



# Foundation Action

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

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## Foundation Seeks Federal Investigation into Union Political Fundraising

### *New SEIU rule coerces workers to fund electioneering*

WASHINGTON, DC – In recent weeks, National Right to Work Foundation President Mark Mix has called on the Department of Justice and the Department of Labor to open a federal investigation into the Service Employees International Union’s (SEIU) shady fundraising activities.

A brazen new requirement adopted at the SEIU’s national convention imposes financial penalties on local affiliates that fail to meet mandatory fundraising targets for the union’s political action committee (PAC) and other electioneering activities. Foundation staff attorneys believe that this requirement violates federal election law, which forbids organizations from exacting political contributions through threats of financial reprisals.

“SEIU bosses are making a mockery of federal law. It’s vital the Department of Justice and Department of Labor take action now before the damage is done,” said Mix. “We need to do everything possible to ensure the elections’ results



**Radical SEIU Chief Andy Stern is enforcing a new PAC fundraising mandate on local union affiliates.**

aren’t tainted by unlawful union activism that violates the rights of rank-and-file workers.”

### **SEIU amendment threatens workers’ rights**

The new union requirement could pressure local affiliates to use nonmember employees’ mandatory dues payments to cover PAC contributions and pay for the SEIU’s punitive fines. While the imposition of coercive financial penalties is illegal regardless of how the fines are spent, the undisclosed use of funds derived from nonmembers’ fees for political purposes would also violate employees’ constitutional rights, if not federal law.

Union officials are on track to spend more than \$1 billion to influence the 2008 elections, and the SEIU scheme has the potential to irreparably compromise the integrity of the electoral process.

In the letter to Attorney General

Mukasey, Mix urged the Department of Justice to take immediate action: “Not only are large numbers of employees (forced to fill SEIU coffers) harmed by this crime, but, given the close vote in recent national elections, the illegal SEIU activity effectively disenfranchises voters who follow the law... To protect the rights of workers forced to pay compulsory dues and fees, and the integrity of the November elections, I trust you will act upon this information.”

For more on the political implications of the SEIU’s illegal fundraising, a high-profile *Wall Street Journal* editorial is reprinted on page 6. ↗

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# Supreme Court Issues Rare Rebuke to Meddling Bush Lawyers

*Administration lawyer will not have time during oral argument to parrot union arguments*

WASHINGTON, DC – A bit of good news came in the door as Foundation attorneys prepare for oral arguments before the United States Supreme Court on October 6 in *Locke v. Karass*.

In an extremely rare move, the High Court denied a motion by Bush Administration lawyers seeking to force their way into the oral arguments, even though no federal statute or federal agency is implicated in the case.



*Secretary of Labor Elaine Chao should pull the plug on her pro-forced unionism legal brief filed in the Foundation's U.S. Supreme court case.*

## Foundation Supreme Court case examines forced dues assessments


As reported in the June/July issue of *Foundation Action*, U.S. Solicitor General Paul Clement submitted a controversial legal brief in *Locke* before resigning in May. If adopted, the federal

government's position would allow union officials to charge employees who exercise their right to refrain from formal union membership for union activism nationwide. Clement's successor

Gregory Garre, Acting Solicitor General, filed a motion to grab part of Foundation attorneys' limited oral argument time to repeat these detrimental arguments before the Court.

## Supporters ask Bush Administration to withdraw from case

National Right to Work Foundation President Mark Mix – joined by thousands of Right to Work supporters who have mailed and called the White House and the Department of Labor – has repeatedly asked the Bush Administration to withdraw its shameful legal brief. At press time, it has not done so. But this rare rebuke by the Supreme Court underscores what Foundation attorneys have argued all along: The federal government has absolutely no business nosing into the *Locke* case, particularly since it wishes to tear down First Amendment protections.

For continuing updates on *Locke* and the Foundation's hundreds of other cases, check out the Foundation's blog, *Freedom @ Work*, at <http://www.nrtw.org/blog>. 

## Foundation Action

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8001 Braddock Road, Springfield, Virginia 22160  
[www.nrtw.org](http://www.nrtw.org) • 1-800-336-3600

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.

## Free Newsletter

If you know others who would appreciate receiving *Foundation Action*, please provide us with their names and addresses or email us at [wfc@nrtw.org](mailto:wfc@nrtw.org).

We'll rush them the next issue.

# Union Bosses, Co-opted Hospital Scheme to Impose Union

*Nurses get Foundation's help in objecting to illegal pre-recognition bargaining*

HOUSTON, TX – With free legal aid from staff attorneys at the National Right to Work Foundation, two nurses at Tenet Healthcare Corporation-owned hospitals in Texas have filed unfair labor practice charges against both Tenet and the California Nurses Association (CNA). Esther Marissa Cuellar, a nurse at Cypress Fairbanks Medical Center, where the CNA has already unionized, and Linda D. Bertrand, a nurse at Park Plaza Medical Center, brought to light that CNA officials and Tenet illegally entered into agreements to force nurses into CNA union ranks.

CNA bosses and Tenet executives signed a so-called “Election Procedure Agreement” (EPA) in which both sides made promises – agreeing to one-sided and coercive procedures for the union organizing drive as well as particular substantive terms of a future contract. It is illegal under the National Labor Relations Act (“the Act”) for a firm to negotiate terms and conditions of employment with a union before the union demonstrates that an uncoerced majority of employees want union officials as their monopoly bargaining representatives.

## NLRB bureaucracy “rents” itself out to union organizers

One of the NLRB’s most central functions is its role as the supposed overseer of “laboratory conditions” of union certification elections. Traditionally, the Board determines which employees belong in the bargaining unit to be represented by a union and then conducts the election to make sure that it is not tainted. The Tenet/CNA pact effectively reduced the Board’s role in the “certification” process to a mere ballot counter and rubber stamper of the phony and coercive process.

*CNA union bosses’ dirty little secret is that they only oppose secret backroom deals that don’t include them.*

## Big Labor pressures medical corporation to sell out nurses

Tenet provided unlawful support and assistance to the CNA by providing union brass with employee lists and personal information, broad access to the hospital, and a dubious arbitration process that allowed CNA officials to go beyond the initially agreed upon time limit to coerce more nurses into signing union authorization cards. Meanwhile,

Tenet refused to offer equivalent assistance and support to nurses who do not want to unionize or who prefer a union other than the CNA.

The Supreme Court’s 2008 decision in *Chamber of Commerce v. Brown*—a victory achieved with help from Foundation attorneys (see page 5)—suggests that “an underlying right to receive information opposing unionization” exists under Section 7 of the Act. In the EPA, however, Tenet and union officials agreed on what information about unionization Tenet could provide its employees, effectively gagging supervisors from responding to nurses’ requests for truthful information about the CNA’s record and purposes. Tenet also discriminated against nurses who oppose the CNA by preventing them from using normal employee space to advocate their position. The EPA also called for “binding interest arbitration of first contracts,” a clear instance of unlawful pre-recognition bargaining.

## Union bosses say one thing, do another

Hypocritically, CNA union chiefs in California launched an extensive public campaign to chastise a competing union, a Service Employees International Union (SEIU) affiliate, for making similar agreements with hospital administrations. They even set up a website, called “Serving Employers Instead of Us,” on which they accused SEIU officials of agreeing to similar conduct such as a gag order and a “banana republic election.”



*CNA union bosses routinely accused other unions of cutting sweetheart deals to get more union dues, only to turn around and do the exact same thing.*

see **SECRET DEAL** page 8



# Foundation Defends Against Union Identity Theft, Conspiracy

*Employee attacked by union terror campaign: "They hurt me and they hurt my family"*

HARTFORD, CT – Foundation staff attorneys filed a lawsuit in state court for Patricia Pelletier, a Connecticut resident who was targeted by union bosses with an ugly campaign of harassment and retaliation.

After Pelletier initiated a successful workplace decertification drive to eject the unwanted union from her workplace, union militants conspired to forge her name on numerous magazine subscription cards, bombarding her home with hundreds of unwanted mail-order journals and billing her for thousands of dollars.

Because Connecticut lacks a Right to Work law, Pelletier was forced to pay union dues and accept the Communication Workers of America (CWA) Local 1103's mandatory workplace representation. After growing disillusioned with the union's presence, Pelletier initiated several workplace decertification petitions to eject the CWA from her Connecticut non-profit.

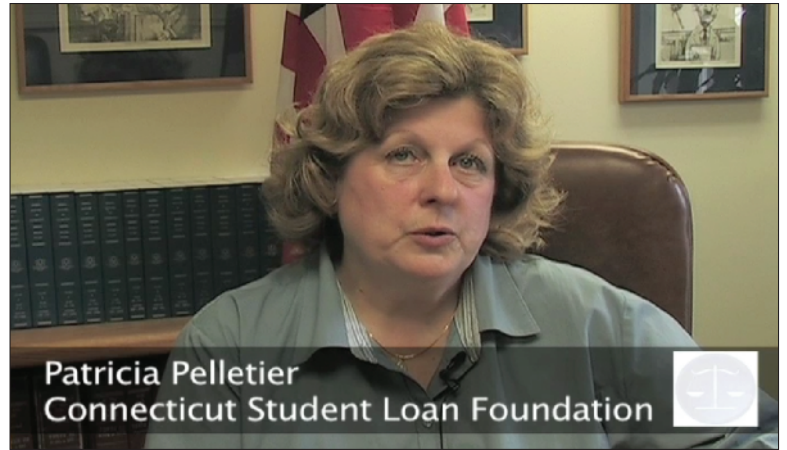
"The union was never there for us for anything," said Pelletier. "They took our dues every paycheck, but believe it or not, nonunion people got better [benefit] packages."

## Police uncover hard evidence of union origin

A police investigation indicated that union operatives forged Pelletier's signature on hundreds of mail-order products in retaliation for attempting to remove the union, flooding her doorstep with unwanted mail. The

forged order forms were mailed from the same zip code as the union's headquarters, which was located across the New York state line.

Not only was Pelletier forced to spend several hours each day for more than a year canceling individual subscriptions and orders, her name and personal information were sold to advertiser mailing lists across the country. Magazine companies also billed Pelletier



*Patricia Pelletier's life has been turned upside down by union militants seeking revenge. Hear her story at [youtube.com/RightToWork](http://youtube.com/RightToWork).*

*What's worse, Pelletier also believes that union militants planted cocaine at her work desk in an effort to have her fired.*

for thousands of dollars in unwanted subscription fees, and ultimately, collection agencies began to call, threatening lawsuits and a ruined credit rating.

"You're talking weeks, hours, months to try to call everybody, make sure it [the magazine subscription] is cancelled . . . and I'm still getting past due notices from collection companies," said Pelletier.


What's worse, Pelletier also believes that union militants planted cocaine at her work desk in an effort to have her fired. Although the police investigation into the incident has stalled, union militants in her workplace had both the means and motive to frame Pelletier for drug possession.

According to Pelletier, "[cocaine] was found in a loan file . . . this file

cabinet is not locked and is accessible to everyone who works in the building . . . so it was available and accessible to the pro-union people who had confronted me."

## Foundation attorneys hold union militants accountable in court

In a 31-count suit filed in Hartford Superior Court, Foundation attorneys allege that union officials committed identity theft, conspired to forge Pelletier's signature, inflicted undue emotional distress on Pelletier and her family, and violated Connecticut's Unfair Trade Practice Act. Foundation attorneys are seeking damages in excess of \$15,000 to compensate Pelletier for CWA union militants' ugly campaign of retaliation against her.

"Mrs. Pelletier's plight demonstrates the vicious things union officials will do to punish workers who wish to refrain from unionization," said Mark Mix, president of the National Right to Work Foundation. "Mrs. Pelletier is guilty of nothing more than helping her coworkers give an unwanted union the boot." 

# High Court Agrees with Foundation on Coercive Organizing Law

*Prototype California law that stacked the deck for forced unionization is struck down*

WASHINGTON, DC – In June, the United States Supreme Court by vote of seven to two overturned a prototype California law that stacked the deck in favor of coercive union organizing in an effort to force more workers into Big Labor's ranks.

National Right to Work Foundation attorneys filed arguments at the Supreme Court to overturn the controversial law that pressured companies to assist in coercive union organizing drives. The ruling in *United States Chamber of Commerce v. Jerry Brown* puts an end to the California law and raises doubts about the constitutionality of many other state and local laws in the Foundation's crosshairs.

"This was nothing more than an underhanded attempt by union officials to use public funds to corral California workers into their forced dues-paying ranks. The High Court was correct to find that the state law is pre-empted by federal labor law," said Raymond LaJeunesse, vice president and legal director of the National Right to Work Foundation.

## Law denied workers truthful information

Federal labor law favors an "uninhibited, robust, and wide-open debate" in unionization drives, but the California law banned employers who received government contracts or grants from using the funds to "assist, promote, or deter union organizing."

Moreover, as Justice John Paul Stevens noted in the majority opinion, "the statute exempts expenses incurred in connection with...giving unions



*The U.S. Supreme Court thought little of the Ninth Circuit U. S. Court of Appeals' flawed reasoning once again.*

browbeat workers into signing cards at the workplace and even at workers' private homes. Union bosses also get to keep the cards, so they know exactly how each individual worker has "voted." The message is clear: Big Labor is

access to the workplace, and voluntarily recognizing unions without a secret ballot election." In other words, not only did the state prohibit the free flow of truthful information about the downsides of unionization, it also actively *promoted* unionization under the guise of so-called "neutrality."

## So-called neutrality agreements are anything but

As *Foundation Action* readers are aware, "neutrality" is Big Labor's euphemism for one-sided and coercive card check unionization drives.

Through card check, a union gains recognition as the "exclusive representative" – or monopoly bargaining agent – of all workers in a bargaining unit as soon as a simple majority of workers sign union authorization cards.


Rather than determining union certification through the less abusive secret ballot election process, card check allows union officials to pressure and

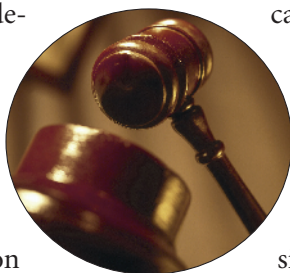
watching you.

Importantly, as the Supreme Court majority also noted, "The Taft-Hartley Act amended [NLRA] §7 and §8 in several key respects. First, it emphasized that employees 'have the right to refrain from any or all' §7 activities." This "amendment to §7 calls attention to the right of employees to refuse to join unions, *which implies an underlying right to receive information opposing unionization*" – precisely the point made in the Foundation's brief.

The ultimate goal of the California law was simply to force more workers into unions. With more workers compelled to pay union dues, unions bosses would have more money to spend on political activism and lobbying.

"California officials were wrong to use the heavy hand of government to trample upon workers' rights," said LaJeunesse. "In their lust for more forced union dues, union bosses are resorting to increasingly coercive tactics."

For more information on the *Chamber v. Brown* case, see the January/February 2008 issue of *Foundation Action*. 



# THE WALL STREET JOURNAL.

Review & Outlook

## Docking Paychecks for Politics

July 28, 2008 – The mighty Service Employees International Union (SEIU) plans to spend some \$150 million in this year's election, most of it to get Barack Obama and other Democrats elected. Where'd they get that much money?

That's a question the Departments of Labor and Justice are being asked to investigate by the National Right to Work Legal Defense Foundation. Specifically, the labor watchdog group wants Justice to query a new SEIU policy that appears to coerce local workers into funding the parent union's national political priorities.

The union adopted a new amendment to its constitution at last month's SEIU convention, requiring that every local contribute an amount equal to \$6 per member per year to the union's national political action committee. This is in addition to regular union dues. Unions that fail to meet the requirement must contribute an amount in "local union funds" equal to the "deficiency," plus a 50% penalty. According to an SEIU union representative, this has always been policy, but has now simply been formalized.

No other major institution could get away with its bosses demanding that every single one of its workers step in line behind its political preferences. This is the sort of imposed political obeisance that infuriates so many workers and turns them away from unions.

The SEIU political mandate may also violate federal law. Union and corporate PACs are supposed to rely on "voluntary" contributions, and it is illegal for them to use money secured by the "threat" of "financial reprisal." It's hard to see that an SEIU mandate enforced by financial penalties of 50% isn't a "threat" or would qualify under any definition of "voluntary."

There's more. As many workers who would rather not join a union realize, employees can be required to join a union or to pay dues as a condition of employment. It is illegal, however, for a union to take these compelled union dues and use them to affect federal elections.

SEIU locals will no doubt try to fulfill their national commitment with voluntary contributions. But the SEIU's amendment suggests that unions that fail to meet that obligation will be required to pay for both the shortfall and penalty with member dues and agency fees. Any use of that dues money in a PAC would be a federal no-no. Meanwhile, use of dues from nonunion members (those who must pay dues even though they refuse to join a union) for any political activity, a PAC or otherwise, is prohibited.

The SEIU has in the past run close to the edge with the campaign-finance crowd. In the last Presidential cycle, SEIU President Andy Stern was among

the founders of America Coming Together (ACT), one of the 527 groups that has sprung up to influence elections while avoiding individual campaign donor limits. Along with billionaire George Soros, the SEIU was among the largest contributors to that 527, raising some \$26 million to elect John Kerry in 2004.

The Federal Election Commission later imposed a \$775,000 penalty on ACT for violating campaign finance laws, the largest ever against a 527. Big as it was, the fine equaled less than one cent on the dollar for the \$100 million that ACT improperly used to influence a national election. Mr. Stern was only a founder of ACT. But the political lesson is that the benefit of breaking the rules and potentially winning an election far outweighs a minuscule financial penalty well after the outcome is decided.

That's why the feds should take this complaint seriously. The SEIU contribution demand isn't just another technical violation of campaign-finance rules but may break serious rules about labor operations and union dues. The time to investigate this is before the election.

Union employees have every right to participate in elections. Union chiefs don't have the right to coerce them.



# NLRB Persuaded to Prosecute Nurse Union Officials for Threats

*Union bosses illegally threatened non-striking nurses with 90 days in jail*

LOS ANGELES, CA – Foundation attorneys have made a breakthrough for Carol Jean Badertscher and other brave nurses at Pomona Valley Hospital Medical Center who refused to turn their backs on their patients during a union-ordered strike. In July, the National Labor Relations Board Regional Office in Los Angeles had no choice but to prosecute union officials for threatening to have the nurses fined, arrested, and fired.

Badertscher filed unfair labor practice charges against Service Employees International Union (SEIU) Local 121RN union bosses at the NLRB last October. The NLRB Regional Director dismissed the case, but Foundation attorneys persuaded the NLRB General Counsel in Washington, D.C. to overturn him.

## Abandon your patients or go to jail

Local 121RN brass had ordered nurses to strike after the collective bargaining agreement with the hospital expired



*When Carol Jean Badertscher (pictured) refused to go on strike to take care of her patients, union bosses threatened her with fines and jail-time.*

last fall. When Badertscher and other nurses refused to follow the union's dictates to walk off the job and continued to treat their patients, the local union chief thuggishly threatened them with fines and, citing an unenforceable California state law, 90 days in jail. But California's


so-called "strike-breaker" law is invalid because it interferes with provisions of the National Labor Relations Act that allow employees to continue working during union boss-ordered strikes.

With no contract containing a forced-dues clause actually in effect, the non-striking nurses could not

legally be compelled to pay union dues. Moreover, nurses who never joined the union or resigned from membership before returning to work could not legally be subjected to internal union discipline. However, the union brass also illegally told employees that their jobs would be in jeopardy if they stopped paying their dues.

*Union brass told employees that their jobs would be in jeopardy if they stopped paying their dues.*

"Rather than being commended for refusing to abandon their patients, these nurses faced ugly threats of fines, imprisonment, and discharge from union bosses," said Stefan Gleason, vice president of the National Right to Work Foundation. "It is deplorable that union bosses would so cavalierly put sick and dying patients at risk."

The NLRB officials will prosecute Local 121RN before an administrative law judge in Los Angeles this month. 

## Secret Deal

continued from page 3

“When the SEIU tried this kind of top-down unionization in California hospitals, CNA bosses strenuously objected, and rightfully so,” said Stefan Gleason, vice president of the National Right to Work Foundation. “But now their true colors are showing – the CNA has no problem with a union imposing itself on a workforce, just as long as that union is the CNA.”

### *Newsclips Requested*

The Foundation asks supporters to keep their scissors sharp for clipping news items exposing the role union officials play in disruptive strikes, outrageous lobbying, and political campaigning. Please clip any stories that appear in your local paper and mail them to:

**NRTWLDF**

**Attention: Newsclip Appeal**

**8001 Braddock Road  
Springfield, VA 22160**

Supporters can also email online stories to [wfc@nrtw.org](mailto:wfc@nrtw.org)



### *Message from Mark Mix*

President  
National Right to Work  
Legal Defense Foundation

Dear Foundation Supporter:

The exciting national election season is moving toward the finish line.

We don't know today who will win the many races being decided nationwide, but we do know one thing: Big Labor is mounting the most aggressive political operation in history – costing more than a billion dollars in forced union dues.

There's a lot at stake for the union bosses. If they can put their candidate in the White House while gaining a filibuster-proof Senate, they may be able to expand their forced unionism power dramatically.

Big Labor will move ahead quickly on power grabs like the Card Check Instant Organizing bill, the Pushbutton Strike bill, and the Police and Firefighter Forced Unionism bill.

In fact, if they gain enough seats, they might even be able to achieve the recently announced goal of passing federal legislation that would eliminate all 22 state Right to Work laws.

Workers are flooding the Foundation with requests for help in preventing their forced dues from being used to fund Big Labor's juggernaut. With your help, we're working overtime to help them by enforcing Foundation-won precedents.

We're moving ahead with several strategic lawsuits, filing complaints with state and federal law enforcement agencies, and exposing Big Labor's illegal actions in the national media.

The period just before a national election is really where the rubber meets the road, but you know that the Foundation works year round to stop Big Labor illegality and protect individuals from forced unionism.

It's a mission we couldn't undertake without your support.

Sincerely,

Mark Mix