



Foundation Action

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

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Case Closed: Nurse Prevails in 11-Year Legal Fight Over Forced Dues

100 Rhode Island hospital employees win refund of dues illegally seized for union lobbying



After over a decade of battling power-hungry UNAP union bosses in court, Jeanette Geary has secured not only refunds of dues seized for union politics, but a First Circuit decision clarifying non-members can never be charged for union lobbying.

WARWICK, RI – Jeanette Geary finally achieved a total victory in her 11-year legal battle against union bosses. She and 99 other current and former nurses at Kent Hospital in Rhode Island received refunds of forced dues that were illegally used to support union lobbying in state legislatures. Foundation attorneys represented Geary throughout her fight.

Geary's journey began when she grew frustrated with United Nurses and Allied Professionals (UNAP) union bosses in her workplace. "I realized what the union was doing," Geary explained. "The union leadership had no interest in nurses or our professional work. Their only interest was collection of dues and fees."

Geary resigned her union

membership, but union dues were still extracted from her paycheck because Rhode Island is a forced-unionism state that lacks Right to Work protections. However, thanks to the Foundation-won *CWA v. Beck* Supreme Court decision, non-member workers can only be forced to pay fees for union activities "germane" to union monopoly bargaining. They cannot be forced to pay the portion of dues that funds activities like union lobbying.

Nurse Harassed for Standing Up to Union Bosses

Geary demanded a breakdown of the union's expenditures, but union bosses refused to give her a legally required independent auditor's verification of how they calculated

non-members' reduced forced fees. Like many who speak up against union bosses, Geary became a target for union harassment. "They laughed at me. They had their workplace reps ridicule me on the job and tell me I could file grievances that would be thrown away and said so with a big smile," Geary recalled.

In 2009, Geary filed federal charges against union officials. The trial revealed UNAP officials were charging non-member nurses for lobbying in state legislatures. Despite the Supreme Court's clear mandate in *Beck* that non-members' money could not be used to fund political causes, union lawyers argued the lobbying was "germane" to the union's monopoly bargaining.

Thanks to delays caused by President Obama's illegal recess appointments to the National Labor Relations Board (NLRB), Geary had to file two petitions with the U.S.

See 'RI Nurse Reclaims' page 7

IN THIS ISSUE

- 2 West Coast Workers Press High Court to Scrutinize Anti-*Janus* 'Escape Periods'
- 3 NYC Car Wash Workers Kick Out Unwanted RWDSU Union Officials
- 4 Tennessee Worker Takes LIUNA Bosses to Federal Court for Religious Discrimination
- 5 UC Irvine Lab Assistant Beats CWA Bosses in Suit Fighting Anti-*Janus* Schemes

West Coast Workers Press High Court to Scrutinize Anti-*Janus* ‘Escape Periods’

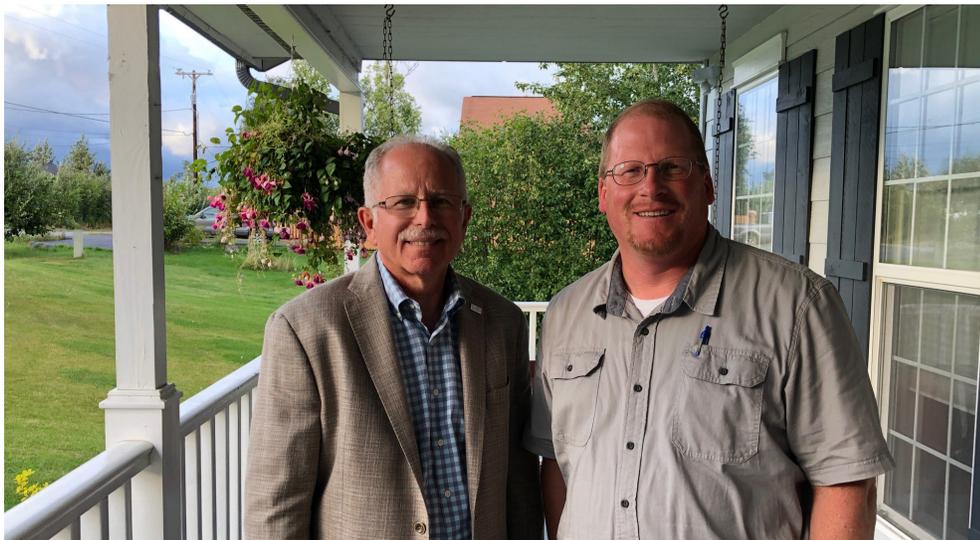
Alaska, California, and Oregon public employees join battle defending First Amendment rights

WASHINGTON, DC – National Right to Work Foundation-backed public employees across the country continue their endeavors to win a U.S. Supreme Court ruling striking down limitations on the First Amendment right not to financially support union activities.

Most recently, Foundation staff attorneys in October filed two petitions asking the Court to hear several cases from rank-and-file government employees in Alaska, Oregon, and California. All of the lawsuits fight union-created schemes that violate public workers’ First Amendment rights by limiting when they can cut off financial support to unions of which they disapprove.

One petition covers four lawsuits from California and Oregon public employees against various unions, and the other petition covers the cases of Alaska Vocational Instructor Christopher Woods and of two other Alaska government workers. Both Alaska suits were filed against the Alaska State Employee Association (ASEA) union.

In the Foundation-won 2018 *Janus v. AFSCME* Supreme Court decision, the Justices recognized



Alaska Vocational Instructor Chris Woods (right), seen here with original Janus plaintiff Mark Janus, is fighting with Foundation aid for a Supreme Court ruling that spells out that “escape periods” violate the First Amendment.

that the First Amendment protects public sector workers from being forced to pay union dues or fees. The Justices further ruled that a public worker’s affirmative waiver of that right is needed before any union payments are deducted from his or her paycheck.

Agreeing with contentions presented in oral arguments by veteran National Right to Work Foundation staff attorney William Messenger for Mark Janus, the

Supreme Court reasoned that, because all public sector union activities involve dealing with government, forcing any public worker into funding union activities against his or her will counts as forced political speech forbidden by the First Amendment.

Workers Appeal Ninth Circuit Decisions Spraying Restrictive Union Schemes

Each of the cases brought before the Court now challenges a union boss-created “escape-period” scheme. “Escape periods” limit to just a few days every year the time when public servants can exercise their *Janus* right to end union dues deductions. Often, public workers whom union officials never informed about their *Janus* rights try to cut off support to an unwanted union, only to be told by union officials that, per the “escape period,” they must endure additional months or even years of union dues being siphoned from their paychecks.

Despite the High Court’s unequivocal ruling in *Janus* that

See ‘*Janus Enforcement*’ page 7

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.

NYC Car Wash Workers Kick Out Unwanted RWDSU Union Officials

Union bosses rejected by Alabama Amazon workers now ousted by car wash employees

NEW YORK, NY – In 2018, Ervin Par, an employee of Main Street Car Wash in Queens, NY, explained why he and his coworkers overwhelmingly wanted Retail, Wholesale, and Department Store Union (RWDSU) officials out of their workplace: “They just come and collect their fees, but I don’t see an economic benefit from the union.”

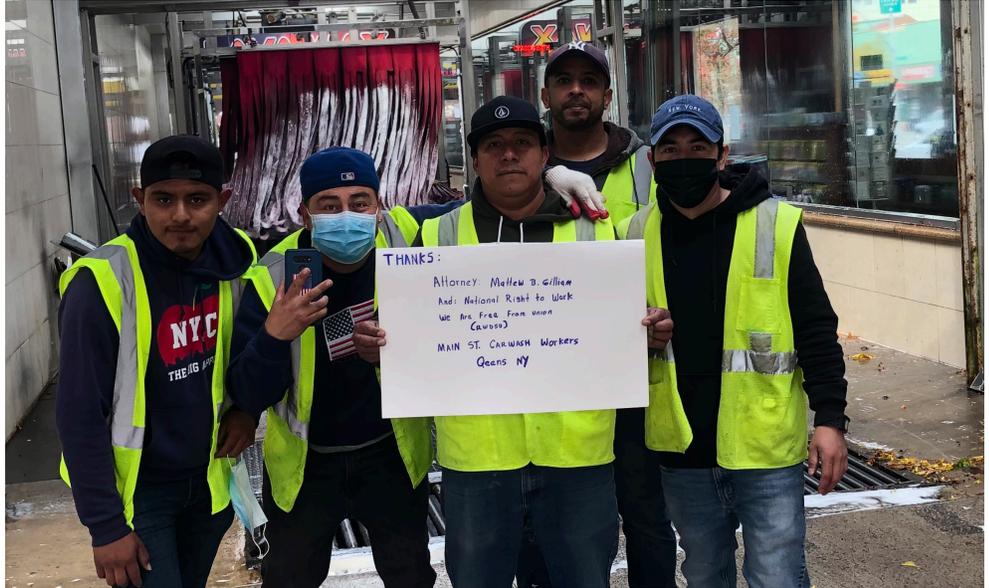
“Among my colleagues, there’s a majority that doesn’t want the union,” Par told *Reason* magazine in an interview at the time. Now, after a three-year effort to vote out RWDSU officials, Par and his coworkers have finally succeeded with free legal aid from National Right to Work Foundation staff attorneys.

Soon after Par submitted an October petition signed by enough of his coworkers to prompt the National Labor Relations Board (NLRB) to conduct an employee vote whether to eject the union, RWDSU officials filed paperwork ending their control over the facility. Notably, RWDSU union officials fled Main Street Car Wash *before* the NLRB had conducted the union decertification election for Par and his coworkers -- likely in an attempt to avoid an embarrassing, overwhelming rejection in the vote.

Car Wash Employees Endured Years of Forced Dues, Union “Blocking Charges”

Par also rallied his coworkers in 2018 to oust the union, but their valid petition for a decertification election was thwarted by “blocking charges” from RWDSU officials. Because Par and his colleagues work in non-Right to Work New York, the delays meant that they were forced to pay dues to an unpopular union for almost three more years just to keep their jobs. In contrast, in Right to Work states all union financial support is strictly voluntary.

Par and his coworkers’ desire for freedom from union control is not uncommon. According to reports, in



Main Street Car Wash worker Ervin Par (center) and his colleagues thank their National Right to Work Foundation attorney for helping them secure a vote to remove unwanted RWDSU union bosses from their workplace.

2018 Main Street Car Wash was one of only six car washes in New York City still under union monopoly control, a number that had been declining following other union departures due to lack of employee support.

RWDSU Bosses Oppose Will of Rank-and-File Workers Across Country

The RWDSU is notably the same union that Bessemer, AL, Amazon employees rejected decisively during a highly publicized April 2021 union election. Despite that election loss, RWDSU officials are still trying to install themselves at the Bessemer facility. Litigation continues over whether RWDSU lawyers will nullify the workers’ vote in which barely 12% of eligible voters supported union bosses’ monopoly “representation.”

Atlanta, GA-area employees of water treatment company Ecolab have also recently received free Foundation legal assistance in their attempt to remove RWDSU officials.

“Mr. Par and his coworkers persevered for almost three years to end RWDSU union officials’

grip on power in their workplace,” commented National Right to Work Foundation Vice President Patrick Semmens. “Although we’re glad the employees have finally been able to exercise their right to remove RWDSU, union officials should not have been able to manipulate the rules to stifle the decertification effort for so long.”

“RWDSU union officials have a penchant for challenging the will of the very employees they claim to ‘represent.’” Semmens added. “Workers across the country who seek to remove unwanted RWDSU presence in their workplace should contact the Foundation for free legal aid in exercising their rights.” ✚

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Tennessee Worker Takes LIUNA Bosses to Federal Court for Religious Discrimination

To justify forced dues union official sent 'remedial church readings' to employee, her priest

CLARKSVILLE, TN – Dorothy Frame, who works at a hospital at Tennessee's Fort Campbell, asked for a federally required religious accommodation over two years ago so she didn't have to pay dues to Laborers International Union of North America (LIUNA) bosses in her workplace. Since then, LIUNA union bosses have ridiculed her faith, seized dues from her wages even after she requested an accommodation, and refused to give back funds they took from her in violation of her rights.

Now, with free legal representation from National Right to Work Foundation staff attorneys, Frame has hit LIUNA bosses with a federal lawsuit for violating her rights. Her lawsuit charges the union with religious discrimination for siphoning dues from her paycheck when union officials knew doing so violated her religious beliefs. The lawsuit also charges the union with religious harassment for threatening to fire her if she didn't submit union dues in contradiction to her beliefs.

LIUNA Officials Brazenly Ridiculed Beliefs of Employee and Her Priest

Frame gave the union a letter in July 2019 requesting a religious accommodation, her lawsuit says. It included a message from her parish priest backing her position. Federal law prohibits union officials from discriminating against employees on the basis of religion. Accommodations of religious objections to dues payment often consist of permitting a dissenting worker to instead contribute the dues amount to a mutually agreed-upon charity.

Even though Tennessee is a Right to Work state, union officials claim that Fort Campbell is a "federal enclave" not subject to state law. Frame's employer (J & J Worldwide Service) and LIUNA maintain a



Instead of just granting Dorothy Frame a religious accommodation as federal law requires, LIUNA union bosses disparaged her faith.

contract that forces workers to pay union dues to stay employed.

A response to Frame's letter from a LIUNA lawyer came the following month, her lawsuit notes, attacking her accommodation request and demanding that she "prove that her beliefs [] meet the standard for a "legitimate justification." The union lawyer also claimed that Ms. Frame's understanding of her faith was inferior to his own understanding of her faith and even closed the letter by "sending Ms. Frame -- and her priest -- remedial church readings."

One of Frame's attorneys sent a letter in reply demonstrating how the accommodation request conformed to various church teachings. Nonetheless, LIUNA bosses continued to take dues from Frame's paycheck.

Frame then filed a discrimination charge against LIUNA with the Equal Employment Opportunity Commission (EEOC). Even after EEOC proceedings and additional letters from her attorney demonstrating the union's various forms of support for causes and ideas she objected to, Frame's lawsuit explains, union officials still refused to accommodate her

beliefs. LIUNA bosses also "refuse to return any money they collected from Ms. Frame" since she sought an accommodation.

Employee Seeks Damages for Emotional Pain Caused by Union Discrimination

Frame's lawsuit asks that the court declare "she has the right to a religious accommodation that alleviates her obligation to join or support the Unions" and order that LIUNA return all money seized from her wages in violation of her religious beliefs, plus pay "damages for emotional pain, suffering, and mental anguish that she suffered because the Unions repeatedly challenged and disparaged her religious beliefs."

Frame is a Catholic who staunchly opposes LIUNA union officials' position on abortion. "Ms. Frame believes that abortion is a grave sin," her lawsuit details. "She believes joining or financially supporting the Unions would make her complicit in that sin because she believes that the Unions support and promote abortion. Thus, she believes that any money the Unions collect from her makes her complicit in sin and violates her religious beliefs."

"LIUNA officials have put their arrogance and callousness on full display by forcing Ms. Frame to choose between losing her job and severely compromising her religious beliefs," commented National Right to Work Foundation President Mark Mix. "Denying an individual a simple religious accommodation clearly violates federal law, and Foundation attorneys will fight for Ms. Frame until she is accommodated."

"Big Labor's government-granted privilege to force fees out of workers as a job condition allowed this kind of abuse to happen -- no American worker should be forced to subsidize unwanted union activities just to keep his or her job," Mix added. ✚

UC Irvine Lab Assistant Beats CWA Bosses in Suit Fighting Anti-Janus Schemes

Settlement secures full dues refund, ends phony photo ID restriction on Janus rights

IRVINE, CA – Just a few months after University of California Irvine lab assistant Amber Walker slammed them with a federal lawsuit, University Professional and Technical Employees (UPTE-CWA) union officials have already backed off of defending schemes created to stop university employees from exercising their First Amendment right to stop union dues takings.

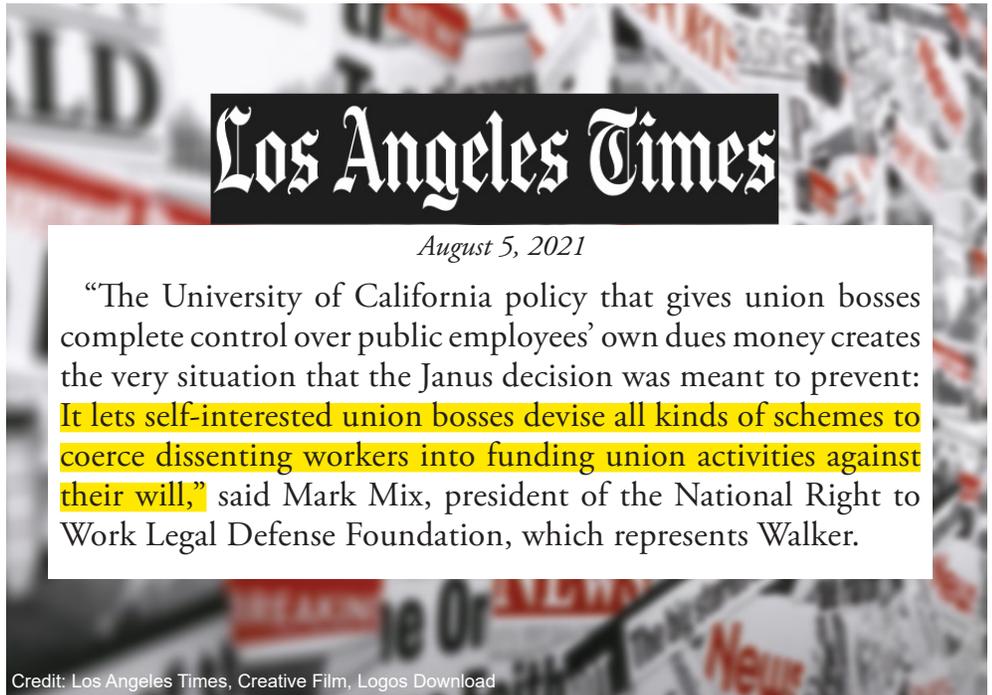
In November, National Right to Work Foundation staff attorneys won a settlement against UPTE officials requiring them to abandon their arrangement that required employees to provide a photo ID just to cut off unwanted union financial support. The settlement also made UPTE officials return to Walker dues they had seized from her wages under the scheme.

The lawsuit, filed by Foundation staff attorneys in August, challenged the use of a California statute that makes public employers completely subservient to union officials on dues issues. Union officials set up a system to stymie public employees' right to stop dues payments that, according to Walker's lawsuit, violated both due process and the First Amendment.

Lawsuit: Union Bosses Layered Two Schemes to Block Janus Rights

Walker sought to safeguard her First Amendment rights recognized by the U.S. Supreme Court in the landmark Foundation-won *Janus v. AFSCME* decision. In *Janus*, the Court declared that forcing public sector workers to fund unions as a condition of employment violates the First Amendment. The Justices also ruled that union dues can only be taken from a public employee with an affirmative and knowing waiver of that employee's First Amendment right not to pay.

"Before pursuing a lawsuit against UPTE, I tried to voice my concerns



Credit: Los Angeles Times, Creative Film, Logos Download

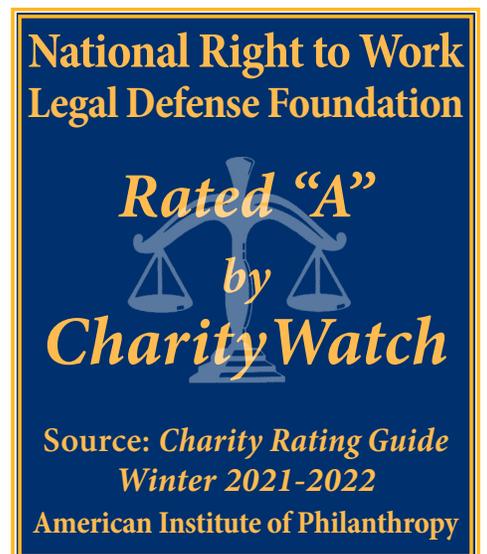
Foundation President Mark Mix was quoted in a Los Angeles Times report on the filing of Amber Walker's lawsuit, emphasizing how UC's pro-union boss policies were designed to infringe on workers' right to decide freely on union support.

to many different officials in the union organization," Walker told a *Los Angeles Times* reporter. "Many just ignored my plea and one official even raised their voice and rudely hung up the phone in my face . . . I believe it should not have taken a lawsuit to make UPTE respect my constitutional rights."

Walker's lawsuit explained that she sent UPTE union bosses a letter in January 2021 exercising her right to end her union membership and all union dues deductions from her wages. Walker submitted this message within a short union-created "escape period" imposed to limit when workers can revoke dues deductions. The union bosses still rebuffed her request, telling her she needed to mail them a copy of a photo ID to effectuate her revocation. The photo ID requirement, clearly adopted to frustrate workers' attempts to exercise their constitutional rights, is mentioned nowhere on the dues deduction card Walker had signed to initiate dues payments.

By the time UPTE officials had informed Walker that her request to cut off dues was rejected for lack of photo ID, the "window period" they enforce had already elapsed. Had Walker not filed a lawsuit with free Foundation legal aid, UPTE officials likely would have continued siphoning money from her paycheck for at least another

See 'CA Employee' page 8





It's A New Year

Do You Have An ESTATE PLAN?

As we welcome the year 2022, now is an excellent time to make long-term plans for you and your family. Most Americans have not taken the time to put together a Will or Estate plan, which can not only create certainty that their loved ones will be cared for but also can ensure support for causes and charities that are dearest to them.

The National Right to Work Legal Defense Foundation, an approved 501(c)(3) charitable organization, continues to be the leading legal aid organization in the country combatting the abuses of compulsory unionism in the workplace. Please consider a Legacy gift to the Foundation for 2022 to assist the future work of the Foundation and the heroic workers who step up to combat forced unionism.

Including the Foundation in your estate plans can be done quite simply. Just name the Foundation as a residual beneficiary in your Will or Trust, or leave a specific bequest in your estate plan.

You may be able to use this sample language:

I give, devise, and bequeath to National Right to Work Legal Defense and Education Foundation, Inc., 8001 Braddock Road, Springfield, VA 22160, for its general purposes:

- a. The sum of \$_____; or
- b. Name a particular investment or piece of property with legal description, custodian, etc., as applicable; or
- c. ___ percent of the rest, residue, and remainder of my estate, including property over which I have a power of appointment; or
- d. All the rest, residue, and remainder of my estate, including property over which I have a power of appointment.

Of course, we encourage you to consult your tax advisor or estate attorney before finalizing your estate plans. If you have any questions, or need further assistance, please contact Ginny Smith, Director of Strategic Programs, at 1-800-336-3600 or gms@nrtw.org.

Did you know that by giving the Foundation appreciated stock, you can claim a tax deduction for the full fair market value *and* avoid capital gains taxes? To do so, just make sure that the appreciated stock you are contributing has been held for more than a year.

Instructions for a gift of Stock or other Securities:

Beneficiary:	National Right to Work Legal Defense and Education Foundation, Inc. 8001 Braddock Road, Suite 600 Springfield, VA 22151	Receiving Bank:	Merrill Lynch
		Account Number:	86Q-04155
		DTC Number:	8862

Janus Enforcement Efforts Continue with New Supreme Court Petitions

continued from page 2

dues can't be taken from public workers without a freely given waiver of these rights, the Ninth Circuit Court of Appeals let "escape periods" survive in each of these cases.

The majority of these cases are class-action lawsuits, and thus seek to reclaim for both petitioners and their coworkers money union bosses seized from their paychecks after they resigned union membership and tried to exercise *Janus* rights.

AGs from Alaska and 15 Other States Aid Worker Fight Against 'Escape Periods'

Even though the Alaska employees' case names the State of Alaska a defendant for its role in enforcing "escape periods," the state government's top lawyer -- Attorney General Treg Taylor -- filed a brief backing the employees' opposition to the restrictive schemes.

The State of Alaska, "although appearing as a respondent here, urges the Court to grant the petition



Credit: Alaska Public Media

Although Alaska is named as a defendant in the case, Alaska AG Treg Taylor filed a brief with the Supreme Court arguing "escape periods" violate workers' First Amendment rights.

to protect the First Amendment rights of government employees in Alaska and throughout the country," the brief says. Taylor is also defending an Alaska executive order forbidding "escape periods," which is currently enjoined in state court.

Additionally, West Virginia Attorney General Patrick Morrisey and attorneys general from 14 other states submitted an amicus brief in late November throwing the weight of their states behind the Alaska workers.

"All over the country, American public workers are making it clear that they will not stand by while union bosses and their allies in government play deceptive games with their First Amendment *Janus* rights, just so they can fill union coffers with more money from dissenting workers," commented National Right to Work Foundation President Mark Mix.

"This message should now be overwhelmingly evident to the Supreme Court, which has an opportunity to rectify lower courts' gross misinterpretations of *Janus*, and clarify that public workers' First Amendment rights can't be limited to arbitrary windows created by union bosses or their political allies designed to undermine workers' rights recognized in the *Janus* decision." †

RI Nurse Reclaims Dues Seized Illegally for Union Politics

continued from page 1

Court of Appeals in Washington, D.C., and didn't get a final NLRB ruling for nearly a decade. Finally, in March 2019, the NLRB ruled 3-1 that union officials cannot charge non-members for lobbying of any kind. It also ruled that union officials must provide independent verification that the union expenses they force non-members to pay have been audited.

Union Bosses Ridiculously Claimed Some Union Lobbying Wasn't Political

Union officials still wouldn't abandon their argument that non-members could be forced to pay for some union lobbying as a condition

of employment. Union lawyers appealed the NLRB's decision to the U.S. Court of Appeals for the First Circuit. A three-judge panel that included retired Supreme Court Justice David Souter ruled unanimously in Geary's favor, saying "we see no convincing argument that legislative lobbying is not a 'political' activity."

Union officials made a last-ditch attempt to overturn the decision, requesting an en banc hearing by the entire Court of Appeals, but that request was denied. In September 2021, union bosses finally paid back, with interest, thousands of dollars taken from Geary and 99 other current and former Kent Hospital nurses who were not union members but were charged for the union's lobbying, bringing the

decade-long case to a close.

"Jeanette Geary faced workplace ridicule for her decision to stand up to union bosses, yet she persevered for eleven years," said National Right to Work Foundation Vice President and Legal Director Raymond LaJeunesse. "In the process, she won important legal precedents that will protect thousands of other workers from having their money illegally used to fund union politics." †



CA Employee Defeats Union & State Collusion to Undermine *Janus*

continued from page 5

year until the arrival of the next “window period.”

Rather than face Foundation staff attorneys in court, UPTE bosses backed down and chose to settle the lawsuit. The settlement requires UPTE officials to stop taking money from Walker’s paycheck and to refund any deductions they took after her initial attempt to exercise her *Janus* rights. They must also desist from enforcing the photo ID requirement.

The Foundation is aiding other public sector workers across the country in defending their First Amendment right to refuse union financial support.

Fight to Eliminate Pernicious Restrictions on *Janus* Continues at High Court

In October, Foundation staff attorneys filed two joint petitions urging the Supreme Court to take cases brought for Alaska, Oregon, and California public servants who are battling restrictive “escape-period” schemes union bosses manipulated to stop them from opting out of supporting unwanted union activities (See Page 2).

“We at the Foundation are glad to have helped Ms. Walker reclaim dues that were illegally siphoned from her wages by UPTE union bosses, but hardworking public servants like Ms. Walker should not be forced to file federal lawsuits just to exercise their basic First Amendment rights of free association,” commented National Right to Work Foundation Vice President Patrick Semmens. “The fact that UPTE bosses backed so quickly off defending their own suspect behavior indicates that they apparently knew their schemes would not stand up to any serious constitutional scrutiny.”



Message from Mark Mix

President
National Right to Work
Legal Defense Foundation

Dear Foundation Supporter,

As we gear up for another year of fighting forced unionism, I’m motivated by the stories of brave individuals like Jeanette Geary who stand up to union bullies.

As you’ll read in this issue of **Foundation Action**, Jeanette recently achieved a total victory in her 11-year legal battle against nurses union bosses.

Union lawyers used every tool in their arsenal to avoid paying back Jeanette and her coworkers the money that was illegally taken from their paychecks to fund union lobbying, dragging the case out as long as possible, even asking for multiple Court of Appeals considerations.

As a full-time nurse, Jeanette couldn’t possibly have waged an 11-year multi-court legal battle by herself.

That’s why union officials laughed at Jeanette when she confronted them: They thought their forced-dues-funded lawyers would protect them from any consequences.

Fortunately, the National Right to Work Foundation’s legal aid program means individuals like Jeanette don’t stand alone against the might of Big Labor.

She entered her fight with an experienced legal team fully equipped to fight long-haul legal battles.

Jeanette’s Foundation attorneys defeated union lawyers at every turn, first at the NLRB, then in federal court, leaving legal precedents in their wake that will help protect countless other workers from being forced to pay for union boss political activities.

After 11 years, union officials finally forked over the money they took from Jeanette and 99 other Rhode Island nurses and used to fund their political games.

The money means a lot to Jeanette and her coworkers, but it wouldn’t have been enough to cover a decade’s worth of legal fees. Without the Foundation, union bosses would have unchecked authority to overcharge, intimidate, and exploit workers.

That’s why the work you continue to support is so important and means so much to courageous people like Jeanette and the thousands and thousands of others workers we help everyday. Thank you.

Sincerely,