



Foundation Action

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of the National Right to Work
Legal Defense Foundation, Inc.

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Foundation Victory: Workers Cannot Be Forced to Fund Union Lobbying

NLRB also rules that union bosses must provide independent verification of forced fees audit

WASHINGTON, D.C. – Nine years after filing her case over forced union fees, former Rhode Island nurse Jeanette Geary finally claimed victory over union bosses' illegal scheme.

The National Labor Relations Board (NLRB) issued a sweeping decision in Geary's case, providing new protections for workers and accountability over forced fees calculations.

Nine-Year-Old Case Ends in Victory at Labor Board

Geary, then a nurse at Kent Hospital in Warwick, Rhode Island, filed an unfair labor practice charge against the United Nurses and Allied Professionals (UNAP) union in 2009 with free legal aid from Foundation staff attorneys.

She filed the charges after UNAP officials failed to provide an independent auditor's verification that its breakdown of expenditures had been audited. She also challenged the union's forcing her and other employees to pay for union lobbying activities in violation of the Foundation-won U.S. Supreme Court *Beck* decision.

"For someone to tell me that they're going to take my money that I have earned working very hard, and they're going to use it for their political purposes, you know -- that makes me very, very angry," Geary said.

When Geary discovered what was happening with the union fees



Nurse Jeanette Geary challenged Big Labor's coercive tactics after discovering that union bosses were forcing her to pay for union lobbying activities.

she was forced to pay, it was about more than money. "I don't like to be manipulated because I am a nurse. Just because I nurse and you turn your light on and I'll be there and I'll do anything that you need to promote your well-being, that doesn't mean you can step on me. It was a deep-down, personal, gut reaction to [the union officials] who decided not only would they label me as ignorant and stupid and laugh about me in their office, but they would also take my money."

The Obama NLRB had issued a bad decision in Geary's case in 2012, but the ruling was invalidated by the Supreme Court's 2014 holding in *NLRB v. Noel Canning*. The Supreme Court agreed with the Foundation's amicus brief that the Board lacked a valid quorum because of three unconstitutional "recess appointments" then

President Obama made.

Five years later, Geary's case was the only remaining case invalidated by *Noel Canning* that was still pending without a decision by the NLRB.

Workers Can No Longer Be Forced to Pay for Union Lobbying

In January 2019, Foundation staff attorneys filed a petition at the U.S. Court of Appeals for the District of Columbia Circuit, seeking a court order that the NLRB promptly decide Geary's case. The Appeals Court then ordered the NLRB to respond to the mandamus petition by March 4, which caused the NLRB

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Hospital Employees Fight Forced Unionization by Bureaucrat Fiat

Workers were forced under SEIU's 'representation' despite overwhelming opposition

WASHINGTON, D.C. – The National Labor Relations Board (NLRB) unanimously overturned a Regional Director's decision that forced Pennsylvania hospital employees under the so-called "representation" of union bosses, even though the workers opposed the union and had rejected an SEIU organizing drive.

National Right to Work Foundation staff attorneys filed a brief in the case for employees to support the challenge to the Regional Director's decision.

Workers Halt Corrupt Union Power-Grab

In 2016, employees at Lehigh Valley Hospital-Schuylkill East completely rejected Service Employees International Union (SEIU) officials' attempts to unionize their workplace. Union organizers did not even file a petition for an election, which required the signatures of 30% of the hospital workers.

Employees at a separate facility, Schuylkill South, had been unionized for several decades.



Employees at Lehigh Valley Hospital - Schuylkill East were freed from union bosses' scheme that forced them to subsidize the politically active SEIU.

SEIU agreed to a plan where some Schuylkill South workers were transferred to Schuylkill East, but kept under the union's monopoly bargaining representation. Union officials then claimed that the entire Schuylkill East workforce should be included in the monopoly bargaining unit, based in part on

the presence of these unionized workers.

In October 2017, NLRB Regional Director Dennis Walsh ordered that Schuylkill East workers should be forced into the slightly larger Schuylkill South monopoly bargaining unit, citing the NLRB's "accretion" policy that grants union officials the power to absorb workers into a larger unionized workplace without their input. The employees were never given a vote.

Walsh had previously been suspended one month without pay by the NLRB, following an investigation into his use of his position with the NLRB to solicit contributions to a pro-union scholarship fund from union officials with cases at the NLRB. Reports indicate that the SEIU was one of the unions that made payments to Walsh's fund.

The employer challenged Walsh's ruling at the NLRB in Washington, D.C., and successfully halted SEIU's coercive unionization scheme.

"This ruling is a much-needed victory for workers over a shameful union power-grab aided and abetted by a demonstrably partisan Regional Director, who only a few years ago was suspended for his pro-union conduct that violated NLRB ethics rules," said Mark Mix, president of the National Right to Work Foundation. "Despite the workers in this case successfully resisting an SEIU organizing drive, union bosses attempted to game the NLRB system to force these workers into union forced-dues ranks. The unanimous Board decision overturning the Regional Director's order is evidence of just how radical the accretion in this case was, and how the accretion doctrine undermines the premise of the National Labor Relations Act which is supposedly based on the idea that workers have a say in whether or not they are unionized." ♣

Foundation Action

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Flight Attendant's Lawsuit Against Southwest and Union for Illegal Firing Will Continue

Employee was fired after opposing union political activity and supporting Right to Work

DALLAS, TX – Charlene Carter was forced to pay fees to the Transportation Workers Union (TWU) Local 556 union to keep her job as a Southwest flight attendant. Compelled to subsidize a union that actively promoted political issues that violated her conscience, Carter spoke out in protest of how her union fees were being spent.

Her concerns were ignored -- until Carter responded to a union email by declaring her support for Right to Work. Weeks later, Carter was fired.

She sought free legal aid from National Right to Work Foundation staff attorneys, who filed a lawsuit in 2017 challenging the firing. Southwest and TWU Local 556 moved to dismiss her claims, but a federal judge recently ordered that the lawsuit should continue.

Worker Forced to Subsidize Politically Active Union

As a Southwest Airlines employee, Carter joined TWU Local 556 in September 1996. A pro-life Christian, she resigned her membership in September 2013 after learning that her union dues were being used to promote causes that violate her conscience and beliefs.

However, she was still forced to pay fees to TWU Local 556 to keep her job. Texas Right to Work Law does not protect her from forced union fees, because airline and railway employees are covered by the federal Railway Labor Act (RLA). The RLA allows union officials to have a worker fired for refusing to pay union dues or fees, but does protect the rights of employees to remain non-members of the union, to criticize the union and its leadership, and advocate in favor of changing the union's current leadership.

Carter became a vocal supporter



Charlene Carter turned to Foundation attorneys after union bosses demanded she be fired for voicing her religious beliefs and support of the National Right to Work Act.

of a campaign to recall the TWU Local 556 Executive Board, including its president, Audrey Stone. Her pleadings describe how, in the year leading up to her lawsuit, Southwest subjected supporters of the recall campaign to disciplinary measures, including fact-findings, suspension and even termination of employment, in multiple instances at the request of TWU Local 556 members and officials.

Carter's lawsuit states that, in contrast, when complaints were filed against the Executive Board's supporters for their social media activity, which included allegations of death threats, threats of violence, obscene language and sexual harassment, those employees were either not disciplined or were allowed to keep their jobs.

In January 2017, Carter learned that President Stone and other TWU Local 556 officials used

union dues to attend the "Women's March on Washington D.C." which was sponsored by political groups she opposed, including Planned Parenthood.

Carter's lawsuit argues that Southwest knew of the TWU Local 556 activities and participation in the Women's March and helped accommodate TWU Local 556 members who attended the protest, by allowing them to give their work shifts to other employees not attending the protest.

Carter sent President Stone private Facebook messages, sharply criticizing the union and its support for pro-abortion activity. President Stone never responded to Carter.

Southwest Fired Worker at Union Bosses' Behest

A month later, Carter received an email from TWU Local 556, urging her to oppose a National Right to Work Bill. Carter responded again with an email to President Stone, declaring her support for Right to Work and the Executive Board recall effort.

Days after sending Stone that email, Carter was notified by Southwest managers that they needed to have a mandatory meeting as soon as possible about "Facebook posts they had seen." During this meeting, Southwest confronted Carter with screenshots of her pro-life posts and messages, and questioned her why she made them.

Carter explained her religious beliefs and opposition to the union's political activities. Carter said that, by participating in the Women's March, President Stone and TWU Local 556 members purported to be representing all Southwest flight attendants. Southwest authorities indicated that President Stone claimed to be harassed by these

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Union Faces Federal Prosecution for Failure to Disclose Forced-Fees Amount

Union bosses already backed down from separate charge challenging illegal forced-fees demands

PORTLAND, OR – A formal complaint has been issued in a case brought by two workers with free legal aid from National Right to Work Foundation staff attorneys, to challenge union officials' failure to disclose the amount of forced fees for union non-members.

Currently, when a private sector worker in a state that lacks Right to Work laws is forced to choose between union membership and full union fees or refraining from union membership and paying reduced forced fees, unions are not required to inform the employee of the specific amount of non-member forced fees until he or she decides to object to union membership and full union dues.

A favorable ruling by the National Labor Relations Board (NLRB) in this new case would mean employees will no longer have to object to full union dues without important information, as union officials would be required to provide the percentage of reduction of the lower forced fees. Additionally, even workers who do want to be union members would see how much of their dues would go to union activity, for example, how much would go to activities such as political action and lobbying.

Case Challenges NLRB Ruling Blocking Workers from Forced-Fee Information

Terry Denton and Alejandro Martinez Cuevas work for Bon Appetit at Lewis & Clark College in Portland, Oregon. Unite Here Local 8 union officials unionized the workplace in May 2017 via a coercive "Card Check" campaign, an abuse-prone process that circumvents an NLRB-supervised secret ballot election.

Because Oregon lacks a Right to Work law, non-members like Denton and Cuevas can be



Terry Denton and her colleague brought charges against Unite Here union bosses for their illegal forced-fee demands.

required to pay union officials in order to work. However, under the Foundation-won U.S. Supreme Court *Beck* decision, workers cannot be required to fund activities unrelated to certain union activities, such as political action, lobbying or organizing.

When Denton, Cuevas and their colleagues were forced to choose between full union dues and non-member forced fees, union officials did not tell the employees the amount of the reduction in fees employees who object to paying full dues would be required to pay.

With help from Foundation staff attorneys, Denton and Cuevas filed unfair labor practice charges in August 2018 at the NLRB, stating that Unite Here Local 8 violated their rights by failing to provide employees under the monopoly bargaining contract with sufficient information to allow the workers to make an informed decision about whether to object to paying full union dues.

After NLRB General Counsel Peter Robb released a new memo on fee disclosure, the NLRB Regional Director issued a complaint, consolidating Denton's and Cuevas' charges. Robb's memo urged the

NLRB to overturn a ruling that held unions do not have to inform a new employee of the specific amount of non-member forced fees, until the worker decides to object to union membership and full union dues.

Oregon Right to Work Law Needed to Protect Workers

Denton filed additional charges with free legal aid from Foundation staff attorneys in January 2019, after union officials sent bills to her and other non-members for union fees in excess of what they could lawfully charge. Union officials claimed that if the workers did not pay the bills, they could lose their jobs.

After Denton filed those charges, Unite Here Local 8 backed down from its initial demands by waiving fee payments for all non-members until November 2018. Union officials then sent out new bills reflecting the new policy and crediting payments that Denton previously made.

"Ms. Denton stood up to union bosses' coercive attempts to take advantage of her and other employees through illegal demands on their hard-earned money," said Ray LaJeunesse, vice president and legal director of the National Right to Work Foundation. "However, this shows that stronger legal protections are critical for the future of Oregon's independent-minded workers. A clear ruling by the NLRB is needed to protect workers from Big Labor's tactics. But, ultimately, Oregon workers need the protections of a Right to Work law to ensure that union affiliation and financial support are completely voluntary."



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Michigan Workers Halt Union Bosses' Tactics to Undermine Right to Work

Rather than face Foundation attorneys, union officials back down from forced-dues schemes

MICHIGAN – Since the 2012 passage of Right to Work legislation in Michigan, Foundation staff attorneys have provided free legal assistance to Michigan workers, challenging compulsory unionism's abuses in more than 100 cases.

Developments in Foundation cases in recent months show that, despite dozens of victories for workers, Michigan union bosses continue attempting to cling to their forced-dues power by stifling employees' rights.

Karen Ellis, who works at Vocational Independence Program, an adult education school in Flint, won a settlement against Teamsters Local 332 with free legal aid from Foundation staff attorneys. She filed charges after union officials ignored her union dues deduction revocation and threatened to sue her to force her to pay union dues.

Michigan Worker Halts Union Bosses' Threats Demanding Forced Dues

In February 2017, during a contract hiatus after Teamsters Local 332's monopoly bargaining contract over her and her coworkers expired, Ellis hand-delivered a letter to union officials notifying them that she resigned from union membership and revoked her authorization for union dues deductions from her paycheck. She sent another letter two days later to reiterate that, and additionally notified Local 332's international affiliate in a letter two weeks later.

Teamsters union bosses waited nine months before notifying Ellis in November 2017 that they refused to honor her revocation of dues deduction authorization. They claimed she owed union dues of nearly \$300, threatening to sue if she did not pay. Union officials also filed a grievance against her employer, for honoring her revocation and



Since Right to Work legislation was signed into state law in December 2012, Foundation staff attorneys have provided free legal aid in more than 100 cases in Michigan for workers like Jeffery Hauswirth as they combat forced unionism abuses.

stopping the deduction of dues from her paycheck.

Even after Ellis reiterated her revocation -- in November 2017 and again in February 2018, during another contractual hiatus -- union officials refused to honor her revocation and threatened to sue.

Ellis sought free legal aid from Foundation staff attorneys to challenge Teamsters Local 332's demands as a violation of the National Labor Relations Act, by blocking her from exercising her right to refrain from union membership and paying union dues.

Rather than face Foundation attorneys, Local 332 officials decided to settle. They will honor Ellis' original dues deduction revocation submitted in 2017. Additionally, union officials will post a notice informing the school's employees of their right to choose whether or not to join and support a union.

Ellis' settlement is one of many, as Foundation attorneys enforce the Wolverine State's Right to Work protections for employees.

Unfair labor practice charges brought by Foundation staff

attorneys for several Michigan public school employees against the Michigan Education Association (MEA) have forced union officials to settle, halting "window period" schemes undermining Michigan's Right to Work Law.

After Michigan's Right to Work Law went into effect in 2013, public school employees Lindsey Bentley, Mary Derks, Sarah Evon, Jeffery Hauswirth, Becky Lapham, Shannon Rochon and Michael Rochon each resigned their membership in the MEA and its local affiliates.

However, union officials refused to acknowledge the resignations, citing a "window period" policy that limited members to exercising their right to resign union membership during the month of August. Union officials claimed that the workers owed membership dues until the next "window period" to resign came around in August 2014, which was for many of the workers nearly a full year after their resignation. MEA officials also threatened to use collection agencies to collect dues the union claimed to be owed.

Public School Workers Successfully Challenge 'Window Period' Scheme

The workers all sought free legal aid from National Right to Work Foundation staff attorneys, who assisted them in filing unfair labor practice charges at the Michigan Employment Relations Commission (MERC) against MEA and its local affiliates. Their charges were held in abeyance pending the result of another case, *Snyder*, in which Foundation staff attorneys provided legal aid to public school employees challenging the MEA's "window period" policy.

The MERC ruled in *Snyder* that the MEA and its affiliates violated the state's Right to Work protections

The Detroit News

Detroit, Michigan

Tuesday, March 12, 2019

Right to Work At Six Years: Big Labor Still Won't Respect Michigan Workers' Rights

Six years ago this month Michigan's Right to Work law took effect, codifying into law a simple common-sense principle: no worker should be forced to join or subsidize a union as a condition of getting or keeping a job.

This leaves the choice of whether or not to pay dues to a union where it belongs, with each individual worker. Of course, union officials who claim to represent workers despise allowing them this simple choice.

Michigan union bosses opposed Right to Work before it even passed into law, and have regularly violated Wolverine State workers' rights to stop dues payments ever since. In fact, it was Big Labor's overreach in opposition to Right to Work that provided a final push towards Michigan's adoption of Right to Work.

Fearing the spread of Right to Work to Michigan, former United Autoworkers (UAW) union chief Bob King attempted to preemptively squelch Right to Work by amending Michigan's constitution to permanently ban Right to Work protections. After the UAW-backed November 2012 ballot measure "Prop 2" was overwhelmingly rejected by voters, the Michigan legislature – having seen a demonstration of voters' opposition to forced dues – finally passed Right to Work protections.

Of course, ever since, Michigan union bosses have persistently defied the law and violated the rights of workers they claim to represent. National Right to Work Legal Defense Foundation staff attorneys have litigated more than 100 cases to protect workers' rights since passage of Right to Work in Michigan and are currently litigating more cases in Michigan than any other state.

Take the case of Lloyd Stoner, who works at Ford's Dearborn Truck Plant. Last year, Stoner resigned his union membership as permitted by Michigan's Right to Work law, but UAW officials continued collecting his dues in violation of his rights. Eventually Stoner filed federal charges against the union with free legal aid from the National Right to Work Foundation.

Following a trial earlier this year, a National Labor Relations Board (NLRB) judge found that UAW officials caused Ford to continue deducting unauthorized union dues and unlawfully retained the dues deducted from Stoner's wages. The judge even

by Mark Mix, president
of the National Right
to Work Foundation

wrote that a UAW official's testimony to justify his actions were "vague and less than credible."

The NLRB ruling also found that the card Stoner had signed agreeing to the deduction of union dues from his paycheck while a member did not allow the UAW to continue collecting dues after he resigned. This finding means any UAW member who signed a card with the same language – likely many thousands across the state – can likewise resign whenever and immediately end all union payments whenever they choose.

The UAW was hardly the only union caught red-handed violating workers rights, nor were such violations limited to private sector employees. Another of the state's largest unions, the Michigan Education Association (MEA), is also a repeat offender.

MEA bosses illegally extended a forced dues requirement in violation of the Right to Work law only to be caught when teacher Ron Conwell challenged the forced dues requirement with Foundation-provided legal representation. The Michigan Court of Appeals recently upheld the fine levied against the union, the first of its kind, for its blatant violation.

In another case MEA officials illegally harassed and threatened two public school employees. Union bosses demanded they pay hundreds of dollars in dues they didn't actually owe for periods after they had resigned their union membership, even threatening to take the victims to small claims court. Only after a class action lawsuit was filed with help from National Right to Work Foundation staff attorneys did union bosses back down, opting to settle quickly rather than litigate.

These cases demonstrate Big Labor has relied for so long on government-granted forced-dues coercion to maintain their power. Now, even under Right to Work, Michigan union bosses resort to legal gimmicks to attempt to trap workers into paying union dues, rather than make the case that workers should choose to voluntarily support union activities.

It is past time for Big Labor to start showing respect for workers' freedom of choice. But until they do, the National Right to Work Foundation will continue to ensure that Michigan union bosses comply with the law.

Flight Attendant's Lawsuit Against Union Continues

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messages.

A week after this meeting, Southwest fired Carter, claiming she violated its "Workplace Bullying and Hazing Policy" and "Social Media Policy." Before her termination, Carter had never received any discipline in her 20-year career with Southwest.

"I had a really hard time knowing that they went and spent our money... and when we voiced our opinion about it, we were chastised about it," Carter said. "And for me, I was fired for it."

Court: 'More Than a Sheer Possibility' of Illegal Discrimination

Carter received free legal assistance from Foundation staff attorneys to file a federal lawsuit to challenge the firing as an abuse of her rights, alleging she lost her job because she stood up to TWU Local 556 and criticized the union for its political activities and how it spent employees' money.

Although Southwest and TWU Local 556 moved to dismiss her claims, the federal district court ruled that Carter's allegations establish "more than a sheer possibility" that union officials retaliated against her, and that Southwest fired her for opposing union leadership and engaging in activities the RLA protects.

The Court also denied Southwest's motion to dismiss Carter's claim that Southwest discriminated against her religious beliefs in violation of Title VII of the Civil Rights Act of 1964, as Carter has established "more than a sheer possibility" that her religious beliefs and practices were a factor in Southwest's decision to fire her.

Carter also claims that TWU Local 556 discriminated against her religious beliefs by complaining about her pro-life messages in order to get Southwest to fire her. Union

officials did not ask the court to dismiss that claim.

"This case shows the extent to which union officials will wield their power over employers to violate the rights of the workers they claim to represent," said Mark Mix, president of the National Right to Work Foundation. "Charlene Carter merely voiced her opinion and opposition to her money being used for causes she opposes, expressing her protected religious beliefs.

"A victory for Charlene would send a message that this type of abuse of union monopoly power will not go unchallenged. Ultimately, it is up to Congress to end Big Labor's power to force its representation on workers who oppose it and then add insult to injury by forcing workers under threat of termination to pay money to a union they oppose," added Mix. 

Worker Victory at NLRB

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to issue its decision on March 1, just ahead of the deadline.

The NLRB's 3-1 decision held that union officials violate workers' rights by forcing non-members to fund union lobbying activities. It also ruled that union officials must provide independent verification that the union expenses they charge to non-members have been audited.

"Jeanette Geary bravely fought against Big Labor's workplace coercion for years, resisting a blatant refusal to respect her rights and those of the workers union officials claim to represent," said National Right to Work Foundation Vice President Patrick Semmens. "Although this is an overdue victory for Jeanette Geary, ultimately these types of forced union abuses will never be eliminated until Big Labor's power to force workers to pay union dues or fees as a condition of employment is completely eliminated." 

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Foundation Defends Michigan Right to Work Law

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for public employees, by illegally restricting employees' right to resign union membership and by attempting to collect dues under the unlawful policy.

After losing to Foundation staff attorneys in court in *Snyder*, MEA officials decided to settle these cases. The MEA officials have acknowledged each employee's union membership resignation, stopped demanding union dues and will refund with interest the union dues that two of the employees paid after his or her resignation. One employee will receive a refund of more than \$250, while another will receive nearly \$500 in back dues and interest.

"These workers bravely challenged union bosses' attempts to bully them into paying tribute to a union against their wishes," said National Right to Work Foundation Vice President Patrick Semmens. "These cases also show that workers need to keep fighting against coercion, as Michigan union bosses have repeatedly proven their willingness to violate employees' protections under Michigan's Right to Work Laws to keep Big Labor's forced-dues money stream flowing. Foundation staff attorneys continue to assist independent-minded workers across the state in fighting back against Big Labor's campaign to undermine Right to Work in Michigan." ♦

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Message from Mark Mix

President
National Right to Work
Legal Defense Foundation

Dear Foundation Supporter:

Time and time again, union bosses have shown they will do anything to keep workers -- and their paychecks -- under Big Labor's thumb, going so far as to defy the highest court in the land.

Even after the U.S. Supreme Court ruled in the Foundation's *Janus v. AFSCME* victory that no public sector worker can be forced to pay union dues or fees as a condition of employment, forced unionism zealots are resorting to under-handed tactics to extract union fees from hardworking civil servants' pockets.

Foundation staff attorneys are working tirelessly to defend government employees' First Amendment protections from Big Labor's attacks, and have already litigated more than 30 cases to enforce the *Janus* decision.

As you'll read in this issue of **Foundation Action**, union bosses' refusal to honor the rights of the workers they claim to 'represent' is nothing new.

Rhode Island nurse Jeanette Geary came to Foundation staff attorneys nine years ago to enforce her rights under the 1988 Foundation-won Supreme Court *Beck* decision. Her long road to halt Big Labor's coercion shows all too clearly that union bosses will not comply with workers' protections unless the Foundation vigorously enforces them.

Milestones such as *Janus* and the sweeping victory in Geary's case are made possible by the generosity of Foundation supporters like you. However, those victories will mean little if the Foundation cannot continue to defend workers' rights when union bosses attempt to circumvent them.

With your continued support, the Foundation will fight to defend American workers from Big Labor's greed-fueled abuses until compulsory unionism is gone for good.

Sincerely,

Mark Mix