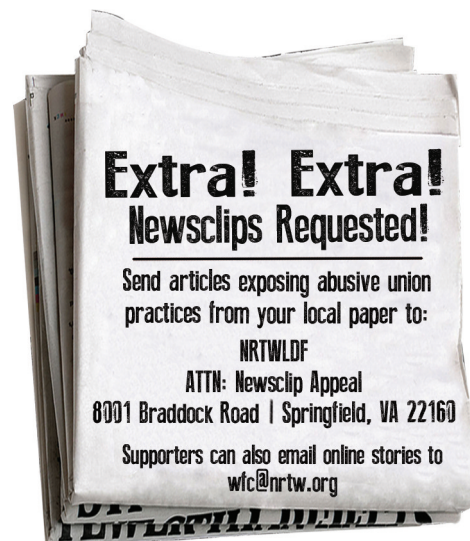
Brown's lawsuit contends that forcing nonunion Oregon caregivers to finan-

cially support a union and work under union-negotiated policies both violate the First Amendment. The lawsuit seeks to end SEIU officials' exclusive bargaining arrangement with the state and their power to collect mandatory dues from Oregon care providers. Brown also seeks a refund of all union dues deducted from his and all other nonmember providers' state subsidies since 2013.

"The union doesn't represent my interests or the interests of my fellow healthcare workers," said Brown. "It represents its own political agenda, and it shouldn't be allowed to petition the government on my behalf."

"I'm so glad the Freedom Foundation and the National Right to Work Legal Defense Foundation are supporting my stand," he added.

"Mr. Brown's lawsuit underscores the importance of the Foundation's strategic litigation program," said Ray LaJeunesse, vice president and legal director of the National Right to Work Foundation. "Not only do we win landmark Supreme Court decisions that protect employee rights, we defend and enforce those decisions at the state and local level. No other organization is equipped to take on this vital role nationwide."



Obama NLRB's Attempt to Undermine State Right to Work Laws Stalls

Labor Board abandons union 'fee for grievance' push in Right to Work states – for now

WASHINGTON, DC – After the National Right to Work Foundation sounded the alarms, sparking public outcry and a Congressional hearing, a Florida union and employer quietly settled a case in July that the Obama Labor Board apparently hoped to use to undermine all 25 existing state Right to Work laws and chill growing momentum for similar laws in other states.

In April, the National Labor Relations Board (NLRB) invited briefs as to whether it should overturn long-standing precedents and allow union officials in Right to Work states to charge nonmember employees for processing grievances through the union-controlled grievance system.

“When this board is asking for an *amicus* brief on the reconsideration of a rule, the majority’s already decided that it wants to change the rule,” one labor law expert commented.

Scheme would gut every state Right to Work law

Observers further saw the announced scheme as politically-motivated revenge following the passage of three new state Right to Work laws in the last three years, including in former Big Labor-strongholds Michigan and Wisconsin.

Section 14(b) of the National Labor Relations Act specifically affirms the right of states to enact such laws, and decades of court and administrative law precedents have ensured that union bosses cannot lawfully collect any dues or “fees” from unwilling workers in Right to Work states, including so-called “contract grievance fees.”

“Right to Work laws mean precisely what they say: Workers cannot be forced to pay a single penny to a labor organization they oppose,” said National Right to Work Vice President and Legal



National Right to Work Foundation President Mark Mix testified before the U.S. House of Representatives about the Obama Labor Board's scheme to undermine all 25 state Right to Work laws.

Director Ray LaJeunesse. “The Obama NLRB has now signaled its intent to drive a stake through such laws and allow union bosses in Right to Work states to circumvent that plain meaning of the law.”

Once a union seeks and gains monopoly bargaining power over all workers in a workplace, even those workers who oppose unionization, union bosses take away individual workers’ right to represent themselves in dealing with their employer.

Union bosses control the entire “contract grievance” process, and workers cannot obtain remedies without the union’s permission and involvement. Nonmember workers, forbidden by union bosses from voting on contracts, have no recourse to change the process.

“This entire process is coercive, but union bosses and their apologists on the National Labor Relations Board want to force independent-minded workers to pay for it whether they like it or not,” continued LaJeunesse. “By just making an example of a few nonmembers, including potentially filing collection lawsuits against nonmembers to collect

fees for processing grievances, the chilling effect would discourage workers from exercising their rights under state Right to Work laws.”

Foundation fights back every step of the way

Long before the NLRB went public with its request for briefs, Foundation staff attorneys saw the threat coming.

Foundation staff attorneys had already filed a brief last year after United Steelworkers (USW) union bosses appealed an Administrative Law Judge’s ruling that the union committed an unfair labor practice by demanding that a nonmember pay “grievance fees” in Florida.

The NLRB’s invitation for additional briefs, however, enhanced the threat to worker freedom by essentially asking union lawyers to submit proposals to push the envelope as far as possible.

“For example, union lawyers might propose that unions can lawfully under the NLRA charge nonmember workers the full costs of processing grievances or full dues for the entire length of a multi-

year monopoly bargaining contract, either of which would amount to thousands of dollars for a single worker,” explained LaJeunesse.

While Foundation staff attorneys set to work on a new brief, the Foundation’s legal information department alerted the public and key members of the press about the danger posed to state Right to Work laws. The ensuing public attention even resulted in a hearing before the Education and Workforce Committee of the United States House of Representatives, at which National Right to Work Foundation President Mark Mix testified.

Not long after the hearing, the union and the NLRB General Counsel settled the case, presumably preventing the NLRB from proceeding with the scheme now that there was no “live controversy” before it. However, although the NLRB has suspended briefing in the case, it has not dismissed the union’s appeal.

Obama Administration's war against worker freedom continues

Foundation staff attorneys will continue to watch for a revival of the “grievance fee” scheme, as well as any other threats to worker freedom that may come out of the NLRB or other federal agencies in the twilight of Barack Obama’s presidency.

As previous issues of **Foundation Action** have documented over the last six and a half years, the Obama Administration has repeatedly rewarded its Big Labor benefactors with sweetheart deals, special privileges, and expanded power over independent-minded workers and job providers.

“The ‘grievance fee’ scheme is the most dangerous threat to worker freedom to come out of the Obama Administration,” said LaJeunesse. “It may even be the greatest threat we have faced as an organization since I started working for the Foundation in 1971.”

It's Your Choice! Make a Planned Gift to the National Right to Work Foundation

Where has the year gone? As the Fall season is upon us, we look ahead to 2016 and the uncertainty of a presidential election year and the economic uncertainty and tax policy changes that come with it. Many of our most loyal supporters to the National Right to Work Foundation, a charitable 501 (c)(3) organization, are considering tax-saving options today that will benefit their family and the work of the Foundation in the future.

Estate planning means different things to different people. And it should because effective estate plans reflect the uniqueness of those who complete them. In general terms, estate planning is the process of accumulating, managing, and distributing property over the course of a lifetime.

In several recent issues of **Foundation Action**, we have reviewed how you can benefit from careful estate planning and assist the Right to Work cause at the same time. Regardless of whether you are considering your estate plans for the first time or are reviewing ones you already have in place, there is peace of mind that comes to you and your loved ones when a well-thought-out plan is in place.

Gifts of cash are the most common method of making a charitable gift to the Foundation. Gifts of cash today can reduce either regular or alternative minimum income taxes for your 2015 tax filings. Your savings depend on your specific tax rate and other factors.

A gift of stocks, mutual funds, or other securities that have increased in value since they were purchased is another way to make a charitable gift to the Foundation today. Appreciated securities are subject to a capital gains tax when they are sold by the individual. Gifts of appreciated stock (which has been held for more than one year) may be deducted in amounts totaling up to 30 percent of your AGI limits.

Of course, outright gifts of cash and securities to the Foundation in combatting compulsory unionism are vital to the immediate help to the millions of Americans denied their workplace freedoms. Your investment today can make the difference!

As with all estate plans, we urge you to consult an attorney or estate advisor about the laws in your state and for assistance and advice as you make plans for the short – and long-term management and disposition of your property. Please contact Ginny Smith, Foundation Director of Strategic Programs, if you would like to make a gift of stock, a gift annuity, or a planned gift to the Foundation. She can be reached at 1-800-336-3600, Ext. 3303.

Thank you for your continued support and dedication to the Right to Work cause. It means so much to the thousands of working men and women across the country who benefit from the Foundation’s vital strategic litigation program.

Rhode Island Police Officers Face Retaliation for Objecting to Union Fees

Part-time officers were forced to pay \$5 an hour to a union that does not represent them

WESTERLY, RI – With the help of Foundation staff attorneys, five part-time Rhode Island police officers have filed a civil rights suit in U.S. District Court alleging that union officials are violating their rights by forcing them to contribute \$5 an hour from every paycheck to the International Brotherhood of Police Officers Local 503 union.

In April 2014, the Town of Westerly, RI began automatically deducting \$5-an-hour union fees from the paychecks of part-time police officers, which were then handed over to Local 503. This arrangement was established by the monopoly bargaining agreement between Local 503 and the Town. However, part-time police officers are neither represented nor covered by the agreement.

“Union bosses and bureaucrats have concocted an illegal scheme to funnel money from the paychecks of part-time officers into the union’s coffers,” said Patrick Semmens, vice president of the National Right to Work Foundation. “The union is diverting 13% of these officers’ wages into its coffers without any legal justification whatsoever.”



Officer Koza, who lost his job for speaking out against an illegal union dues scheme, directs traffic after a town parade in Westerly, RI.

The officers did not immediately resort to legal action. They first attempted to resolve this issue by talking to town officials and the Chief of Police, Edward St. Clair.

Repeated requests to stop the fee deduction went unanswered, and the officers soon encountered retaliation. In fact, the officers allege that the police chief told them that they could be easily replaced if they continue to speak out.


Moreover, the duty assignment system was revised in November 2014 in such a way that the part-time officers’ hours and pay were reduced.

Officer fired for blowing whistle on union scheme

In a blatant attempt to punish a whistle-blower, officer Darrell Koza was fired without a hearing in December of 2014. Koza’s termination prompted him and the other officers to seek free legal aid from Foundation attorneys.

In an interview with *The Daily Caller*, Koza said, “We had approached our police chief about the issue, we had approached the town council about the issue and the town manager. I get the impression the town just brushed off our concerns.”

“This [lawsuit] is a way for the town to take us seriously,” Koza continued.

Koza has filed a separate lawsuit alleging that his firing was an illegal act of union retaliation. His suit seeks reinstatement, lost wages, an end to the union wage skim and damages under a state whistleblower protection law. 

MI Childcare Providers ask Supremes for Refund of \$4 Million in Illegal Dues

Scheme violated the First Amendment, but homecare union bosses won’t return funds

WASHINGTON, DC – National Right to Work Foundation attorneys have filed a petition asking the Supreme Court to take-up *Schlaud v. UAW*. The case involves Michigan home healthcare workers who were illegally forced to pay union dues under a scheme established by former Governor Jennifer Granholm.


The five Michigan homecare workers who originally filed the lawsuit, Carrie Schlaud, Dianna Orr, Peggy Mashke, and Edward and Nora Gross, all receive a small subsidy from the state to provide

home-based childcare services. They filed a class-action lawsuit, arguing that because they are not full-fledged public employees, they could not be forced to pay union fees to the Child Care Providers Together Michigan union (CCPTM) as a condition of receiving the state subsidy.

A settlement was reached with Governor Rick Snyder ending the scheme, and the union refunded the fees illegally seized from the five named plaintiffs. However, the lower courts

denied class-action status, meaning that none of the 50,000 other Michigan homecare providers from whom fees were collected received a refund.

“These five caregivers won a favorable settlement, but every Michigan provider who was wrongfully forced to fork over money to union bosses deserves a refund as well,” said Ray LaJeunesse, Foundation Vice President and Legal Director.

The estimated total that union bosses would have to refund is \$4 million. 

NATIONAL RIGHT TO WORK *FEATURED COMMENTARY*

MARK MIX: This Labor Day, Celebrate the Right to Work Advantage

If you're reading this, congratulations! You're likely one of the millions of Americans living in one of 25 Right to Work states. You might not know it from Right to Work opponents' heated rhetoric, but Right to Work laws aren't hard to understand. They simply ensure that no employee can be forced to join or pay dues to a union. Not only does this enshrine workplace choice and protect employee freedom, it also brings a number of economic benefits to your home state.

According to data compiled by the National Institute for Labor Relations Research, Right to Work states have enjoyed higher private-sector job growth and larger wage increases over the past decade than their forced-unionism counterparts. No only that, but after adjusting for states' differing costs of living, residents in Right to Work states enjoy more disposable income than their non-Right to Work neighbors.

The connection between Right to Work laws and better economic performance shouldn't come as much of a surprise. Business experts consistently rank the presence of Right to Work laws as one of the most important factors companies consider when deciding where to expand or relocate their facilities where they will create new jobs.

Right to Work laws also encourage unions to be more flexible and responsive in the workplace. Where workers can't be forced to join or pay dues, union officials have to work harder to retain employee support. This encourages union officials to put workers' interests first, instead of simply looking out for their own privileges or pushing for policies that are out of step with the rank-and-file.

Right to Work laws make plenty of economic sense, but protecting employee freedom has always been their most important feature. No worker should be forced to join or pay money to an organization he or she has no interest in supporting. Right to Work laws do nothing to impede employees from voluntarily joining or paying dues to a union; they simply ensure that no worker can be forced to contribute just to keep a job.

If you're still unsure where you stand on the Right to Work issue, ask yourself a simple question: Why shouldn't union officials play by the same rules as any other private organization? A labor union that enjoys genuine employee support will continue to thrive with funding from members' voluntary contributions. A union that has alienated the rank-and-file or outlived its usefulness will adapt quickly or wither on the vine.

Across the country, churches, civic associations, and thousands of other private organizations thrive on voluntarism. Many unions have followed their example and continue to prosper in Right to Work states across the country. Meanwhile, all Right to Work residents – nonunion and union alike – benefit from more jobs and higher wages.

Workplace choice, employee freedom, and better economic performance are part and parcel of the Right to Work package. So what's not to like? This Labor Day, citizens of Right to Work states have much more to celebrate than a three day weekend.

A version of this editorial appeared in newspapers in Right to Work states across the country over the 2015 Labor Day weekend.

Supreme Court Challenge

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Two years later, in the Foundation-won *Harris v. Quinn* Supreme Court decision, the Court again suggested that forced dues in the public sector were constitutionally suspect. Alito characterized public-sector forced dues as “questionable on several grounds.”

The *Friedrichs* case explicitly builds on legal theories developed by Foundation attorneys in *Knox* and *Harris*. Foundation litigators have long argued that all public sector forced dues – including those used for workplace bargaining – violate civil servants’ First Amendment rights because negotiations between union officials and state and local governments affect numerous hot-button political issues. Public employees who do not support a union are still routinely required to contribute dues, even if the union’s bargaining contradicts their own views on the size and scope of government.

Foundation urges Court to rule against forced dues

Before the Supreme Court agreed to hear *Friedrichs*, Foundation staff attorneys submitted a brief asking the nine Justices to take up the case. Now, Right to Work litigators are preparing to file another brief in *Friedrichs* urging the High Court to outlaw all public-sector forced dues.

If the Court determines that public-sector forced dues are unconstitutional, Foundation staff attorneys will be at the forefront of any effort to implement a favorable decision in the lower courts.

“It’s been a long road, but I’m extremely proud of the Foundation’s key role bringing this vital question before the Supreme Court,” said Mix. “Civil servants should not be forced to fund unions they don’t belong to or support, and it’s past time the Court recognized that fact.” 



Message from Mark Mix

President
National Right to Work
Legal Defense Foundation

Dear Foundation Supporter:

Your National Right to Work Foundation has reached the U.S. Supreme Court 17 times, winning many important legal protections for independent-minded workers.

These wins haven’t come in days or even weeks, but months, years, and even decades.

Thanks to the dedicated support of concerned citizens like you, our strategic litigation program enables Foundation staff attorneys to provide free legal aid to workers victimized by compulsory unionism – and stay in the fight as long as it takes to win.

Just ask Dianne Knox and 42,000 other California civil servants, who waited seven years for justice before the United States Supreme Court upheld their First Amendment rights in 2012.

The Foundation’s 2012 Supreme Court victory in *Knox v. SEIU* wasn’t simply a small victory for those California public employees – it blew the doors off of years of legal precedents and suggested that it was time for the Court to reconsider whether forced unionism is compatible with the First Amendment.

A majority of Justices reiterated their skepticism of all forced dues in the public sector last summer in the Foundation-won *Harris v. Quinn* precedent.

Now, a decade after Dianne Knox and her colleagues came to us after they were forced to subsidize a union political campaign in California, the High Court is set to reconsider whether forced fees in the public sector violate the First Amendment.

If the Court agrees with Foundation staff attorneys, every civil servant in America will essentially enjoy the protection of a Right to Work law.

Such a ruling would have been unthinkable a decade ago. Now, it’s a real possibility, as even some union bosses and their apologists in media and government admit – and fear.

This is the result of a decades-long strategy. We owe it all to the support of Americans like you. Thank you.

Sincerely,

Mark Mix