



Foundation Action

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

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Another *Janus* Victory: South Jersey Bus Drivers Win Back Illegally Seized Dues

New Foundation-backed challenges to Janus restrictions also pending at U.S. Supreme Court

CAMDEN, NJ – Toward the end of 2021, South Jersey Transportation Authority (SJTA) bus driver Tyron Foxworth and his colleagues Doris Hamilton, Karen Burdett, Karen Hairston, Ted Lively, Arlene Gibson, and Stanley Burke decided they had had enough of International Federation of Professional and Technical Engineers (IFPTE) union bosses' so-called "representation" and opted out of union membership. Union cards they had signed indicated that the union would cease taking money from their paychecks in January 2022.

But, January 2022 came and went, and neither Foxworth nor his fellow independent-minded colleagues saw dues deductions stop. As a result, with free legal representation from National Right to Work Foundation staff attorneys, they filed a First Amendment federal civil rights lawsuit against the IFPTE union. They argued that union officials violated their First Amendment rights under the Foundation-won 2018 *Janus v. AFSCME* Supreme Court precedent by continuing to seize dues despite their objections.

IFPTE Officials Subjected Drivers to Restrictions They Never Knew About

In *Janus*, the Court declared it a First Amendment violation to force public sector workers to pay union dues as a condition of employment. It also ruled that union officials can only deduct dues from the paycheck



Credit: Pascale Sykes Foundation

Stop Requested: Tyron Foxworth and his fellow South Jersey Transportation Authority bus drivers told union officials to cease union dues to no avail, until Foundation staff attorneys' lawsuit forced union bosses to back down.

of a public sector employee who has voluntarily waived his or her *Janus* rights.

Rather than face Foundation staff attorneys in federal court, IFPTE union lawyers backed down and settled the case. As the settlement ordered, union bosses have now given back all money they seized unconstitutionally from Foxworth and his objecting coworkers, plus interest. The settlement also bars the IFPTE union from demanding or seizing any dues from the drivers going forward.

According to Foxworth and his colleagues, IFPTE dues deductions cards led them to believe that dues opt-outs would become effective on either the January or July following a request. However, the union's monopoly bargaining contract with SJTA recognized dues revocations

only in July. The drivers never consented to this greater restriction.

Foundation attorneys argued in the lawsuit that IFPTE union officials, by taking union dues after January 1, 2022, without

See '*Foundation-Backed Workers*' page 7

IN THIS ISSUE

- 2 Foundation to High Court: Time to End Union Boss Vandalism Exemptions
- 3 Blockbuster Foundation Case Successfully Ends Discriminatory Film Union Scheme
- 4 Workers Nationwide Continue Efforts to Oust Steelworkers Officials
- 5 Virginia, Kentucky Workers Slam Union Officials with Charges for Illegal Dues Deductions

Foundation to High Court: Time to End Union Boss Vandalism Exemptions

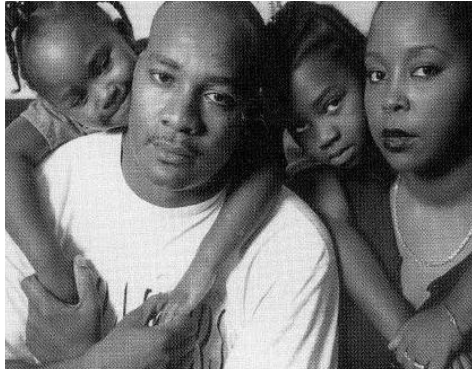
Case asks if Teamsters are immune from liability for property destruction during strike

WASHINGTON, DC – Unions and union officials already have an enormous number of special privileges under the law enjoyed by no other private organization or individual. Yet those special powers -- including forcing workers under monopoly “representation” and union dues payments they oppose -- haven’t stopped union lawyers from arguing for even more special exemptions.

In a case now before the U.S. Supreme Court, the Justices are set to decide whether the Washington State Supreme Court was correct when it granted Teamsters union officials immunity from lawsuits filed under state law. The lawsuit in this case concerned vandalism and property damage against an employer that occurred during a union boss-ordered strike.

Union Chiefs Want Blank Check to Target Workers with Property Damage

In *Glacier Northwest Inc. v. International Brotherhood of Teamsters Local 174*, a construction company sued the Teamsters union over property damage deliberately



Rod Carter sought Foundation help after he was stabbed and beaten by Teamsters militants in 1997. The Foundation still fights union violence and opposes union bosses' attempts to dodge property damage lawsuits.

caused as part of a strike, only to see the Washington Supreme Court overturn the lower court and agree with union bosses' argument that unions were exempt from such lawsuits.

With the issue now before the nation's highest court, the National Right to Work Foundation filed a brief in the case arguing that creating such a carve-out is wrong under the law. The Foundation brief says this exemption is dangerous not only to businesses but first and foremost to independent-minded workers, and that union officials'

abundance of government-granted powers should be pared back, not extended. Oral arguments are set for January 10, 2023.

The Foundation explains in the amicus brief that “states’ interest in protecting life, limb, and private property must be respected under principles of federalism” because federal courts usually don’t offer relief for crimes like vandalism and property damage, making state courts the only place where lawsuits can be filed for such behavior. Far from being a concern only for employers who face union strike efforts, the Foundation argues, employees are often targeted by hostile or violent strike behavior and state courts often are the only forum in which they can receive justice.

“For example, in *Clegg v. Powers*, employees sought damages in state court for union violence and property damage during a strike,” the brief says. “Cases like *Clegg* demonstrate that the Court should limit” unions’ ability to dodge being sued in state court, it continues.

Foundation: Union Officials’ Special Legal Privileges Shouldn’t Be Expanded

The Foundation’s brief then points out that the Teamsters bosses’ attempt to gain this new legal privilege should be shut down given “the extraordinary privileges and exemptions already granted to unions” by Congress and courts all over the country.

These include, but are not limited to, an exemption from federal law prohibiting extortionate violence, the power to force employees in non-Right to Work states to pay union dues or fees just to stay employed, and the privilege to foist monopoly “representation” over workers against their will -- powers no other private entity or individual

See ‘Foundation Fights’ page 8

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.

Blockbuster Foundation Case Successfully Ends Discriminatory Film Union Scheme

Faced with prosecution, IATSE union bosses will stop ‘bumping’ non-members off film shoots

NEW YORK, NY – James Harker, a New York-based movie production electrician, has a resume filled with big-name films that take place in the Big Apple, including *Elf*, *Spider-Man 3*, *Men in Black II*, and, recently, Steven Spielberg’s 2021 *West Side Story*.

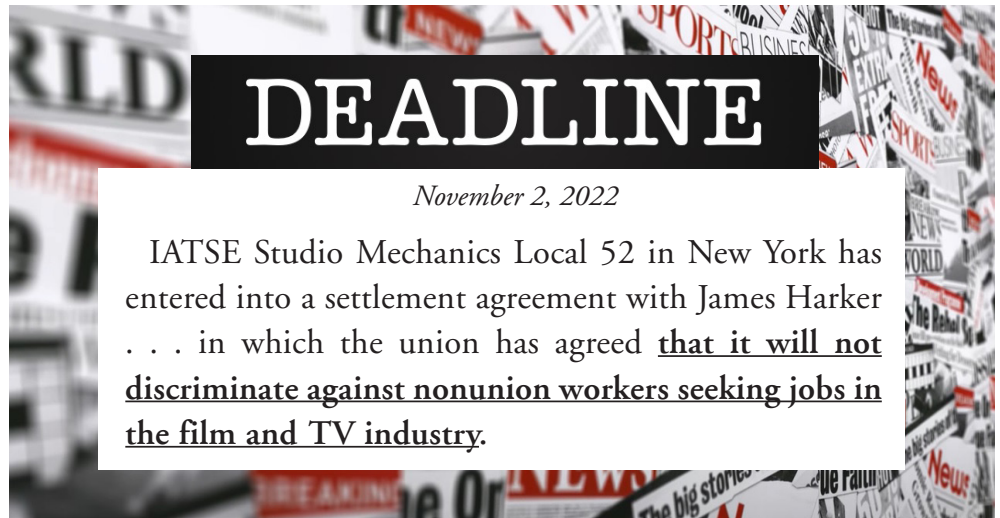
But, while helping these and many other silver screen stories come to life, he witnessed a much more sinister plot unfolding among his fellow production workers. Production staff who were not International Alliance of Theatrical Stage Employees (IATSE) union members would often get “bumped” off of their positions on film shoots if union members became available and wanted those jobs, merely because the non-members lacked union membership.

Labor Board Agrees Film Production Union Committed Host of Violations

Many of his colleagues turned a blind eye to this so-called “bumping.” Though it was obviously discriminatory, it was an entrenched industry practice, and many were too afraid to challenge union bosses’ facilitation of the scheme. But in March 2021, Harker decided it was time to stand up, and he began a case that would soon end the practice.

Harker filed federal charges against the union in March 2021 and January 2022. In May 2022, National Labor Relations Board (NLRB) Region 29 in Brooklyn issued a complaint finding that many of the activities described in Harker’s charges were indeed violations of federal law. Harker then requested and received Foundation attorneys’ free legal aid.

The complaint was the NLRB’s first step toward prosecuting IATSE Local 52 not only for “bumping,” but also for forbidding production companies to hire non-members



That’s a wrap: Movie electrician James Harker’s settlement ended an entrenched system of discrimination against non-members, perpetrated by IATSE union bosses.

without permission from top union bosses, for forcing non-members to go through the union to apply for jobs, for requiring union members with hiring authority to exhaust all union member hiring options before hiring non-members, and for perpetrating other violations of federal labor law.

Following the complaint, rather than face National Right to Work Foundation staff attorneys who were providing Harker with free legal aid at trial, IATSE Local 52 union officials backed down and settled the case in October 2022 to avoid further prosecution.

Settlement Spells Final Act for Discrimination Against Non-members

The settlement orders IATSE Local 52 to comply with a number of requirements, including that union bosses will no longer “require nonmember . . . employees to obtain work through the Union,” “will not interfere with employers and their agents hiring nonmembers without first obtaining approval from the Union,” and “will not require employers to allow members to bump nonmembers off of productions because of the nonmembers’ lack of

membership with the Union.”

The settlement also required IATSE union officials to attend mandatory training on employee rights and hiring procedures, and to distribute the NLRB notice broadly to members and non-members.

“IATSE union officials’ scheme to keep non-member production workers off the job is a classic example of union officials prioritizing power and control over workers’ individual rights,” commented National Right to Work Foundation Vice President and Legal Director Raymond LaJeunesse. “The Foundation was proud to back Mr. Harker, who recognized the patent injustice of this arrangement.”

“Film crew members who have exercised their right not to affiliate with a union should know that they can’t be required to go through union officials to look for work, and can’t be ‘bumped’ off a job just so a union member can get it,” LaJeunesse added. “Unfortunately, Foundation attorneys’ experience is that these types of unlawful schemes are pervasive in the entertainment industry, where near-total union boss control combined with the fear of union retaliation keeps most workers too scared to defend their rights.”

Workers Nationwide Continue Efforts to Oust Steelworkers Officials

Successful ousters in Louisiana and New Jersey emphasize importance of protecting worker votes

WASHINGTON, DC – In the space of just a month, National Right to Work Legal Defense Foundation staff attorneys successfully aided groups of workers in New Jersey and Louisiana in voting out United Steelworkers (USW) union officials they opposed. The National Labor Relations Board (NLRB) certified both votes.

In Louisiana, Ryne Fox led his coworkers at GEO Specialty Chemicals to a decisive victory over USW officials, while Michael Cobourn did the same with his fellow workers at Gold Bond Building Products in New Jersey.

Both cases demonstrated the struggles workers face when seeking to “decertify” union officials whom they no longer want in power. In Louisiana, Fox had to time the filing of his coworkers’ petition seeking a decertification vote to fall within a tiny window of days imposed by the “contract bar,” a union boss-friendly NLRB policy that protects union officials from being voted out of a workplace for up to three years after union bosses and management finalize a contract.

Cobourn and his colleagues, in addition to having to deal with the “contract bar,” work in the non-Right to Work state of New Jersey -- meaning they were forced to pay money to the union just to keep their jobs during the entire time they were forbidden by the “contract bar” from ejecting the union. In contrast, Right to Work states protect private sector workers from being fired merely for refusal to pay dues or fees to union officials of whom they disapprove.

“My coworkers and I were paying money to the Steelworkers union constantly, yet the union didn’t seem to be doing anything for us,” commented Mr. Cobourn.

Although the efforts in Cobourn’s and Fox’s workplaces are evidence that Steelworkers union officials nationwide place their own interests above the workers they claim to



Michael Cobourn and his coworkers were forced to pay union dues while USW union bosses seemed to be loafing it at their workplace. With Foundation aid, they ousted the union.

“represent,” the most heinous example of such behavior is ongoing in Franklin, Pennsylvania.

There, Foundation-assisted metal workers at Latrobe Specialty Metals/Carpenter Technology are holding their own in defending their decertification petition against Steelworkers officials’ claims that the “contract bar” should invalidate the petition.

PA Workers Score Victory in Fight Against Election-Blocking Steelworkers Chiefs

While invoking the “contract bar” alone is anti-worker, Steelworkers officials in Pennsylvania claimed that a contract they unilaterally “ratified” this past summer *after workers had voted against it twice* should trigger the “contract bar.” Steelworkers officials had even told workers that the contract would only be “activated” if workers voted for it. But once they got wind of the workers’ decertification push, the officials “ratified” the unpopular contract secretly so they could, as one union official outrageously said during a hearing, “protect the integrity of the union.”

Foundation staff attorneys representing the employee who submitted the petition, Kerry Hunsberger, have so far beaten back

union officials’ attack on worker free choice. On November 18, 2021, an NLRB Regional Director rejected union bosses’ attempt to block the vote and ordered that an election proceed.

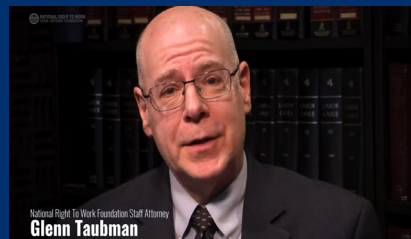
‘Contract Bar’ Encourages Union Officials to Impose Unpopular Contracts

“Workers across the country are increasingly exercising their right to vote out union officials they oppose, and we at the Foundation are happy to aid them,” commented National Right to Work Foundation President Mark Mix. “However, we’re also acutely aware of the obstacles that stand in the way of this freedom, and one of those, which Steelworkers officials seem to have no reservations about exploiting, is the ‘contract bar.’”

“The unjustified ‘contract bar’ is always wrong because it prevents workers from voting out unions they oppose when they want. But even worse, this NLRB-invented doctrine actually incentivizes union officials to rush and impose unpopular, self-serving contracts for the very purpose of insulating the union’s forced representation powers from a vote of the workers union officials claim to ‘represent,’” Mix added. ☞

ANTI-WORKER UNION TACTICS EXPOSED:

Learn what workers face when trying to vote out a union



Scan the QR code to the right or visit www.nrtw.org/paworkers/ to watch the video.



Virginia, Kentucky Workers Slam Union Officials with Charges for Illegal Dues Deductions

Union bosses seized full dues over employees' clear objections, despite state Right to Work laws

DANVILLE, VA – For workers under the protection of Right to Work laws, union membership and financial support are supposed to be strictly voluntary. However, as recent cases brought with Foundation legal aid for workers in Kentucky and Virginia demonstrate, even in the 27 states that currently have Right to Work laws, union bosses will often attempt to illegally seize dues over workers' objections.

"Living in Right to Work Virginia, it is outrageous that we need to take legal action just to stop union dues from being seized against our will," commented Steven Ricketts, one of two employees at Buitoni Food Company who recently filed charges against United Steelworkers (USW) Local 9555. "I don't want my money supporting the United Steelworkers union, and it is time union officials accept that 'no means no' when a worker resigns from the union and revokes their dues authorization."

Ricketts and fellow employee Donald Hale each hand-delivered letters to both USW union officials and to their employer, formally resigning their union memberships and revoking their dues check-off authorizations.

Steelworkers Bosses Ignore 75-Year-Old Virginia Right to Work Law

After the workers' letters were delivered, dues deductions briefly stopped only to quickly resume. In the case of Ricketts, Buitoni Food Company not only restarted union dues deductions but also deducted double the dues amount in a subsequent paycheck. Deductions from Mr. Hale's paycheck also resumed without his authorization after a short period.

Mr. Ricketts sent an email to the company's human resources department after the dues seizures restarted and was told to contact union officials about it. Each



"[I]t is time union officials accept that 'no means no,'" said Buitoni employee Steven Ricketts, who is fighting to stop all dues as provided by Virginia's Right to Work law.

employee sent another letter to the United Steelworkers union, specifically requesting copies of their dues check-off authorizations. However, money continues to be deducted without their consent and without the union officials producing copies of the authorizations that are legally required before any such deductions can occur.

Eventually the workers filed unfair labor practice charges against both the USW and their employer for their respective roles in the unauthorized union dues deductions.

Regarding the Foundation-backed charges, Hale noted: "I'm grateful for the National Right to Work Foundation assistance in enforcing my legal rights, but it really shouldn't take a federal case to cease the collection of union dues."

Meanwhile in neighboring Kentucky, Shiphrah Green, who works at Ford's Louisville Assembly Plant, filed similar charges with the National Labor Relations Board (NLRB) against the United

Automobile Workers (UAW) Local 862 union, as well as the UAW international union and Ford, for illegal union dues deductions.

Kentucky Autoworker Hits UAW Union with Federal Charges

Green notified both Ford and UAW union officials in April 2022 that she was resigning her union membership and cutting off all union dues deductions from her wages, as is her right under Kentucky's Right to Work law. Instead of honoring her request, Green instead received an email from UAW Local 862's president notifying her that Green needed to be shown the allegedly "correct" method to leave the union.

During a subsequent meeting with union officials at the UAW union hall, UAW officials subjected Green to interrogation about why she wanted to leave the union, and also demanded she sign a letter listing "benefits" Green would supposedly forgo if she went through with exiting the union. Longstanding NLRB precedent makes such restrictions on resignation illegal, as was the UAW Local 862 president's coercive statement to Green that "if it were up to me, you'd lose your job for leaving the union."

Despite Green's resignation and requests to cut off union dues, UAW and Ford did not stop dues deductions. While Green continued trying to get Ford management to end the dues deductions, her efforts proved futile, as Ford officials gave her several confusing responses and even told her that she could only cease dues deductions in February 2023, even though the previously authorized dues deduction document could be revoked at will.

Finally, after getting the runaround from both Ford and the UAW, Green filed charges with the NLRB in October using free legal



It's a New Year: Make An Estate Plan Today

As we embark on a new year, now is an excellent time to consider a long-term estate plan for you and your family. There is no time like the present to consider a planned gift to the National Right to Work Legal Defense Foundation to promote workplace freedom for years to come!

Only your generosity allows Foundation staff to keep up with requests for free legal aid from workers victimized by Big Labor.

If you have thought about a long-term estate gift to the Foundation, there are several straightforward ways to add the Foundation to your Will or estate plan and to ensure the Foundation can continue pursuing the mission of ending compulsory unionism in the workplace.

Establishing the Foundation as a beneficiary in your estate plan is a simple step. You can designate the Foundation as a beneficiary either with a specific amount in your Will, or leave a residual bequest. A specific bequest to the Foundation may be a specific percentage or amount of cash or property (even an IRA gift or life insurance policy), while a residual bequest comes to the Foundation after your estate expenses and other specific bequests are fulfilled per your estate plan.

You may be able to use this sample language:

I give, devise, and bequeath to the 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 recommend you consult with your tax attorney or financial advisor to ensure that your plans align with your estate considerations. Remember: all gifts to the Foundation are eligible for a tax deduction as the Foundation is a recognized 501(c)(3) charitable organization.

If you would like additional information, or other ways to add the Foundation to your Will or estate plans, please call Ginny Smith at 703-770-3303, or email her at gms@nrtw.org.

Foundation-Backed Workers Advance *Janus* Protection Bids to High Court

continued from page 1

the workers' consent, "violate[d] Plaintiffs' First Amendment right to free speech and association."

Foxworth and his coworkers' victory is the latest of numerous Foundation-won cases to vindicate American public workers' First Amendment *Janus* rights. In the past few years, class action lawsuits brought by Foundation staff attorneys have led to settlements freeing tens of thousands of Ohio public employees from American Federation of State, County, and Municipal Employees (AFSCME) union schemes illegally restricting the exercise of their *Janus* rights.

Courageous public workers from California and Nevada are also asking the Supreme Court to take the next step and declare such *Janus* restrictions clearly violative of the First Amendment.

Lifeguards, Police Officer Battle Blatantly Unconstitutional Restrictions

Foundation attorneys just filed a petition asking the Supreme Court to hear several Southern California lifeguards' suit against a so-called "maintenance of membership" scheme that California Statewide



These California lifeguards' challenge to anti-*Janus* "maintenance of membership" requirements -- which the Supreme Court is now deciding whether to hear -- is just one of a "wave" of Foundation cases to enforce *Janus*.

Law Enforcement Agency (CSLEA) union officials are using to trap the lifeguards in membership and full dues payments years after they resigned, in direct opposition to *Janus*.

Also awaiting Supreme Court review of her case is Las Vegas police officer Melodie DePierro, who with Foundation aid is battling an arrangement imposed by Las Vegas Police Protective Association (PPA) union officials that forbids the exercise of her *Janus* rights for over 90 percent of the year.

"Union officials across the country continue to enforce schemes that give them -- not the workers they claim to 'represent'

-- control over the exercise of *Janus* rights, meaning more money in union coffers while employees' constitutional rights are squashed," commented National Right to Work Foundation President Mark Mix. "While many union bosses, aware of the indefensibility of their actions, run screaming from facing Foundation attorneys on *Janus* issues and settle quickly, American public workers should also know that Foundation attorneys will fight all the way up to the Supreme Court to ensure their First Amendment rights are protected." ✚

Courageous Workers Stand Up Against Forced Dues Abuses

continued from page 5

aid from the National Right to Work Foundation. As this issue went to print, Labor Board regional officials were conducting an investigation to see if Ford and the union should be prosecuted for illegal dues seizures.

Foundation Attorneys Play Essential Role in Limiting Union Boss Power

"As thousands of Foundation cases have demonstrated -- whether in Right to Work states or forced-dues jurisdictions, or whether litigated for government employees

or private sector workers -- limits on union bosses' power to seize money from workers mean little if they aren't enforced," commented National Right to Work Foundation Vice President Patrick Semmens.

"Virginia has had a Right to Work law on the books for over 75 years, while Kentucky's Right to Work law is barely over five years old, but in both commonwealths, union bosses are illegally seizing union dues," added Semmens. "These cases show why defending and enforcing workers' Right to Work protections has been and will remain a top priority of the Foundation." ✚

**National Right to Work
Legal Defense Foundation**

Rated "A"
by
Charity Watch

Source: *Charity Rating Guide*
Winter 2022-2023
American Institute of Philanthropy

Foundation Fights Union Move to Dodge Property Damage Suits

continued from page 2

has.

"This Court should treat unions like all other citizens or entities, clarifying that they can be liable for damages in state courts under 'the common law rule that a man is held to intend the foreseeable consequences of his conduct,'" the brief concludes.

Unions Shouldn't Get More Rights Than Regular Citizens

"Union officials' theory that they should be off the hook in state court for damaging or vandalizing property is outrageous on its face. The law already has plenty of carve-outs and privileges for union hierarchies that no other private organization or citizen gets to enjoy, least of all the workers union bosses claim to 'represent,'" commented National Right to Work Foundation Vice President Patrick Semmens. "Union officials regularly force millions of workers to pay union fees or be fired, and force their 'representation' on millions of workers who bitterly oppose it. The Supreme Court should reject this new ploy seeking another union-only exemption to regular laws, and begin to scrutinize and ultimately roll back the many existing union boss special powers." ✚

Extra! Extra! Newsclips Requested!

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Supporters can also email stories to:
info@NRTW.org



Message from Mark Mix

President
National Right to Work
Legal Defense Foundation

Dear Foundation Supporter,

As we move into the New Year, I am proud of what the National Right to Work Legal Defense Foundation accomplished in 2022 thanks to your generous support.

Foundation attorneys are fighting nationwide for workers of all types -- from metal workers (page 4) to lifeguards (page 7), to movie electricians (page 3), to bus drivers (page 1), and countless others -- all of whom, in one form or another, have suffered the injustices of coercive unionism.

Just a few highlights from the last year include: Helping a record number of workers hold votes to escape unwanted union ranks, winning a multimillion-dollar jury verdict for a flight attendant fired for opposing union bosses' political agenda, and litigating over a dozen cases to enforce and expand our 2018 landmark *Janus* Supreme Court victory.

Of course, we still have plenty of work to do in 2023 and beyond.

As the Foundation recently told the Supreme Court in a pending case over whether or not Teamsters union bosses can destroy an employer's property with impunity (page 2), union officials currently enjoy unique special powers granted to no other private individuals.

The fact is, Big Labor's outsized influence is not a reflection of voluntary support by rank-and-file members, but the result of these numerous special legal "carve-outs" granted to union bosses by the very politicians who in turn benefit from Organized Labor's forced-dues-funded political machine.

Fortunately, your Foundation's strategic legal program exists to attack Big Labor's government-granted coercive powers in the courts. Our goal is the day when no worker anywhere in America can be forced to affiliate with or pay tribute to a union.

Of course, rolling back Big Labor's expansive government-granted powers will require a significant investment of time and treasure. But with your continued support in 2023, I have no doubt we can rise to the challenge and provide unparalleled legal assistance to the worker victims of Big Labor -- while setting precedents that expand the freedoms of millions of workers.

Thank you in advance for your ongoing partnership!

Sincerely,