



Foundation *Action*

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Legal Defense Foundation, Inc.

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South Jersey Bus Drivers Challenge Dues Trap Scheme in New *Janus* Lawsuit

Union officials concocted policy to stop drivers from ending union dues deductions

CAMDEN, NJ – National Right to Work Foundation attorneys continue to defend the landmark 2018 *Janus v. AFSCME* U.S. Supreme Court decision, helping workers across the country in fighting union boss schemes that restrict when public employees can exercise their right to cut off dues to a union they oppose.

Foundation attorneys are now aiding a group of drivers for the South Jersey Transportation Authority (SJTA) who are facing a particularly egregious example of union bosses' resistance to the Supreme Court's *Janus* ruling. According to the suit filed in May, International Federation of Professional and Technical Engineers (IFPTE) union bosses are refusing to stop dues seizures -- overtly violating the provisions of the union cards workers signed when they initially authorized the dues.

In *Janus*, the Court declared it a First Amendment violation to force public sector workers to pay union dues or fees as a condition of employment. The Court also recognized that union officials can only deduct dues from the paycheck of a public sector employee who has voluntarily waived his or her *Janus* rights.

In their federal civil rights lawsuit, SJTA drivers Tyron Foxworth, Doris Hamilton, Karen Burdett, Karen Hairston, Ted Lively, Arlene Gibson, and Stanley Burke assert that IFPTE union officials violated their *Janus* rights by seizing dues from their paychecks after their dues deduction revocations should have been effective.



Tyron Foxworth followed union instructions to the letter when he tried to cut off IFPTE union dues late last year -- but union bosses continued taking a cut of his pay.

The drivers' lawsuit says they signed forms indicating they could ask that dues deductions stop, but that such requests would not be effective until either the January or July following the request. The suit notes that currently union officials are ignoring those terms of the dues deduction cards and continue to deduct money despite the drivers' objections.

IFPTE Union Siphoned Dues in Contradiction to Signed Documents

All of the plaintiffs submitted letters to SJTA officials between October and November 2021

requesting that IFPTE dues deductions cease. They expected the deductions to stop in January 2022, as the cards they signed provided. But, the lawsuit notes, "each Plaintiff had union dues seized from their wages after January 1, 2022 despite providing a notice of withdrawal prior to that date."

The IFPTE's monopoly bargaining contract with SJTA restricts workers' dues revocation requests to only July, clearly at odds with the cards the drivers signed. Union officials never informed the drivers of this restriction or asked for their consent to it.

"These South Jersey Transportation Authority drivers are just the latest in a long line of Foundation-backed public workers who have discovered, after trying to dissociate from an unwanted union, that union officials

See 'NJ Drivers Defend' page 7

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Slot Machine Technicians Appeal Outrageous Decision Denying Decertification Vote

NLRB Regional Director stacks deck against Las Vegas employees opposed to union affiliation

LAS VEGAS, NV – Red Rock Casino slot machine technician Jereme Barrios has asked the National Labor Relations Board (NLRB) in Washington, DC, to reverse an NLRB Region's decision that blocks his and his coworkers' right to vote out a union that a large majority of them have already expressed interest in removing. Barrios is receiving free legal representation from National Right to Work Foundation staff attorneys.

In March, Barrios submitted a majority-backed petition to NLRB Region 28, asking the agency to conduct a union "decertification vote" amongst his fellow slot technicians on whether to kick out International Union of Operating Engineers (IUOE) Local 501 officials.

Foundation Attorneys Excoriate Decision: 'a Scattershot Mess'

However, the Region did not schedule the vote as Barrios and his coworkers had asked. NLRB Region 28 Director Cornele Overstreet instead ruled in April that largely unverified and unrelated allegations



Despite massive opposition from rank-and-file casino workers including protests outside union headquarters, biased NLRB rulings keep workers trapped in union ranks.

(also called "blocking charges") union officials had made against the management of Station Casinos, Red Rock's parent company, blocked the technicians from exercising their right to vote whether to remove the union.

Barrios' Request for Review argues that the Region's decision is unfounded, and requests that the NLRB in Washington, DC, reverse it

and allow them to have an immediate decertification vote.

Barrios' Request for Review begins by explaining that, even if any of the union's "blocking charges" have merit, the NLRB Regional Director was ignoring Foundation-backed reforms in the rules regarding "blocking charges" that the NLRB formally adopted in 2020.

The reforms generally prevent union "blocking charges" from stalling an employee vote. Nevertheless, "The Regional Director ignored the current Election Rules and even refused to cite them," Barrios' Request for Review says.

But Barrios' Foundation-provided attorneys go even deeper and show that many of the IUOE union officials' allegations against casino management would not even be sufficient to block a vote under the old rules, primarily because they deal with workplace units *other than Barrios*.

By that logic, "any employer's unfair labor practice could block any decertification in any of its other units, no matter how remote," Foundation staff attorneys argue.

The remaining union "blocking charges," including an allegation that Red Rock management did not bargain over COVID-19 protections, either do not reveal actual violations of federal labor law by Red Rock management or have no causal connection to Barrios and his colleagues' desire to remove the union.

More Workers Battle Unpopular Unions and Biased NLRB with Foundation Help

The slot techs' effort comes as Red Rock hospitality and foodservice staff, led by Foundation-backed employee Raynell Teske, are battling an order from a federal district court judge that forces them under

Foundation Action

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Worker Wins \$18,000+ for Illegal Firing at IAM Union Bosses' Behest

Union bosses got car dealership to illegally terminate employee for not joining union & paying full dues

BUFFALO, NY – Fired New York car dealership employee Remmington Duk won more than \$18,000 from International Association of Machinists and Aerospace Workers Automotive (IAM) Lodge 447 and Robert Basil Buick GMC. Mr. Duk filed federal charges at the National Labor Relations Board (NLRB) on January 31, 2022, against IAM Lodge 447 and his former employer with free legal representation from National Right to Work Foundation staff attorneys.

Rather than defend the illegal firing, both the car dealership and union hastily settled, paying Duk a combined \$18,416 in addition to posting notices informing other workers that they cannot legally be fired for refusing to join the union and pay full union dues.

The charges stated that on October 7, 2021, IAM union officials demanded Mr. Duk sign paperwork authorizing union membership. Union officials threatened that if he did not sign, he would be terminated from the company. After Mr. Duk refused to sign the documents, Robert Basil Buick GMC fired him on October 12, 2021, at IAM officials' behest.

IAM Settles for Nearly \$17,000 for Union Officials' Role in Illegal Firing

Because New York State lacks Right to Work protections for its private sector workers, employees can be fired for refusing to pay union fees. However, full membership and full union dues cannot legally be required. In contrast, in the 27 states currently with Right to Work laws on the books, union membership and all union financial support are strictly voluntary.

To make the federal unfair labor practice charges against the union go away, IAM officials paid Mr. Duk \$16,916 and were required to post



IAM officials illegally demanded full dues and membership from Remmington Duk on pain of discharge. The Foundation helped Duk file his case and got the word out about his struggle, and he has now won thousands in a settlement.

a notice in his workplace informing other workers of their right not to be union members. Union officials must also inform future new employees of that right. The union check payable to Mr. Duk reflects the amount of money he would have earned had he not been fired.

Car Dealership Pays Additional \$1,500 for Union-Instigated Firing

Mr. Duk also won a settlement from Robert Basil Buick GMC for \$1,500 for firing him at the IAM union officials' behest. In that settlement, Robert Basil Buick GMC also agreed to post a notice in the workplace for 60 days informing other workers of their right not to be union members, and to inform future new employees of that right.

"Understandably, Remmington Duk is no longer interested in returning to work for an employer who went along with IAM union officials' illegal threat to have him

fired for refusing union membership and dues payment, even though he was entitled to have his job back under federal law," commented National Right to Work Foundation Vice President Patrick Semmens. This case is yet more evidence of why Empire State workers need the protection of a Right to Work law to make all union association strictly voluntary." ✚

**National Right to Work
Legal Defense Foundation**

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American Institute of Philanthropy

THE WALL STREET JOURNAL.

Jennifer Abruzzo's Plan to Abolish Union Elections

The NLRB's general counsel pushes to make 'card check' the norm, which would leave workers vulnerable to intimidation and harassment by organized-labor operatives.

Mark Mix, *president of the National Right to Work Legal Defense Foundation*

One of President Biden's top labor appointees wants to "protect the integrity" of union elections by stopping workers from ever voting in them.

Jennifer Abruzzo, the former Communications Workers of America lawyer who is now general counsel at the National Labor Relations Board, has been pushing to remake federal labor law by bureaucratic fiat. She's already made headlines for her proposal to prosecute employer speech critical of unionization by repealing a 1948 NLRB decision.

That was just the beginning. In a sweeping brief filed last week, Ms. Abruzzo argued that to decide a single case properly, the NLRB should overturn no fewer than five of its major precedents.

Most concerning, especially to union-skeptical workers, is Ms. Abruzzo's call to dust off the discarded 1949 *Joy Silk* ruling, which concerns union demands to become a worker's monopoly bargaining representative without an NLRB-supervised secret-ballot election. Restoring this ruling would force employers to accept and bargain with union officials who present union "authorization cards" allegedly signed by a majority of workers. In most cases employers would be barred from insisting on a secret-ballot election, which numerous court and NLRB rulings have acknowledged are a superior test of worker attitudes toward unionization.

In her brief, Ms. Abruzzo advocates reinstating *Joy Silk* on the grounds that current policy has "failed to adequately deter unfair labor practices and protect the integrity of elections." Her solution apparently is to eliminate elections and let union organizers solicit "votes" through in-person pressure, conduct that would be illegal during a regular NLRB-supervised election.

Union officials would be able to gain monopoly power over any workplace with signatures collected in public. During "card check" drives—which still happen despite *Joy Silk*'s repeal because employers can, in the face of union-applied political and economic pressure, unilaterally waive the right to a secret-ballot election—union agents rely on manipulation and intimidation.

Union organizers can show up at workers' homes over and over demanding signatures, to the point that some workers have had to call the police to get organizers off their property. Workers report being misled about the true implications of signing cards, and some have

been told they would be fired if the union successfully took over and they hadn't signed. Sometimes workers face threats of violence. One healthcare worker reported being told the union would "come and get her children" and "slash her car tires" if she didn't sign.

Card check makes it impossible to keep one's views on unionization private, a dangerous liability in the heated environment of a union-organizing drive. NLRB election rules rightly make it illegal for union or management agents to watch a worker cast their vote, yet that's how all votes would be cast under Ms. Abruzzo's plan to "protect the integrity" of elections.

She sees this as an improvement, because while card check isn't a reliable measure of workers' interest—even an AFL-CIO organizing guide admitted many workers sign simply to "get the union off my back"—it helps expand union ranks, a stated goal of the Biden administration.

The other items in her slate of proposals betray her true intention. On antiunion workers who present signatures to an employer, Ms. Abruzzo's view is the exact opposite of her view on pro-union card-check signatures.

In a memo to NLRB staff issued shortly after she took office, she advocated overturning the *Johnson Controls* decision won by National Right to Work Foundation attorneys in 2019, which lets employers withdraw recognition of a union based on the signatures of a majority of workers who oppose the union. Ms. Abruzzo thinks this should never be allowed, even though *Johnson Controls* explicitly gives unions the right to challenge antiunion cards with a secret-ballot vote.

Her positions are cynical and hypocritical, but they need not become law. As general counsel, Ms. Abruzzo is the board's single most powerful influence, and the threat that cases will be decided according to her theories is no doubt already affecting the behavior of employers. But ultimately, binding rulings are made only by the NLRB's five-member bipartisan panel.

Ms. Abruzzo's agenda is extreme, even compared with the radical Obama NLRB, so perhaps the Biden-appointed majority on the panel will find it goes too far. Employers and employees who face union coercion will flood federal courts with appeals if they don't.

Reprinted from *The Wall Street Journal* April 18, 2022



Learn more about the Biden NLRB's radical plans in a special video conversation between Mark Mix and veteran Foundation staff attorney Glenn Taubman.

Visit www.nrtw.org/abruzzo or scan the QR code.



Flight Attendant Battling Religious Discrimination Beats Union Attempt to End Case

Judge rules flight attendant's case against union & airline should proceed to trial

DALLAS, TX – On May 5, a federal judge ruled that former Southwest Airlines flight attendant Charlene Carter's case charging Transportation Workers Union (TWU) officials and Southwest management with firing her illegally because of her exercise of her religious beliefs will continue at the U.S. District Court in Dallas. In doing so, the judge rejected requests from TWU and Southwest that they be granted an early victory in the case.

The judge tossed arguments from Southwest Airlines lawyers that Carter lacks a "private right of action" to enforce her rights under the Railway Labor Act (RLA), and its arguments that her case concerned only a "minor" dispute over interpretation of the union contract, which is outside the District Court's jurisdiction.

He also rejected TWU's and Southwest's contentions that an arbitrator's findings in a grievance under their monopoly bargaining agreement should control the claims in this case.

Flight Attendant Called Out Union Officials for Their Political Activities

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

Although Carter resigned from union membership, she was still forced to pay fees to TWU Local 556 as a condition of her employment. State Right to Work laws do not protect her from forced union fees because airline and railway employees are covered by the RLA.

The RLA allows union officials to have a worker fired for refusing to pay union dues or fees. But it



Case Cleared for Takeoff: Charlene Carter's lawsuit against TWU union bosses for firing her over her religious beliefs and support for Right to Work is now going to trial.

also protects employees' rights to remain non-members of the union, to criticize the union and its leadership, and advocate for changing the union's current leadership or removing the union altogether.

Carter sent TWU Local 556 President Audrey Stone Facebook messages sharply criticizing the union and its officials upon learning that they had used union dues to support political causes and events she opposed. The Court's ruling noted that forced fees from objecting workers like Carter were used to fund such activities.

Carter took to social media to challenge Stone's leadership and to express support for a recall effort that would remove Stone from power. Carter sent Stone messages affirming her commitment to both the recall effort and her support for a National Right to Work law after the union had emailed employees urging them to oppose Right to Work.

Carter was notified by Southwest managers that they needed to have a mandatory meeting as soon as possible about her personal

"Facebook posts they had seen." During this meeting, Southwest interrogated Carter about her posts and messages, as well as her Facebook messages to Stone opposing the union's activities.

Carter explained her religious beliefs and opposition to the union's political activities -- opposition protected by the RLA. However, a week after this meeting, Southwest fired Carter.

In 2017, Carter filed her federal lawsuit with help from Foundation staff attorneys to challenge the firing as an abuse of her rights. Her suit asserts she lost her job because of her religious beliefs, her opposition to TWU Local 556 officials, and criticism of the union's political activities and spending of employees' dues and fees.

Federal Judge Rebuffs Union and Airline Attempts to End Case Early

"[H]aving determined that Carter has a private right of action under [the RLA] and that this case concerns a major dispute," the federal judge assigned to the case ruled that genuine disputes of material fact exist and the case must proceed to trial.

"This decision is an important step towards long overdue justice for Charlene. The ruling rejects several attempts by Southwest and union officials to deny Ms. Carter's right to bring this case in federal court to enforce her federally protected speech and association rights," commented National Right to Work Foundation Vice President and Legal Director Raymond LaJeunesse. ✝



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Forced Dues For Politics: CWA Union Hit with Federal Charge by Pennsylvania Metal Worker

CWA officials defied decades of law by rejecting worker's resignation

GALETON, PA – An employee of metal corporation Catalus hit a Communications Workers of America (CWA) union local this May with federal charges for illegally seizing full union dues from his paycheck, including dues for politics. Curtis Coates, a metal worker for Catalus, is receiving free legal aid from the National Right to Work Legal Defense Foundation.

Foundation attorneys filed Mr. Coates' charges with National Labor Relations Board (NLRB) Region 6 in Pittsburgh, Pennsylvania. The Region is now investigating the charges.

CWA Union Officials Continue to Collect Dues from Worker, Despite Lack of Authorization

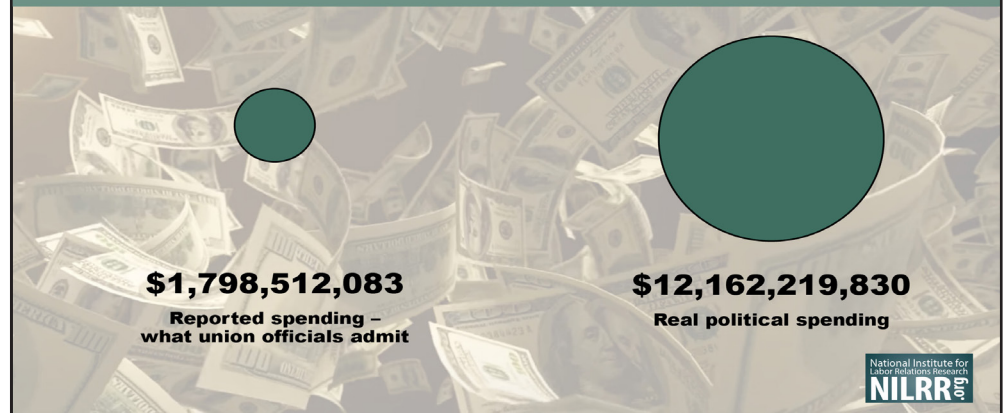
On October 20, 2021, Mr. Coates sent a message to CWA union officials declaring that he was resigning from his position as shop steward and terminating his union membership.

Because no union monopoly contract was in effect, under long-standing law, Coates should have been able to immediately cut all financial support for the CWA union which he no longer supports. The charges say a union official rebuffed both of Mr. Coates' requests the next day, insisting that he had to remain both a union member and a shop steward.

From December 2021 to February 2022, Mr. Coates followed up with union officials several times via email and mail. He repeatedly asked when union officials would cease taking dues money from his paychecks and what process he had to follow to revoke his dues deduction authorization to stop money from being seized from his paychecks.

"To date, the Union has not responded . . . and dues and contributions continue to be deducted from his wages," the

National Institute for Labor Relations Research Analysis of 2019-2020 Election Cycle



Coates' case challenging illegal seizure of forced dues for politics comes after one analysis found that union officials likely spent over \$12 billion on political activities during the 2019-2020 election cycle, far more than union officials publicly admit.

charge reads.

Because Pennsylvania currently lacks a Right to Work law, union officials can legally force employees to pay some union fees just to keep their jobs. However, those forced fees cannot be demanded when no union contract is in effect.

Further, even in states without Right to Work protections full union membership cannot be required. Additionally, under the U.S. Supreme Court's decision in *CWA v. Beck* (1988), won by Foundation attorneys, forced fees are limited to only the part of union dues that union officials claim goes toward a union's core "representational" functions and cannot be collected for other activities like union politics and lobbying.

Conflict of Interest: NLRB General Counsel is a Former CWA Union Official

Currently, the NLRB General Counsel is former CWA attorney Jennifer Abruzzo, who has expressed support for a number of policies which give union officials greater power to force workers into dues-paying union ranks, even without a vote. Foundation attorneys

requested last year that Abruzzo recuse herself from a case involving an Oregon ABC cameraman who accused another CWA local of demanding illegal dues from him, including dues for politics.

Coates' case represents another potential conflict of interest for Abruzzo, who has repeatedly sided with union officials against the rights of workers opposed to union affiliation.

"Mr. Coates' right to refrain from funding union activities is being ignored by CWA union officials as they continue to unlawfully seize full union dues, which includes money used for union political activities," commented National Right to Work Foundation Vice President Patrick Semmens. "This case shows why Pennsylvania workers need the protection of a Right to Work law to make all union payments strictly voluntary: So union bosses cannot so brazenly collect money to which they are not entitled under long-standing federal law."

"Further, Mr. Coates' case demonstrates the obvious conflict of interest that exists as Abruzzo, a former CWA lawyer, is charged with enforcing workers' rights violated by her former CWA union colleagues," Semmens added. 🇺🇸

HELP THE FOUNDATION UPHOLD LIBERTY IN THE WORKPLACE



Only the generosity of our donors allows the National Right to Work Legal Defense Foundation to assist workers free of charge in hundreds of cases a year as they seek to challenge Big Labor coercion. As a 501(c)(3) charitable organization, the Foundation is eligible to receive *tax-deductible* gifts.

Increasingly popular planned gifts can provide additional advantages to donors while assuring them that they're contributing to the National Right to Work Foundation's vital mission of expanding liberty in the workplace. Here are some giving options you may wish to discuss with your tax advisor or estate planner:

- A gift in your Will (name the Foundation as a Primary or Residuary Beneficiary);
- Naming the Foundation as a beneficiary of your IRA or 401(k) plan;
- Life income vehicles such as Charitable Gift Annuities and Charitable Remainder Trusts;
- A Qualified Charitable Distribution (QDC) from your IRA (if you are 70 ½ or older, you can instruct your IRA custodian to send an IRA gift of up to \$100,000 directly to the Foundation. QDCs count towards Required Minimum Distributions [RMDs]);
- Gifts of appreciated securities like stock (if held for more than one year you can receive a tax deduction for the full fair market value while avoiding capital gains taxes).

Please take a moment to review your estate plans for yourself, your family, and your favorite charities. For more information on giving options, please contact Ginny Smith at 1-800-336-3600, or gms@nrtw.org. We are grateful for your support and consideration as you make your estate plans.

Please consult your tax advisor or estate attorney before making a planned gift, will, or estate gift for you and your family.

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.

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NJ Drivers Defend First Amendment Freedoms

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brazenly locked them in restrictive dues schemes without even a whiff of consent," National Right to Work Foundation President Mark Mix told *Politico* after the suit's filing.

Foundation attorneys argue in Foxworth and his colleagues' lawsuit that IFPTE union officials, by taking union dues after January 1, 2022, without the workers' consent, "violate Plaintiffs' First Amendment right to free speech and association." The drivers seek a judgment making union officials permanently stop deducting dues from their wages, and return all dues already taken from their paychecks illegally.

Drivers Demand Return of Dues Union Seized Unconstitutionally

"IFPTE officials clearly value union dues revenue more than the rights of the workers they claim to 'represent.' Not only are those officials rebuffing clear notice from workers that they no longer want to support the union's activities, but they're enforcing a restrictive dues policy about which workers had absolutely no knowledge," commented National Right to Work Foundation President Mark Mix. "*Janus* was unambiguous: A worker's affirmative consent is required for any kind of dues deductions to occur, and that standard was clearly not met here." 🇺🇸

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Vegas Workers Battle Unions, Biased NLRB

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the “representation” of Culinary Union bosses. That order was issued despite the fact that a majority of the hospitality and foodservice employees voted in a secret-ballot election to reject Culinary Union officials’ effort to install themselves at the casino.

Foundation-represented Palms Casino engineering worker Thomas Stallings is also in a situation similar to Barrios’. Stallings and his coworkers are fighting another decision from NLRB Regional Director Overstreet that traps them under the monopoly control of unpopular IUOE and International Union of Painters and Allied Trades (IUPAT) officials, merely on the basis of “blocking charges” having little if anything to do with Stallings’ work unit.

Independent-Minded Workers Showing Courage in Face of Coercion

“Las Vegas is now where regional NLRB officials have, in multiple instances, reflexively sided with union boss requests to remain in power at workplaces in which a clear majority of workers want the union gone,” commented National Right to Work Foundation Vice President and Legal Director Raymond LaJeunesse. “Las Vegas is indeed ‘Sin City,’ if the sin is disrespecting workers’ fundamental right to choose freely whether or not union bosses should speak for them.”

“Foundation attorneys are proud to stand by these courageous workers, who are fighting not only union coercion but an NLRB Regional Director seemingly determined to undermine the rights of workers opposed to union affiliation,” LaJeunesse added. ✚



Message from Mark Mix

President
National Right to Work
Legal Defense Foundation

Dear Foundation Supporter,

Organized Labor should never be allowed to force workers to bankroll candidates or causes they oppose.

Founding Father Thomas Jefferson expressed this principle best when he said: “To compel a man to furnish contributions of money for the propagation of opinions which he disbelieves is sinful and tyrannical.”

Fortunately, the National Right to Work Foundation-won *Janus* and *Beck* U.S. Supreme Court precedents prohibit union bosses from taking unauthorized dues as a condition of employment and spending that money to promote Big Labor’s political agenda or elect their pet candidates.

But with the crucial Midterm Elections fast approaching, Foundation attorneys are increasingly hearing complaints from workers who have learned union bosses are illegally seizing money from their paychecks.

As you can read in this issue of **Foundation Action**, Organized Labor frequently disregards the law and violates workers’ rights by taking unauthorized money from the workers they supposedly “represent” and misappropriating those funds for the candidates and causes union elites choose.

These schemes can take many forms, whether refusing to recognize workers’ requests to stop full dues seizures, as happened to metal worker Curtis Coates (pg. 6) and a group of New Jersey bus drivers (pg. 1); or outright firing workers who stand up for their rights as happened to mechanic Remmington Duk (pg. 3) and flight attendant Charlene Carter (pg. 5).

That’s why the legal assistance your Foundation provides is so important. Without Foundation staff attorneys’ help, independent-minded workers like those highlighted in this issue of **Foundation Action** would have nowhere to turn.

Infuriatingly, it can often take years of dedicated effort to achieve justice for workers. Take Charlene Carter’s case as an example: It’s still ongoing after five years in the federal courts.

But ultimately your Foundation has a strong track record of decades of success. For example, Foundation staff attorneys recently won nearly \$20,000 for Remmington Duk as damages for union bosses’ thuggish firing.

Victories like this are only possible because of your ongoing support. Thank you for all that you do.

Sincerely,