



# Foundation Action

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

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## Ford Repairman Challenges Illegal Teamster PAC Scheme

### *NLRB whitewashes union "mistake" after Teamster bosses were caught redhanded*

WASHINGTON, DC – With free legal assistance from National Right to Work Foundation staff attorneys, a Hammond, Wisconsin auto technician is taking his federal challenge against an illegal Teamster union PAC scheme to the National Labor Relations Board's (NLRB) office of appeals in Washington, D.C.

Dylan McHenry is a journeyman technician at New Brighton Ford in New Brighton, Minnesota. In April, McHenry invoked his right upheld in the Foundation's *Communication Workers of America v. Beck* case and resigned from formal union membership in the Teamsters Local 974 union.

"I was frustrated watching all of the union money being poured into Wisconsin towards all of the recall elections and began to research ways to not have my money go to support this," McHenry explained to his local newspaper. "For me this is more of a principal [sic] issue more than anything... I just want to eliminate my dues money that I am forced to pay going to candidates and political organizations that I don't support. If I could, I would leave the union altogether."

### **Union bosses illegally funneling dues to politics**

Because Minnesota does not have Right to Work protections making



**One year ago, Teamster union chief Jimmy Hoffa (left) launched a forced dues-funded "army" with one goal: Re-elect President Barack Obama.**

union affiliation completely voluntary, McHenry is still forced to pay fees to the union to keep his job. However, the U.S. Supreme Court ruled in *Beck* that workers are not required to pay union dues or fees for union boss political activities, lobbying, and member-only events.

Union officials must also provide workers with an independently-audited financial breakdown of all forced-dues union expenditures. This procedural safeguard helps inform workers of how their forced union dues are being spent and makes it less difficult for workers to hold union officials accountable.

After McHenry resigned from Teamster union membership, union officials provided him with an incom-

plete breakdown of union expenditures.

And even though McHenry resigned from union membership to prevent his hard-earned money from being spent on the union bosses' political agenda, he discovered the union was taking money from his paychecks for the union hierarchy's political action committee – a clear violation of federal law.

### **NLRB lets union brass off the hook**

With free legal assistance from National Right to Work Foundation staff attorneys, McHenry filed a federal charge against the local Teamster union

See **ILLEGAL TEAMSTERS PAC** page 8

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## High Court Declines to Take Workers' Union Identity Theft Case

*Union bosses retaliated against AT&T workers who exercised their Right to Work*

WASHINGTON, DC – On one November day in 2007, 33 AT&T workers in central North Carolina found out that their social security numbers were publicly posted for the world to see – exposing them to identity theft and credit fraud. And even though there has never been any doubt about who posted the workers' private information, the perpetrators have escaped justice.

All the employees whose names and personal information were posted had exercised their freedom under the state's Right to Work law to resign from Communications Workers of America (CWA) union membership and cease paying union dues. Consequently, union officials posted their personal information in a hallway close to a building entrance, an area accessible to the public. The 33 AT&T workers who exercised their right to refrain from union affiliation were also subjected to an extended union boss campaign of workplace harassment and intimidation.

"They were vicious," said AT&T



**Union goons retaliated against Jason Fischer, Everett Jenkins, and 31 other nonunion AT&T workers by posting their personal information.**

worker Jason Fisher. "The union president would come up and say they were going to damage my truck."

After the workers exercised their Right to Work, CWA union official Judy Brown e-mailed a spreadsheet that contained the employees' personal data (including their social security num-

bers) to other CWA officials with instructions to "forward this information to your affected locals." CWA Local 3602 union president John Glenn even posted the spreadsheet on a public bulletin board and other CWA union officials likely disseminated the information through e-mail and other means.

## 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.

## Workers file charges despite union bullying

"They posted our social security numbers up in a public place, a place that not just AT&T employees have access to," stated Fisher. "I think half of the people in the union don't want to be there but are just afraid to get out. They come up to me and said they wanted out of the union but they see what happens to us and it's just intimidating."

In June 2008, Fisher and 15 other AT&T employees, represented by Foundation staff attorneys, filed a lawsuit against Local 3602 and its parent unions in state court under North


Carolina's Identity Theft Protection Act (ITPA).

Incredibly, both the trial court and the North Carolina Court of Appeals found that union bosses are entitled to a special exemption from being penalized under the ITPA for revealing employees' personal information. Both courts ruled that such thuggish trampling of employee rights may be protected activity under the National Labor Relations Act (NLRA), and consequently may not be punished by state authorities.

## State courts rubberstamp union bosses' thuggery

In other words, North Carolina's courts held that federal labor law preempts the application of state identity theft law, even though the U.S. Supreme Court has long held that a state retains jurisdiction where the conduct to be regulated touches deeply-rooted local interests.

"This case underscores how even in Right to Work states, union officials benefit from government-granted privileges that no other private organization in the country enjoys," explained Ray LaJeunesse, Vice President of National Right to Work. "And now in North Carolina, CWA bosses have been granted a baffling immunity that gives union thugs license to harass and intimidate independent-minded workers by exposing them to identity theft and credit fraud.

"To correct this grave injustice, Foundation staff attorneys appealed the case to the U.S. Supreme Court," added LaJeunesse. "Unfortunately, the High Court declined to address this important issue, a move that will only encourage union operatives to copy CWA bosses' thuggish intimidation tactics." 

## Foundation Defends Indiana Right to Work Law

### Popular labor reform faces union challenge in state court

LAKE COUNTY, IN – Indiana's new Right to Work law is only a few months old, but it's already facing a slew of legal challenges from embittered Big Labor dead-enders. Fortunately, the Right to Work Foundation assembled a task force of experienced litigators following passage of the law to defend it from Big Labor's inevitable counter-attacks.

The latest attempt to undermine Indianans' Right to Work is spearheaded by United Steel Workers (USW) union bosses, who are challenging the new law in state court. The USW's lawsuit, filed in Lake County Superior Court last summer, alleges that Indiana Right to Work legislation runs afoul of the state's constitution.

According to USW lawyers' outrageous arguments, Indiana's Right to Work law "requires" them to provide a "service" to nonunion employees without compensation, even though nonunion employees don't want and didn't ask for union "representation."

### Foundation brief highlights ludicrous union arguments

Foundation attorneys quickly responded to this lawsuit by filing an *amicus curiae* ('friend of the court') brief for two Indiana workers, David Brubaker and Douglas Richards, who are currently forced to accept union monopoly bargaining and pay for that unwanted union "representation." Although Indiana's Right to Work law prohibits new forced dues contracts, forced dues contracts that predate the legislation – such as the ones Brubaker and Richards are subject to – are still legally enforceable.


On September 10, a Lake County



**Union bosses may not like it, but Indiana's new Right to Work law is already helping revive the state's flagging economy.**

judge accepted the *amicus* brief for Brubaker and Richards. Oral arguments in the lawsuit have been scheduled for October 9.

Brubaker and Richards' brief points out that union officials are never "forced" to provide services to nonunion employees. Although Big Labor mouthpieces will rarely admit to it in public, unions always retain the option to only negotiate on behalf of actual union members. Because union operatives are eager to exert control and collect dues from all workers in a bargaining unit, however, they always insist on representing everyone in a given workplace, even if many of the workers have no interest in the union's so-called "representation."

"Big Labor's last-ditch attempt to derail Indiana's popular Right to Work law is a bogus lawsuit," said Patrick Semmens, Vice President of the National Right to Work Foundation. "We're confident that USW lawyers' specious arguments will be exposed in state court and Hoosier citizens will continue to enjoy the benefits of their new Right to Work law." 



## California Hospital Workers Eject Unwanted Union

*With Foundation help, employees fight off card check drive*

ORANGE COUNTY, CA – With free legal assistance from the National Right to Work Foundation, Chapman Medical Center workers have won federal settlements that remove the unwanted Service Employees International Union (SEIU) from their workplace.

Chapman management and SEIU Healthcare Workers West officials signed National Labor Relations Board (NLRB) settlements after Marlene Felter of Costa Mesa filed charges with the agency. Felter and her coworkers alleged that SEIU organizers illegally colluded with Chapman management to rig a union organizing “vote” to give union officials monopoly bargaining power over their workplace. Under the settlements, SEIU officials have given up their claim to “exclusively represent” Chapman employees. The hospital, meanwhile, has publicly withdrawn its recognition of the union.

Felter filed charges after SEIU and hospital officials entered into a back-room deal – commonly referred to as a “neutrality agreement” – granting union operatives access to company facilities to conduct a coercive “card check” organizing campaign. Chapman officials also waived the right to have a federally-supervised secret ballot election to determine whether employees would unionize.

### Union organizers disregard employees’ wishes


“SEIU organizers were calling people on their jobs and showing up at people’s homes at 9 o’clock at night,” said Felter. “They would block people in their homes and driveways. How they got our cell phone numbers I don’t know, but we’ve received numerous calls from different numbers.”



**Orange County nurses kicked the SEIU out of their hospital with the help of Foundation attorneys.**

After enduring the union’s coercive tactics, a majority of hospital workers signed cards, letters, and petitions stating that they did not want SEIU bosses’ so-called “representation.” Instead of respecting employees’ wishes, however, Chapman management accepted the SEIU as the workers’ monopoly bargaining agent following a rigged “card count.” When Felter filed her charges, Chapman and SEIU officials were in the process of negotiating a contract that would have almost certainly included a provision to force workers to pay union dues as a condition of employment. Such contracts are legal because California lacks a Right to Work law, which would make union membership and dues payment strictly voluntary.

After Felter filed her charges, NLRB investigators found that SEIU union bosses illegally claimed to represent Chapman workers without majority support.

“Chapman and SEIU bosses collaborated to shove SEIU ‘representation’ down workers’ throats,” said Mark Mix, President of National Right to Work. “The fact that the union proceeded with their card check drive over employee opposition shows what SEIU bosses really think about the workers they claim to represent.” 

## In Memoriam: Robert F. Gore Staff Attorney, Friend

The National Right to Work Legal Defense Foundation mourns the loss of our friend and former staff attorney Robert F. Gore (1932-2012). Before joining the Foundation’s legal staff in April 1978, Bob served as a fighter pilot in the Marine Corps.

After retiring from the Marines as a Major in 1974, he attended law school at Southern Methodist University and began a second career as a fighter for individual workers’ rights. Because of his background as a pilot, Bob specialized in cases under the Railway Labor Act, taking on Air Line Pilots Association (ALPA) union lawyers in numerous federal court cases.

Gore argued two Foundation cases at the U.S. Supreme Court, *Operating Engineers Local 926 v. Jones* (an employee sued the union hierarchy for tortious interference with contract) and *Shepard v. NLRB* (a truck drivers’ appeal from the National Labor Relations Board’s refusal to grant complete relief to employees injured by a union boss-instigated boycott). In addition, he won a major victory under the Railway Labor Act in *Russell v. NMB*, in which a U.S. Court of Appeals ordered the National Mediation Board (NMB) to process a group of employees’ decertification petition.

Bob retired from active litigation with the Foundation in 1998, but remained a mentor to our legal staff, a friend to all, and a dedicated Foundation supporter. He will be missed, and we salute him for his tireless efforts in defense of freedom.

## Nurses Boot Unwanted California Union Bosses from Texas Hospital

*Foundation attorneys help Texas nurses thwart scheme to force them into union ranks*

McALLEN, TX – With free legal assistance from National Right to Work Foundation staff attorneys, a group of McAllen nurses have succeeded in removing a California-based union from their workplace.

About two years ago, National Nurses Organizing Committee (NNOC) union officials entered into a “neutrality agreement” with Rio Grande Regional Hospital and its parent company, HCA Holdings, designed to grease the skids for the nurses’ unionization. Such agreements give union organizers access to workers in the workplace, provide workers’ home addresses and other personal information, and impose gag rules on what company managers can say about the union.

NNOC union bosses unionized the nurses after conducting a stealth organizing campaign under the neutrality agreement.

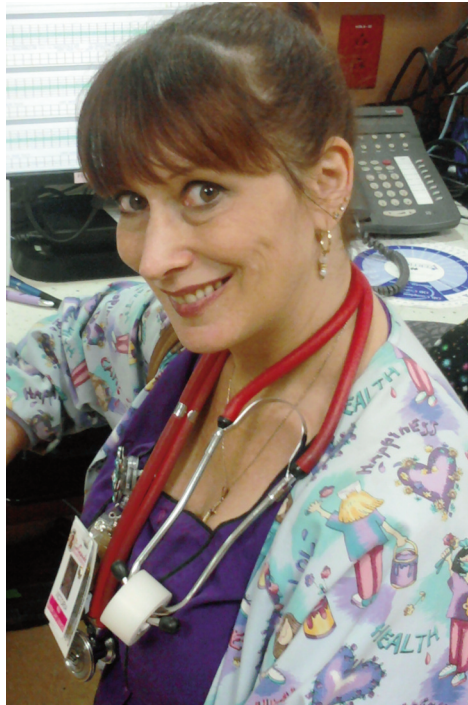
“Without the liberal access to our personal information and break areas, and use of our classrooms, courtesy of the ‘neutrality’ agreement, I do not think they could have generated any kind of substantial support,” explained Victoria Glass, RN, who has been a labor and delivery nurse with Rio Grande Regional for over eight years. “But, by being allowed to hammer us with their propaganda at will, many people were unwittingly nearly indoctrinated to their programmed thinking.”

“Our management, even down to the charge nurses, [was] under a virtual ‘gag order,’” added Glass.

### Union militants target independent-minded nurses

But not all of the nurses were sold on the union brass’s promises.

“Many of us felt unionization was not a good idea from the beginning,”



**McAllen, Texas nurse Victoria Glass successfully led an effort to remove an unwanted union from her hospital in the face of union boss intimidation at work and criminal mischief at home.**

explained Glass. “We saw no value in what they could actually do. What they had to ‘offer’ didn’t match what they seemed to be able to ‘deliver.’”

So a tenacious group of nurses led by Glass began an effort to remove the unwanted union hierarchy from their workplace. And that is when union militants began to target independent-minded nurses. Union partisans began surreptitiously taking photographs of nurses who spoke out against the union brass and a union organizer verbally assaulted Glass in the workplace. Glass actually had to file a report with the local police department regarding numerous acts of criminal mischief that began to happen at home.

Moreover, after the nurses filed a decertification petition with the National Labor Relations Board

(NLRB), union goons passed around the workplace a nasty flyer about Glass to discourage other nurses from joining her cause.

### Union officials try to block election results

In July, the nurses successfully voted the union out of their hospital by a tally of 156-128.

However, NNOC bosses filed “objections” to the election with the NLRB. Yet, rather than litigate their objections publicly under NLRB election rules, the union bosses simultaneously invoked a private “arbitration” procedure created by the HCA-NNOC pact and held a “hearing” on the objections before an “arbitrator” handpicked by union officials and the company.

Further mocking the NLRB’s election rules, NNOC union officials subpoenaed Glass to appear and testify under oath before an arbitrator about the campaign to remove the union from her workplace. She was also directed to produce for union inspection all documents that the nurses created in their election campaign to oppose the NNOC union bosses.

### Nurses victorious in the face of unfair organizing tactics

In response, Glass contacted the National Right to Work Foundation for free legal aid. Foundation staff attorneys filed federal charges against NNOC union bosses and company management for their the crude attempt to coercively interrogate Glass about her legally protected activities. Acting on the advice of Foundation attorneys, Glass neither testified at the union-boss “arbi-

## Texas Nurses Fight Back

*continued from page 5*


tration” hearing nor produced a single document the union demanded.

On September 6, 2012, NNOC union officials were forced to drop their objections to the nurses’ decertification election and the NLRB Region in Texas certified the vote.

**“The legal team at National Right to Work [is] phenomenal,” said Glass. “They are quick to act on things that need to be addressed and gave wonderful support and advice.”**

“So-called ‘neutrality agreements’ like this one between union officials and hospital management give union bosses license to browbeat and intimidate workers into acceding to unionization,” said Patrick Semmens, Vice President of the National Right to Work Foundation. “These nurses endured union boss harassment and kangaroo courts to ultimately exercise their right to remove the unwanted union from their workplace.”

“Many other working professionals are encountering similarly aggressive organizing tactics at their places of business,” continued Semmens. “We encourage them to contact our experienced legal team and stand up for their rights.”

“The legal team at National Right to Work [is] phenomenal,” said Glass. “They are quick to act on things that need to be addressed and gave wonderful support and advice.” 

## Labor Day 2012: Right to Work in the News

**The largest special interest in the upcoming elections is Big Labor.**  
- Mark Mix in *The Washington Times*

**If union officials really wanted to celebrate Labor Day, they’d renounce their special privileges and free hard-working Americans from being forced to pay tribute to unions as a condition of employment.**  
- Mark Mix in *Investor’s Business Daily*

**So why does Virginia outperform Maryland? Some factors that set Virginia apart from its less fortunate neighbor are the state’s popular right-to-work law and the state’s prohibition of government union monopoly bargaining powers.**  
- Mark Mix in *The Richmond Times Dispatch*

**PITTSBURGH TRIBUNE-REVIEW: So you think the president overstepped his constitutional authority in making the [recess NLRB] appointments?**

**MARK MIX: I wouldn’t say he overstepped his constitutional authority so much as he violated the Constitution itself.**

**It’s a simple concept. Everyone must have the right to join a union. Since 1935, federal law has authorized union officials to have a worker fired for failing to pay dues or fees. That’s wrong.**

- Mark Mix on C-SPAN’s “Washington Journal”



## Foundation Attorney Testifies Before Congress on Card Check Threat

*Foundation litigator criticizes aggressive union organizing tactics during Committee hearing*

WASHINGTON, DC – In late July, Foundation attorney Bill Messenger appeared before a hearing of the House Committee on Education and the Workforce to discuss the dangers of card check forced unionism. Messenger drew on the Foundation's decades of experience litigating for union-abused employees to explain why this increasingly popular Big Labor organizing tactic is a threat to workers' rights.

Messenger began his testimony by noting that the structure of the National Labor Relations Act (NLRA) – the law governing private sector labor relations – is inherently biased against individual workers' rights. Under the NLRA, if a majority of workers vote for unionization, even employees who are not in favor of a union presence can be forced to accept union workplace bargaining and pay union dues as a condition of employment.

Because so much is at stake in unionization elections, explained Messenger, we should take extra care to ensure that workers' wishes are fairly and accurately expressed through workplace election procedures. Union card check organizing subverts this commonsensical goal.

"... At a minimum Congress should ensure that at least a majority of employees desire union representation," said Messenger. "The best way to do this is to make a secret-ballot election a condition for unionization."

Messenger repeatedly emphasized the importance of having secret ballot elections supervised by the National Labor Relations Board (NLRB) to determine if employees unionize. Under current law, however, employers and union operatives can agree to forego NLRB secret ballot elections in favor of card check organizing, a loophole that encourages backroom deals between management and Big Labor organizers.



**Foundation attorney Bill Messenger explained the dangers of aggressive card check union organizing before a Congressional hearing in July.**


"Congress should not blindly entrust employees' associational rights to unions and employers," said Messenger. "It is akin to putting two foxes in charge of a henhouse. Instead, Congress should require that the Board independently verify whether employees desire union representation with a secret-ballot before it can be imposed upon them."

### Card check drives continue to undermine worker rights

Although Big Labor's efforts to make card check the law of the land were temporarily derailed by the 2010 midterms, union politicians haven't given up on their goal of expanding card check organizing. Union operatives are spending billions of dollars toward the next election cycle to elect as many pro-forced unionism advocates as possible to Congress. If enough Big Labor allies get in, card check could be back on the table.

The union bosses' most important ally remains President Obama, who has repeatedly used his administrative influence over the federal bureaucracy to protect and expand Big Labor's special privileges. Foundation attorneys fear

that the NLRB and the Department of Labor could ease card check organizing through bureaucratic back channels even if Congress remains deadlocked.

"Reforming American labor law to end the root of Big Labor's special privileges is our ultimate goal, but in the interim, workers' access to a secret ballot must be protected," said Messenger, reflecting on his testimony before Congress. "That's why workers should only be unionized through federally-supervised secret ballot elections." 

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Foundation's planned  
giving brochure?**

**Contact Ginny Smith:  
plannedgiving@nrtw.org  
1-800-336-3600 ext. 3303**

## Illegal Teamsters PAC

*continued from page 1*

with the NLRB Regional Office in Minneapolis. The NLRB Regional Director dismissed the charge after Local 974 union officials claimed the illegal dues payments were a “mistake.” The regional office refused to direct the union to refund the illegally-seized union dues or impose any other punishment against the union, even though the illegal extractions continue.

McHenry has now filed an appeal with the NLRB’s General Counsel in Washington, DC.

“Teamster union officials were caught red-handed illegally taking workers’ hard-earned money for the union bosses’ political agenda. Yet the NLRB regional office in Minneapolis is allowing them to get away with it,” said Mark Mix, President of National Right to Work. “This case is just the tip of the iceberg as Big Labor is gearing up its \$1 billion electioneering machine this fall, funded mostly from workers’ forced union dues.”

### Newsclips Requested

**The Foundation is always on the lookout for stories exposing union boss corruption, mismanagement, and abuse. 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**



## Message from Mark Mix

President  
National Right to Work  
Legal Defense Foundation

Dear Foundation Supporter:

Death and taxes! They say we all must face these two facts of life sooner or later.

But did you know that you can stop Big Government from deciding who gets your money?

With this issue of Foundation Action, I have enclosed a guide outlining your planned giving options so you can help the fight for Right to Work while gaining valuable tax advantages for you and your family.

Right to Work supporters know that the Foundation’s strategic litigation program attacking coercive union power plays a vital role in the pursuit of freedom in the workplace. Your help now – and in the future – with a planned gift today can make all the difference!

One option is the Reed Larson Endowment Fund to provide permanent support for the Foundation’s strategic litigation and legal information programs. Another planned giving option is a Charitable Gift Annuity, which allows you to receive regular payments while aiding the cause of worker freedom.

Finally we are working diligently to build the National Right to Work Foundation’s Legacy Society as a means of honoring Foundation supporters who have made planned gifts.

There is a sense of peace that comes with knowing that the people and causes we care about will be provided for after we are gone. That’s why I urge you to take a look at the enclosed brochure and consider putting the Right to Work Foundation in your estate plans.

We recommend that you discuss your plans with your tax advisor or estate attorney, along with your family.

We are truly grateful for your support and your investment in the future of the Right to Work movement.

If you have any questions, or need additional information, please contact Ginny Smith at 1-800-336-3600, or fill out the enclosed information card in the brochure.

I am honored and privileged to work with so many faithful and devoted patrons of the Right to Work cause that enables us to promote freedom throughout the country, not just today, but in the future.

Thanks for making our work possible!

Sincerely,

Mark Mix