



Foundation Action

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Foundation Helps Secure Supreme Court Win on Union Payroll Deduction

*High Court decision upholds
well-intentioned, but
imperfect Idaho law*

WASHINGTON, DC – In February, the United States Supreme Court agreed with the National Right to Work Foundation, ruling states may indeed prohibit union officials’ use of payroll deduction to divert government workers’ money into union coffers.

The 6-3 decision in *Ysursa v. Pocatello Education Association* overturned a Ninth Circuit court ruling sharply limiting an Idaho state law banning payroll deductions for union Political Action Committees (PACs).

The lower U.S. Court of Appeals for the Ninth Circuit ruling erroneously limited Idaho’s payroll deduction ban only to deductions at the state government level and suggested local government bodies were independent political entities somehow outside of the reach of the state law.

Foundation attorneys got involved in the case at the outset several years ago, offering a more robust defense of the Idaho statute than the state’s own attorney general. At the U.S. Supreme Court phase, the Foundation filed a joint brief



The U.S. Supreme Court agreed with Foundation attorneys that states may prohibit union bosses from using public resources to raise cash for politics.

in cooperation with state public policy groups, arguing union officials have no constitutional right to use public resources to deduct dues from workers’ paychecks – and the High Court agreed.

Chief Justice Roberts’ opinion, joined by Justices Alito, Kennedy, Scalia, Thomas, and Ginsburg, reversed that lower court’s ruling and struck down the fantastic notion that the statute violated the First Amendment rights of unions.

“The Idaho law simply ensured that government bodies do not serve as collection agencies for union political slush funds,” explained Mark Mix, president of the National Right to Work Foundation.

Decision rests on Foundation-won precedent

The majority opinion relied on precedent established in *Davenport v. Washington Education Association*, a

2007 case brought and won by attorneys at the National Right to Work Foundation for thousands of nonunion Washington state teachers.

In *Davenport*, the Court unanimously held that, because union officials have no constitutional right to collect fees from nonmembers, a state may require union

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Foundation Seeks Disclosure of Obama's Union Backroom Deals

Top union lawyer is simultaneously working for and suing the DOL for AFL-CIO

WASHINGTON, DC – The National Right to Work Foundation is demanding the Obama Administration's Department of Labor fully disclose any communications involving top AFL-CIO lawyer Deborah Greenfield – as well as any contact between Labor Secretary Hilda Solis and union officials.

Foundation attorneys believe public disclosure will demonstrate the embarrassing and possibly unethical ties between the Obama Administration and Big Labor's massive political apparatus.

Serious questions have been raised about how much influence Big Labor is exercising in Secretary Solis' current drive to gut basic union financial disclosure guidelines.

To that end, the Foundation's Freedom of Information Act (FOIA) action demands the Department of Labor to disclose any gifts Secretary Solis may have received from labor organizations over the past five years, as well as any direct contact between Solis and Big Labor's political operatives regarding the proposed revisions to union disclosure regulations.



AFL-CIO chieftain John Sweeney (left) commissioned one of his top lawyers to help take control of Obama's Labor Department.

Obama Administration's ethics in question

The National Right to Work Foundation is also concerned about the prominence of Deborah Greenfield, a top AFL-CIO attorney, in the new Administration's Department of Labor. Despite retaining her position as a senior AFL-CIO attorney in a case pending with the Department of Labor, Greenfield was a member of Obama's Labor Transition Team and continues to

be employed by the Department. It is unclear whether

Greenfield is still receiving financial compensation from the AFL-CIO.

However, Greenfield is still an "attorney of record" for an AFL-CIO lawsuit against the Department of Labor regarding union conflict-of-interest disclosure requirements. Ironically, it is Greenfield's apparent conflict of interest that undermines the integrity of the Department's rule-making process.

"The Administration's close relationship with Big Labor is no secret, but the Department of Labor's lack of concern for administrative propriety is deeply disturbing," said Stefan Gleason, vice president of the National Right to Work Foundation.

"If Labor Secretary Solis cares about maintaining the integrity of the Department's regulatory process, she'll release the information we've requested immediately."

President Barack Obama claimed he would not allow any appointee who worked in the past two years on any policy or regulation to have authority over the same area in his administration – a principle which appears to have been violated with respect to Greenfield.

View a special video on this matter by visiting www.nrtw.org/greenfield. ☛

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.

AT&T Workers Challenge Union Threats on Eve of Strike

Union bosses prepare to drive workers into the poorhouse

MORRISTOWN, NJ and ST. LOUIS, MO – Gearing up for a crippling nationwide strike against AT&T Mobility, union officials initiated a campaign of deception and threats against workers who want to continue working to support their families.

In response to unfair labor practice charges filed by National Right to Work attorneys against a New Jersey union affiliate, Local 1101 bosses have since withdrawn their attempts to force unwilling workers to participate in a general strike.

However, threats against AT&T employees in other parts of the country continue unabated. Additional Foundation charges are now pending at the National Labor Relations Board (NLRB) against Communications Workers of America (CWA) bosses in St. Louis. Union officials are threatening independent workers with legal retaliation under similar circumstances.

Union bosses threaten exorbitant financial penalties

As part of their efforts to force unwilling workers to abandon their jobs, CWA bosses have threatened New Jersey AT&T employees with undisclosed “strike fines.” In previous Foundation cases, union strike fines have exceeded thousands of dollars per worker *per day*.

As this article goes to press, national CWA union bosses could order 20,000 employees to abandon their jobs at any moment.

In the New Jersey case, CWA officials have backed off their threats against workers, claiming that although the policy preventing employee resignations

had previously been in the Local’s by-laws, those by-laws are being revised to conform to the law.

Union officials also claimed it was actually a rogue element within the union that had maintained the website displaying the illegal by-laws. CWA bosses refused to disavow the rogue website, however, claiming they had no responsibility or control over it. CWA bosses also sent letters to all bargaining unit members, including the Foundation-assisted workers, insisting that the union by-laws were “old” and would be rescinded immediately. Despite this grudging admission, CWA bosses in other states continue to prevent employees from exercising their rights.

In response, National Right to Work

walk off the job and forfeit their income, or pay huge fines to the union if they continue working.”

Many employees across America have reported they appreciate their employer and view walking away from their jobs as a reckless idea. However, union officials repeatedly rebuffed employee requests to resign from formal union membership so they cannot be punished for violating so-called union membership rules – rules which mandate following strike orders.

Foundation prepares for additional litigation across the country

Under the Supreme Court decision *Pattern Makers v. NLRB* (a case supported by the Foundation), workers have a right to resign from formal, full-dues-paying membership at any time. Union officials’ frequent attempts to block workers from resigning violate this clear precedent.

Foundation attorneys have received other reports that union officials warned workers in Washington, Michigan, Ohio, and New Jersey that any attempt to resign from union membership is prohibited. In Ohio, CWA bosses responded to one worker’s inquiry by telling him that he was employed in a “forced union” state. While a lack of Right to Work laws in these states does unfortunately permit union bosses to force workers to pay up to full dues as a condition of working, formal, full-dues-paying union membership cannot lawfully be compelled.

In addition to the charges filed against CWA Locals in New Jersey and St. Louis, Foundation attorneys anticipate filing additional unfair labor practice charges in the coming weeks.✚



AT&T employees face union retaliation if they dare refuse to participate in an upcoming strike.

president Mark Mix announced the Foundation is willing to provide free legal assistance to all AT&T Mobility workers illegally coerced into abandoning their jobs.

“It’s particularly despicable to threaten employees with hefty fines for just refusing to abandon their jobs in the midst of an economic crisis,” said Mix.

“Union bosses apparently want to make it difficult for employees to put food on the table. Workers must either

NLRB Bureaucracy Ensnares Truckers in Teamster Union

Trucking case shows pro-compulsory unionism bias of federal labor board policy

SEATTLE, WA – After a year of failed negotiations, Teamster union bosses ordered a strike last September against Auburn, Washington-based delivery company Oak Harbor Freight Lines, Inc. The result? An ugly campaign of intimidation and harassment of those employees who refused to abandon their jobs.

Teamster union partisans stalked and picketed Oak Harbor Freight drivers while on their delivery routes. Teamster goons videotaped Oak Harbor employees who continued to work during the strike to provide for their families, and posted the videos on Youtube.com as an invitation to violence, complete with slanderous titles and abusive and degrading comments.

The employees reached out to the National Right to Work Legal Defense Foundation for help, as Oak Harbor employees from all across the region wanted to exercise their legal right to oust the abusive union by filing decertification petitions with the National Labor Relations Board (NLRB).

Unfortunately, a deeply misguided ruling by the Regional Director of the NLRB office in Seattle dismissed the decertification petitions using convoluted logic: Teamster union officials should have a “period of time” to bargain without the “destabilizing effects” of employees [whom they claim to represent] exercising their rights seeking secret ballot elections to determine whether the workforce wants to retain the Teamster



Teamster union militants stalked independent-minded Oak Harbor truck drivers day and night on their routes.

union as their monopoly bargaining agent.

Union bosses seek stranglehold on commerce

The Oak Harbor case is an important strategic battle for Big Labor, because the company does a large amount of business at U.S. Northwest ports and related key arteries of commerce. Meanwhile, the company is expanding aggressively into California, and an independent workforce would be a competitive threat to monopoly union trucking companies

in the Golden State.

With their monopolistic tendencies,

union officials seek out opportunities for maximum leverage over businesses, workers, and consumers. So like moths to light, they tend to be attracted to businesses that are vital to commerce.

Shipping and trucking generally are great examples. Huge volumes of goods travel through relatively small channels, meaning the ability to disrupt commerce can bring tremendous power to union bosses. Forced unionization of truckers that bring goods to and from ports have been a cause *célèbre* in recent years, and union partisans within the NLRB are fully aware of the strategic importance of keeping workers unionized in these situations.

NLRB's dismissal typifies agency's rampant bias

The Regional Director's dismissal in

“With their monopolistic tendencies, union officials seek out opportunities for maximum leverage over businesses . . . that are vital to commerce.”

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Judge Green-Lights Union Racketeering Case for Trial

Corrupt scheme funneled huge sales commissions to union shop officials

PHOENIX, AZ – Despite union lawyers' best efforts, a precedent-setting union racketeering lawsuit filed by Right to Work attorneys against a phone book company and union officials will go to trial.

In mid-April, an Arizona judge denied significant parts of Dex Media's and International Brotherhood of Electrical Workers (IBEW) Local 1269 union bosses' motions for summary judgment. The company must stand trial for giving preferential treatment to union agents through a skewed performance-based pay system designed to enrich them. And two union officials must stand trial for receiving the preferential treatment and resulting enrichment.

The Foundation's lawsuit, filed for several Dex Media employees, alleges union officials employed by the company manipulated sales procedures to receive greater compensation at the expense of the nonunion plaintiffs. Foundation attorneys found several "smoking guns" to prove their case after sifting through more than *one half million* documents obtained through discovery.

Company and union colluded to enrich union bosses

The lawsuit lays out how Dex Media and union officials violated the Labor Management Relations Act (LMRA) and the Racketeering Influenced and Corrupt Organizations Act (RICO) to implement this corrupt scheme.

Some of the methods used to increase union shop officials' compensation included reassigning accounts from nonunion employees to union agents, giving union bosses "double



Enacted primarily to target mobster dons like John Gotti and Sammy "The Bull" Gravano, RICO anti-corruption statutes are being used by Foundation attorneys to attack union racketeering in Arizona.

commissions" for sales made by other employees, and allowing union agents to regularly sell lucrative "group ads" while denying similar opportunities to employees who were not union loyalists.

Because Dex Media managers allegedly knowingly aided union agents as they stage-managed company rules to increase their "performance-based" pay, the company is accused of bribing union officials to act against workers' interests in bargaining negotiations.

The judge's decision, and an earlier decision deying motions to dismiss, will set a favorable anti-corruption precedent, enabling Right to Work litigators to target other union schemes under federal racketeering statutes.

Monopoly bargaining is the root of union corruption

Despite Arizona's highly popular

Right to Work protections, union officials were still able to manipulate company procedures for personal gain.

Because they acquired monopoly bargaining privileges from Dex Media, union bosses were given the power to dictate working conditions and terms of employment to all workers, including nonmember employees. This corrupt arrangement allowed union agents to give themselves preferential access to lucrative company commissions, undermining other workers' earnings in the process.

"These union bosses fleeced the very workers they claim to represent," said Stefan Gleason, vice president of the National Right to Work Foundation. "We anticipate a successful legal resolution to this cutting edge (and expensive) case, but the only way to meaningfully limit union corruption is to strip union officials completely of their government-granted monopoly bargaining privileges so they can no longer impose their 'representation' on workers."†

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

Foundation Attorneys Ask High Court to Review Pivotal Case

Workers bring cutting-edge anti-bribery case against increasingly prevalent union scheme

WASHINGTON, DC – National Right to Work Foundation attorneys have asked the United States Supreme Court to review a high-profile and increasingly common union organizing method to determine whether it violates federal labor bribery statutes.

The appeal is a result of a federal racketeering case brought by Foundation attorneys for workers who found themselves subjected to a secret *quid pro quo* deal intended to install the United Auto Workers (UAW) union at Freightliner plants in North and South Carolina.

Employees at three plants operated by Freightliner, a Daimler Trucks subsidiary, filed their class-action lawsuit in 2006 challenging union bosses' attempt to trade pre-recognition workplace concessions at employees' expense for invaluable company assistance to unionize them.

"It is not at all uncommon for union bosses to sell out the workers they claim to represent, but in this case, they sold out the workers even *before* gaining the power to represent them," said Raymond LaJeunesse, vice president and legal director of the National Right to Work Foundation. "The Supreme Court needs to send a clear message that these corrupt bargains intended to forcibly unionize workers are simply unacceptable."

Backroom deal was all about union dues

Federal labor law bars companies from giving "things of value" to unions or union officials. It is also illegal for company and union agents to negotiate



Courageous workers joined National Right to Work staff in front of UAW union boss headquarters in Detroit to announce their racketeering lawsuit.

terms and conditions of employment before union organizers prove a majority of employees actually want union representation.

Despite these prohibitions, UAW and Freightliner officials inked a secret "Preconditions to Card Check Procedure" pact before employees even knew they were a union organizing target. The entire corrupt arrangement resulted from union pressure against the parent company at the time (Daimler-Chrysler) which had long been held over a barrel by monopoly unionism.

In exchange for union bosses' waiving certain core employee interests and the false promise of "labor peace," Freightliner essentially guaranteed union bosses could tap into hundreds of thousands of dollars in new annual dues revenue. Company officials allowed UAW union organizers to harangue employees at compulsory "captive audience" meetings and in company break rooms. Company officials also handed over employees' private home addresses to union operatives who harassed employees day and night to sign union authorization cards.

Moreover, company officials agreed not to provide truthful information to employees about the downsides of union-

ization and to automatically recognize the union without a secret ballot election

when given a pre-determined number of signed union authorization cards.

"Card check" organizing drives have led to widespread employee intimidation, and this technique has become Big Labor's preferred method for recruiting new dues-paying members.

Forced unionism has destroyed the American-owned auto industry

In December of 2008, the United States Court of Appeals for the Fourth Circuit upheld union lawyers' motion to dismiss the case. Foundation attorneys' petition argued that the lower court erroneously limited "things of value" to only tangible and explicit monetary benefits. Unions spend millions of dollars to obtain the organizing advantages delivered by Freightliner officials, so the UAW clearly obtained "things of value" from the company's backroom deal.

"We urge the Supreme Court to do what the lower courts have refused: restore the rights of American workers victimized by sweetheart deals between management and union bosses," concluded LaJeunesse.

Of course, union monopoly control of the Detroit Big Three has destroyed countless businesses and hundreds of thousands of jobs. †

"The Supreme Court needs to send a clear message that these corrupt bargains intended to forcibly unionize workers are simply unacceptable."

Union Payroll Deduction Privileges Can Be Taken Away

continued from cover

bosses to obtain affirmative consent before spending nonmember public employees' forced fees on political activities.

The Foundation-won *Davenport* decision also reiterated that, as the Court had originally decided in 1949, Right to Work laws are constitutional. Meanwhile, had the Ninth Circuit's activist opinion in *Ysursa* been upheld, union lawyers could have tried to use its reasoning to argue that state Right to Work laws do not apply to local government bodies.

"These battles highlight the importance of the Foundation's program," continued Mix. "Court cases can cut both ways, and the constant vigilance of attorneys expert in this area of the law is necessary to prevent a steady erosion of employee rights by Big Labor."

Better public policy is to stop government from collecting any union cash

In *Ysursa*, the three dissenting jus-

tices argued that the Idaho law is unconstitutional because it specifically targeted union political speech and did not serve a broader purpose. While Foundation legal experts disagree with the minority's reasoning, they believe laws which ban *all* union payroll deduction privileges would be *less* vulnerable to legal attack and would *better* serve the public policy purposes underpinning such laws.

"Government bodies shouldn't be bagmen for the union bosses – not just for political speech, but *any* union expenditure," Mix pointed out. "If workers want to financially support a union, they have every right to freely contribute without the expenditure of taxpayer resources."

Foundation helps persuade Tenth Circuit to follow suit in Utah

Following the Tenth Circuit victory in *Ysursa*, Foundation attorneys helped secure victory in a similar Utah case.

The U.S. Court of Appeals reversed itself and upheld Utah's Voluntary

Contributions Act, another state law prohibiting government union officials from using payroll deductions for certain narrowly defined political activities.

"Utah has a legitimate interest in avoiding the reality or appearance of government entanglement with partisan politics" and Utah's Voluntary Contributions Act "plainly serves the State's interest in separating public employment from political activities," the court held.

The National Right to Work Foundation filed briefs to defend the Utah statute which had previously been struck down. After initially siding with union attorneys, the Tenth Circuit put the case on hold pending the outcome of Idaho's *Ysursa* case.†

"Government bodies shouldn't be bagmen for the union bosses – not just for political speech, but *any* union expenditure."



Foundation attorneys have thwarted a Big Labor scheme to shake down more forced dues from workers for politics.



Support Right to Work through Planned Giving

Planned Giving strategies can help you support the National Right to Work Foundation while enjoying great flexibility, income payments, and tax benefits. Some of the ways you can help the Foundation are:

- ✓ Remembering the Foundation in your Will
- ✓ Charitable Trusts
- ✓ Charitable Gift Annuities
- ✓ Gifts of Stocks/Bonds
- ✓ Gifts of Appreciated Real Estate
- ✓ Gifts of Life Insurance

For more information on the many ways you can ensure that your support of the Foundation continues, call the Foundation at (800) 336-3600 or (703) 770-3303. Please ask to speak with Ginny Smith, Director of Planned Giving. Or you may e-mail her at gms@nrtw.org.

NLRB Bias

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the Oak Harbor cases is just another example of a decades-long pattern of bias at the NLRB for union coercion and against independent-minded employees.

The Oak Harbor case is only the latest in a long line of examples in which Foundation attorneys have encountered NLRB actions that trap employees in dues-paying union membership, regardless of the employees' desires to be free of union representation.

To be sure, the National Labor Relations Act itself establishes strong forced unionism privileges for Big Labor, but the NLRB often abuses its discretion to interpret the Act further to compel employees into union ranks whenever there are legal gray areas.

The agency's notorious bias has not escaped the federal courts' notice either. In fact, Foundation attorneys have an outstanding record of persuading federal courts to overturn NLRB decisions – a better record than employer and union lawyers.

“Unions bosses may not willingly give up their dreams of the day when every worker is forced to pay them dues, but thanks to the National Right to Work Foundation and its supporters, we can work together to hold Big Labor accountable to the law and the principle of individual liberty,” stated Mark Mix, president of National Right to Work. [†]

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. We'll rush them the next issue.



Message from Mark Mix

President
National Right to Work
Legal Defense Foundation

Dear Foundation Supporter:

The National Right to Work Legal Defense Foundation is employing cutting-edge legal strategies to take on compulsory unionism in our nation's courts.

As featured in this edition of *Foundation Action*, Foundation attorneys have filed precedent-setting union corruption lawsuits using the Racketeering Influenced and Corrupt Organizations Act (also known as “RICO”) and a well-established federal labor bribery statute. We believe many of Big Labor's coercive “card check” and Top Down organizing schemes may ultimately be found illegal under these statutes.

It's just another example of the innovative strategies our expert Right to Work staff attorneys have developed to beat back compulsory unionism. With your help, we can bring justice to the union bosses – forcing them to follow the rule of law.

Mark Twain once said “No one's life, liberty, or property is safe while the legislature is in session.” That's certainly true for employee free choice with our current Congress right now.

However, even though Right to Work forces are on the defensive in Big Labor's bought-and-paid-for Congress, your Foundation is getting back on *offense*, opening up new lines of attack in the courts.

The lead article on page one spotlights just one recent example of how your Foundation can score major victories for our cause in this otherwise dark hour.

But, to remain effective and innovative in this battle – and be ever ready to respond to Big Labor's emboldened bosses – your Foundation must remain a well-funded organization and ready for battle at all times.

That is why I'm so thankful for your continued support that enables us to remain on the front lines to protect workers, our economy, and our freedoms from the injustices of compulsory unionism.

Sincerely,

Mark Mix